NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 14, 2006

11:08 a.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, Tuesday, June 13, the Senate met pursuant to adjournment. The Journal of Monday, June 12, 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.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President. How are you this morning?

THE PRESIDENT: Very well, Senator. How are you doing this morning?

SENATOR FARLEY: Very good.

I wish to call up Senator Volker's bill -- who was locked in an elevator for 40 minutes this morning -- Senate Print 6277A, which was recalled from the Assembly and it's now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 18, by Senator Volker, Senate Print 6277A, an act to amend the Penal Law and others.

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, 38.

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

THE PRESIDENT: The amendments are received.

SENATOR FARLEY: Madam President, on behalf of Senator Flanagan, I wish to call up his bill, Print Number 5109C, which was recalled from the Assembly and it's now at the desk.

THE PRESIDENT: The Secretary will read.

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

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

SENATOR FARLEY: Madam President,

I now offer the following amendments.

THE PRESIDENT: The amendments are received.

Senator Fuschillo.

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

THE PRESIDENT: Yes, there are, Senator.

The Secretary will read.

THE SECRETARY: On page 16, Senator Balboni moves to discharge, from the Committee on Rules, Assembly Bill Number 2808A and substitute it for the identical Senate Bill Number 184A, Third Reading Calendar 464.

On page 18, Senator Maziarz moves to discharge, from the Committee on Health, Assembly Bill Number 9989 and substitute it for the identical Senate Bill Number 6724, Third Reading Calendar 523.

On page 19, Senator Maltese moves to discharge, from the Committee on Local Government, Assembly Bill Number 10224 and substitute it for the identical Senate Bill Number 6901, Third Reading Calendar 576.

On page 24, Senator Balboni moves to discharge, from the Committee on Rules, Assembly Bill Number 9856A and substitute it for the identical Senate Bill Number 6781A, Third Reading Calendar 676.

On page 27, Senator Maziarz moves to discharge, from the Committee on Social Services, Children and Families, Assembly Bill Number 10203 and substitute it for the identical Senate Bill Number 6285A, Third Reading Calendar 732.

On page 27, Senator Winner moves to discharge, from the Committee on Health, Assembly Bill Number 9956 and substitute it for the identical Senate Bill Number 6976, Third Reading Calendar 742.

On page 44, Senator Maziarz moves to discharge, from the Committee on Social Services, Children and Families, Assembly Bill Number 10022 and substitute it for the identical Senate Bill Number 6942, Third Reading Calendar 1100.

On page 56, Senator Volker moves to discharge, from the Committee on Insurance, Assembly Bill Number 1973C and substitute it

for the identical Senate Bill Number 4312B, Third Reading Calendar 1318.

On page 57, Senator Meier moves to discharge, from the Committee on Judiciary, Assembly Bill Number 8655A and substitute it for the identical Senate Bill Number 7888, Third Reading Calendar 1333.

On page 64, Senator Spano moves to discharge, from the Committee on Transportation, Assembly Bill Number 9464 and substitute it for the identical Senate Bill Number 6407, Third Reading Calendar 1428.

On page 70, Senator Meier moves to discharge, from the Committee on Rules, Assembly Bill Number 9058 and substitute it for the identical Senate Bill Number 6220, Third Reading Calendar 1515.

On page 71, Senator Balboni moves to discharge, from the Committee on Local Government, Assembly Bill Number 10479 and substitute it for the identical Senate Bill Number 7624, Third Reading Calendar 1538.

On page 71, Senator Balboni moves to discharge, from the Committee on Local Government, Assembly Bill Number 10481A and

substitute it for the identical Senate Bill Number 7625A, Third Reading Calendar 1539.

On page 71, Senator Little moves to discharge, from the Committee on Local Government, Assembly Bill Number 10480 and substitute it for the identical Senate Bill Number 7697, Third Reading Calendar 1540.

On page 75, Senator Stachowski moves to discharge, from the Committee on Local Government, Assembly Bill Number 8854A and substitute it for the identical Senate Bill Number 5759A, Third Reading Calendar 1629.

On page 76, Senator Johnson moves to discharge, from the Committee on Rules, Assembly Bill Number 10849 and substitute it for the identical Senate Bill Number 7284, Third Reading Calendar 1638.

On page 76, Senator Johnson moves to discharge, from the Committee on Rules, Assembly Bill Number 10743A and substitute it for the identical Senate Bill Number 7334A, Third Reading Calendar 1642.

On page 77, Senator Morahan moves to discharge, from the Committee on Local

Government, Assembly Bill Number 10766 and substitute it for the identical Senate Bill Number 7663, Third Reading Calendar 1647.

On page 77, Senator LaValle moves to discharge, from the Committee on Local Government, Assembly Bill Number 10982 and substitute it for the identical Senate Bill Number 7876, Third Reading Calendar 1649.

On page 77, Senator Spano moves to discharge, from the Committee on Finance, Assembly Bill Number 10026 and substitute it for the identical Senate Bill Number 7982, Third Reading Calendar 1651.

On page 78, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 10914 and substitute it for the identical Senate Bill Number 8041, Third Reading Calendar 1658.

On page 78, Senator Maziarz moves to discharge, from the Committee on Mental Health and Developmental Disabilities, Assembly Bill Number 2570 and substitute it for the identical Senate Bill Number 207, Third Reading Calendar 1664.

On page 79, Senator Nozzolio moves

to discharge, from the Committee on Civil Service and Pensions, Assembly Bill Number 145 and substitute it for the identical Senate Bill Number 509, Third Reading Calendar 1667.

On page 80, Senator Golden moves to discharge, from the Committee on Aging, Assembly Bill Number 8696A and substitute it for the identical Senate Bill Number 5813A, Third Reading Calendar 1680.

On page 80, Senator Balboni moves to discharge, from the Committee on Rules, Assembly Bill Number 9723A and substitute it for the identical Senate Bill Number 6402A, Third Reading Calendar 1682.

On page 80, Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 9757A and substitute it for the identical Senate Bill Number 6597A, Third Reading Calendar 1684.

On page 81, Senator Oppenheimer moves to discharge, from the Committee on Local Government, Assembly Bill Number 9842 and substitute it for the identical Senate Bill Number 6660, Third Reading Calendar 1686.

And on page 81, Senator Marchi

moves to discharge, from the Committee on Transportation, Assembly Bill Number 2147A and substitute it for the identical Senate Bill Number 7962, Third Reading Calendar 1694.

THE PRESIDENT: Substitutions ordered.

Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, will you please recognize Senator Meier and then Senator Valesky for motions.

THE PRESIDENT: Senator Meier.

SENATOR MEIER: Madam President, in keeping with the precedent set by Senator Farley, good morning. It's a great pleasure to see you.

THE PRESIDENT: Good morning, Senator. It's always a privilege to see you.

SENATOR MEIER: Yeah, try and suck up, will you.

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

By Senator Saland, at page 32, Calendar 856, Senate Print 6290A;

By Senator Libous, at page 51,

Calendar 1232, Senate Print 7301;

By Senator Libous, at page 54,

Calendar 1285, Senate Print 7511A;

By Senator Golden, at page 60,

Calendar 1373, Senate Print 7502;

By the Rules Committee, page 68,

Calendar 1483, Senate Print 7864;

By Senator LaValle, at page 73,

Calendar 1577, Senate Print 561A.

And, 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 MEIER: Thank you, Madam President.

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Madam President, I just want it known that even though I have no motions to read or anything like that, speaking on behalf of those of us who are in a similar state, we are all pleased to see you here.

THE PRESIDENT: Well, I'm speechless. Thank you, Senators. This really warms my heart.

Senator Valesky, moving right along.

SENATOR VALESKY: Madam President, on behalf of Senator Montgomery, on page 57 I offer the following amendments to Calendar Number 1335, Senate Print 3265, and ask that 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 Fuschillo.

SENATOR FUSCHILLO: Madam President, there's a resolution at the desk by Senator Rath. May we have the title read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Rath, Legislative Resolution Number 5994, honoring the students from St. Christopher School in Tonawanda, New York, upon the occasion of

participating in the 15th Annual "Imagreenation" Celebration.

THE PRESIDENT: Senator Rath.

SENATOR RATH: Thank you, Madam President.

I would like to welcome the students from St. Christopher's School in my district, in the town of Tonawanda and bordering on Amherst, and welcome you here today because you weren't here on the day of the "Imagreenation" celebration.

And let me tell you why we are doing this in quite this way. In this wonderful world of security that we live in now, certain things get shipped in and certain things get looked at, and some are looked at earlier than others. And as a result of the security concerns, the items that were sent in by St. Christopher's were not looked at until way too late for them to be invited to be down here the day of the celebration as it was.

A couple of the items that were presented for consideration were outstanding, particularly a bald eagle consisting of shredded tires. If you're interested in

seeing it -- we wanted to bring it into the chamber, but it's so realistic we were sure it would fly up to gallery and everyone would be concerned.

However, this eagle made out of shredded tires is quite outstanding. I'd like to congratulate Jenny Grimm, Emily Rasmussen, Alyssa Schwartz and Tara Topolski for that presentation; it's wonderful. And you'll have it to take back to Buffalo when you leave today.

And a foosball that was made by John Janeczko out of empty medicine vials, another winner.

And to their leader, Celeste Scarozza, I want to congratulate you, Celeste, for the wonderful work that you're doing. The students contributed many projects this year and over the years have contributed many projects. It's such a nice opportunity for them to learn and to do and of course to come to Albany. And sorry about the glitch.

I hope your day is wonderful today, that you'll see the State Museum and you'll see the Capitol and have some lunch in my

office and enjoy your day here in Albany.

Next year we'll make sure that somehow everything is opened that comes from Western New York. I'll stand on the loading dock myself to make sure that everything is opened.

So thank you and congratulations to the winners, and congratulations to all of you.

THE PRESIDENT: On the resolution, all those in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

And congratulations to each and every one of you. We're very impressed. And I am privileged to see you here this morning.

Why don't you stand, and we'll give you a nice round of applause.

(Applause.)

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, there's a resolution at the desk by Senator Carl Kruger. May we have the title read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator C. Kruger, Legislative Resolution Number 5962, commending Co-Artistic Directors Victoria and Michael Imperioli upon the occasion of being honored by Studio Dante at the world premiere performance of "Dark Yellow" on June 15, 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.

SENATOR FUSCHILLO: Madam President.

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: May we return to reports of standing committees and read the

report of the Finance Committee.

THE PRESIDENT: Reports of standing committees.

The Secretary will read.

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

As a member of the Public Service Commission, Maureen Harris, of Slingerlands.

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

THE PRESIDENT: On the nomination of Maureen Harris of Slingerlands as a member of the Public Service Commission, all in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

I see her up there. Maureen, congratulations. You'll be a fantastic addition to the Public Service Commission.

(Applause.)

THE PRESIDENT: The Secretary will continue to read.

THE SECRETARY: As a member of the State Board of Parole, Christina Hernandez, of East Greenbush.

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

THE PRESIDENT: All in favor of the nomination of Christina Hernandez as a member of the State Board of Parole please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Madam President.

It should not go unnoted that Christina Hernandez, who came before the Crime Victims, Crime and Corrections Committee yesterday for appointment to this capacity as parole commissioner, that she has had a stellar record of service on the Crime Victims Board and that she has, along with those who

are on the Crime Victims Board -- most for the last decade -- have done great work in reducing the amount of back claims and have done great work in cataloging and ensuring those crime victims receive appropriate compensation.

So I just rise to thank Christina Hernandez for her work on the Crime Victims Board, and she is certainly ideally suited to this new capacity as she enters the Parole Commission. I know she will do an outstanding job, as she has served for crime victims now for over the last decade.

I support this nomination wholeheartedly.

THE PRESIDENT: The nominee is hereby confirmed.

Congratulations, Christina. We know you've been an excellent public servant already. And best wishes to you on the Board of Parole.

(Applause.)

THE PRESIDENT: The Secretary will continue to read.

THE SECRETARY: As a member of

the Crime Victims Board, Louis A. Masiello, of Yonkers.

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

THE PRESIDENT: Senator Spano.

SENATOR SPANO: Thank you, Madam President.

It is my pleasure and an honor to speak in favor of the nomination for Lou Masiello to the Crime Victims Compensation Board.

I've known Lou for many, many years, and he has had an outstanding record as a police officer, as a sergeant and a supervisor in the police department in the Village of Mamaroneck, to serving for five terms in the county legislature in Westchester, and having served in the Assembly, to representing the people of the City of Yonkers up in the state capital.

He has got the background, the temperament and the sensitivity to make us proud in working with and for the victims of crime across this state, and I thank the

Governor for his nomination. And I'm very happy to move his nomination on the floor of the Senate.

THE PRESIDENT: On the nomination of Louis A. Masiello as a member of the Crime Victims Board, all in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee, as well as the last nominee, is hereby confirmed.

Congratulations, Lou, and best wishes for success.

(Applause.)

THE PRESIDENT: The Secretary will continue to read.

THE SECRETARY: As a member of the New York State Employment Relations Board, Marie Johnson Wittek, Ph.D., of New York City.

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

THE PRESIDENT: Senator Stavisky.

SENATOR STAVISKY: Madam

President, I have known Dr. Wittek for quite a number of years in her capacity as the dean of the Harry Van Arsdale School. She combines an academic background with practical experience as the dean.

I'm delighted that she's been nominated for the PERB board, and I urge my colleagues to support her. Thank you.

THE PRESIDENT: All in favor of the nomination of Marie Johnson Wittek as a member of the New York State Employment Relations Board please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

I understand she is with us this morning. Congratulations, and best wishes for success.

(Applause.)

THE PRESIDENT: The Secretary will continue to read.

THE SECRETARY: As a member of the Board of Trustees of the State University

of New York, Edward F. Cox, Esquire, of New York City.

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

THE PRESIDENT: All in favor of the nomination of Edward F. Cox as a member of the Board of Trustees of the State University of New York, as a reappointment, please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

And we wish him the best. I don't think he's with us this morning, but congratulations to Mr. Cox.

The Secretary will continue to read.

THE SECRETARY: As a member of the Board of Trustees of the State University of New York, Thomas F. Egan, of Rye.

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: Move the

nomination.

THE PRESIDENT: All in favor of the nomination of Thomas F. Egan as a reappointed member of the Board of Trustees of the State University of New York please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is confirmed.

Congratulations, Mr. Egan. I know you're with us here this morning, if you would stand. Best wishes.

(Applause.)

THE PRESIDENT: The Secretary will continue to read.

THE SECRETARY: As a member of the Board of Trustees of the State University of New York, Steven J. Hunt, of Katonah.

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

THE PRESIDENT: On the nomination of -- first, Senator Leibell would like to

speak, I understand.

SENATOR LEIBELL: Thank you, Madam President. I'd like to just comment, if I could, for a moment.

I've had the good fortune to know Steve Hunt over the course of many years now, and he's held some of the most responsible positions in our state in both the private and the public sectors.

Clearly, this appointment to this particular board is one of the most important that we have in the state. We all know the importance of our state university system, in which we all take tremendous pride.

So I'd like to stand and endorse this -- and thank the Governor for this nomination. It's particularly a good one. Thank you.

THE PRESIDENT: The question now is on the nomination of Steven J. Hunt as a member of the Board of Trustees of the State University of New York. All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

I've had the pleasure of working with Steve Hunt. I know his qualifications. I know his excellence. A welcome addition.

Congratulations, Steve, and best wishes.

(Applause.)

THE PRESIDENT: The Secretary will continue to read.

THE SECRETARY: As a member of the Board of Trustees of the State University of New York, Gerri Warren-Merrick, of New York City.

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

THE PRESIDENT: All in favor of the nomination of -- first of all, Senator Ada Smith would like to be heard.

Senator Smith.

SENATOR ADA SMITH: Thank you, Madam President.

I would like to commend the

Governor and to second this nomination of a woman who has proven herself to be talented in all of the things that she has attempted to do.

Her tenure with Time Warner has been fruitful for the community as well as for herself, and she has truly performed well. And I know that she will do an excellent job as a member of the SUNY Board of Trustees.

And I would like to say all these years that I've known Gerri, I never knew that she was from Pittsburgh, and she never knew that I have family in Sewickley, right outside of Pittsburgh, and spent all of my summers there.

So she will make a wonderful addition, and she is truly deserving of this honor.

THE PRESIDENT: The question now is on the nomination of Gerri Warren-Merrick as a member of the Board of Trustees of the State University of New York. All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

And I know she's up there this morning with us. Congratulations and best wishes.

(Applause.)

THE PRESIDENT: The Secretary will continue to read.

THE SECRETARY: As a member of the Board of Trustees of the State University of New York, Kay Stafford, of Plattsburgh.

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

THE PRESIDENT: All in favor of the nomination of Kay Stafford as a member of the Board of Trustees of the State University of New York please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

I know Kay as a professional and

personally, and she's the best. We're very privileged and proud to have her on board. We wish her the best. She's not here this morning, but best wishes to Kay Stafford.

The Secretary will continue to read.

THE SECRETARY: As a member of the New York State Thruway Authority, Erin M. Crotty, of Troy.

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

THE PRESIDENT: All in favor of the nomination of Erin M. Crotty as a member of the New York State Thruway Authority please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

We all got to know Erin as commissioner, and she's an excellent candidate and now confirmed nominee. We wish her the best.

The Secretary will continue to read.

THE SECRETARY: As members of the Board of Directors of the New York Convention Center Operating Corporation, Neville Bugwadia, of New York City; Kevin S. Corbett, of New York City; Peter J. Johnson, Jr., of New York City; and Michael A. Petralia, of New York City.

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: Move those nominations.

THE PRESIDENT: All in favor of the nominations as read by the Secretary for the Board of Directors of the New York Convention Center Operating Corporation please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(Response of "Nay.")

THE PRESIDENT: Any member who is opposed to one of the last four nominees as read by the Secretary must indicate to us the opposition of one or all four of the nominees.

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President.

Again, for the record, I am opposing only the fourth of the four nominees you just mentioned.

THE PRESIDENT: Thank you, Senator.

SENATOR LIZ KRUEGER: Thank you, Madam President.

THE PRESIDENT: The record will so reflect your opposition to the fourth nominee as read by the Secretary.

Senator Ada Smith.

SENATOR ADA SMITH: I too am opposed to the fourth nominee.

THE PRESIDENT: The record will so reflect your opposition, Senator Ada Smith.

The four nominees are hereby confirmed.

Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, are there any more motions to be taken up at this time?

THE PRESIDENT: Yes, there are.

SENATOR FUSCHILLO: Please

recognize Senator Little.

THE PRESIDENT: Senator Little.

SENATOR LITTLE: Thank you, Madam President.

On behalf of Senator Young, on page 25 I offer the following amendments to Calendar Number 688, Senate Print Number 6820A, and ask that the bill retain its place on Third Reading Calendar.

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

SENATOR LITTLE: Thank you.

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, may we please have the reading of the noncontroversial calendar at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 195, by Senator Meier, Senate Print 5394A, an act to amend the Domestic Relations Law and others.

THE PRESIDENT: Read the last

section.

THE SECRETARY: Section 9. This act shall take effect on the 90th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54. Nays, 1. Senator Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 215 --

SENATOR FUSCHILLO: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 283, by Senator Rath, Senate Print 6535, an act to amend the Social Services 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 PRESIDENT: Senator Hassell-Thompson, to explain your vote.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

This is a bill that I would find very difficult to vote against, even though we've received some notes of opposition against the bill, primarily because we have experienced across the state, and most recently this week, serious cases of child abuse.

And it would seem that we're missing something in the way in which we are processing children, whether it's on the intake aspect or somewhere along the line.

There are some issues that I have with this bill. And the main issue continues to be that when we implement new procedures, we don't correlate that with a budgetary increase, particularly understanding the concerns that have been raised by the Social Services departments about the numbers of cases and the caseload that most workers already have.

And to give them additional work

and additional responsibility and assume that they have the capacity to do the kind of training that's necessary for this procedure, I think is a part of what we do mistakenly. We are not social service workers. And sometimes, in our zeal to do something, we put an extreme amount of responsibility on a system that's already overwhelmed and overburdened.

I would hope that we would continue to keep that in mind as we talk about new approaches in terms of who's going to be responsible and who is going to monitor to make sure that what we're doing really achieves the goals that we purport to set out to do.

Thank you, Madam President. I will be voting in favor of the bill.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 54. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 297, by Senator Seward, Senate Print 4669, an act to amend the Public Health 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, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 303, by Senator Fuschillo, Senate Print 5976, an act to amend the General Business 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, 55.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 337, by Senator Farley, Senate Print 5947A, an act to amend the 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, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 340, by Senator Little, Senate Print 6387B, an act to amend the Tax Law.

THE PRESIDENT: There is a local fiscal impact note 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, 55. Nays, 1. Senator Valesky recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 393, by Senator Spano, Senate Print 6702, an act to amend the Civil Service Law and the Labor Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect September 1, 2006.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 451, by Senator LaValle, Senate Print 1626A, an act to amend the Criminal Procedure 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 PRESIDENT: Senator Duane, to

explain your vote.

SENATOR DUANE: Thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR DUANE: I'm going to be voting in favor of this bill.

But I would be remiss if I didn't point out that any child who's been abandoned or who's been endangered or forced to be involved in a sexual performance by an adult would obviously need to have counseling. And certainly at the time that the crime has been discovered, that child would need counseling in a supportive environment. But I am sure that when that child grows older that he or she would continue to need psychological counseling.

And it's actually very well known that children who have been traumatized as an adult are often at greater risk of alcohol and substance abuse. And all of those things, all of those potential problems for a child who's been endangered or victimized, when they're adult would certainly need to be dealt with through therapy and counseling.

And yet unfortunately, if that child as an adult did not have access to health insurance for their mental health issues, they could potentially be bankrupted because of that or potentially would just sink into mental illness and depression, alcohol or drug abuse.

And I'm not going to ask my colleagues here directly this question, but it has crossed my mind to ask my colleagues to raise their hands if no one in their family has ever needed mental health services. I'm not sure that anyone in this body would be able to raise their hand and say that no member of their family ever needed help from a mental health professional, that no member of their family has ever struggled with alcohol or drug addiction.

And we have a pretty good health care plan here -- not perfect, but pretty good. We get mental health services. So why are we denying the ability of other New Yorkers to get mental health services? We're nearing the end of the second-to-last week of the session, and still Timothy's Law

has not hit the floor of the Senate.

But I would encourage any of my colleagues, if no one in your family ever did need help, I would like to meet you because --

THE PRESIDENT: Senator Duane. Senator Duane, excuse me for interrupting you.

SENATOR DUANE: -- I think you might have a reason for not wanting to --

THE PRESIDENT: Senator Duane, you're out of order.

SENATOR DUANE: I'll be voting yes, Madam President. Thank you.

THE PRESIDENT: You were out of order. When I ask you to stop speaking, I expect you to respect my position and at least hear what I have to say.

You will be recorded as voting in the affirmative.

Senator Bonacic, did you want to be heard?

SENATOR BONACIC: Point of order.

We have a pretty lengthy schedule ahead of us. There's two minutes to explain our vote. If members are going to get up and engage in a filibuster, there's a lot of bills

we're never even going to address.

And I would suggest to certain individuals, without naming them, we're sympathetic to a particular issue that a particular Senator keeps advocating on every bill and gets -- no matter what we're talking about, it goes into that area.

But if that particular Senator wants to keep us sympathetic to that particular bill and pass it, we don't want to have a backlash as a result of the way that particular Senator is conducting himself.

Thank you, Madam President.

THE PRESIDENT: Your point is well-taken.

The Secretary will announce the results.

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 464, substituted earlier today by Member of the Assembly Diaz, Assembly Print Number 2808A, 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 PRESIDENT: Senator Duane, to explain your vote.

SENATOR DUANE: Thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR DUANE: As you can imagine, anyone who has been victimized by a terrorist attack clearly would need to get mental health services. In fact, after 9/11 many of the people in New York City and the surrounding areas were able to access special funding streams for mental health services which were the direct result of a terrorist attack.

So unfortunately, that funding stream is going to run out. And obviously one of the things that we should incorporate is that should we ever again be victimized by a terrorist attack or a similar disaster, that families throughout New York State would be

able to get the counselling services that they need.

And obviously Timothy's Law would take care of that, and that's why we should bring that bill to the floor.

I'll be voting yes, Madam President.

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

Senator DeFrancisco, to explain your vote.

SENATOR DeFRANCISCO: Yes, I'd like to rise and echo what was said during the last debate.

You know, there's certain protocol here and certain things that are relevant. And everyone has an important issue. If everyone in this chamber came up on every single bill to advocate for one particular bill, we would never get anything productively done here.

I would hope that members from the minority side would at least discuss this with Senator Duane, because it is not only

nonproductive, it is also extremely childish to do that on every single bill. We've heard it many, many times. And up to this point in time, no one has said a word about it because everyone has a right to speak on an issue. But it seems at this point in time it's getting beyond the point of being reasonable in any sense of the word.

So I would urge everyone in this chamber to speak about the bill and make it relevant so that we can consider a long calendar and get done in a timely fashion and maybe even have time to get to Timothy's Law.

I vote in the affirmative.

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

Senator Breslin.

SENATOR BRESLIN: Yes, Madam President. I will also be voting in the affirmative.

And even though we sit in the minority and absorb lectures frequently, I think the perfect answer to this discussion would be to bring Timothy's Law to the floor

quickly, have a vote on it, and go on to other business.

I vote in the affirmative.

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

Senator Libous.

SENATOR LIBOUS: Madam President, I just, if I may on this issue, state that as a sponsor of the bill that I would ask everybody just to be patient. That there's still many days left here. And just because a bill has not hit the floor yet, it doesn't mean it's not reality.

So everybody needs to be very patient. It's being worked on.

THE PRESIDENT: Your point is well-taken.

Senator Stavisky.

SENATOR STAVISKY: Madam President, I too vote aye.

And it seems to me that we owe each other a modicum of respect. And respect includes the right to express your opinions as you see fit and as the voters elected you to do.

Thank you, Madam President.

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

Senator Diaz.

SENATOR DIAZ: Thank you, Madam President.

I also rise to respectfully disagree with my colleague Senator DeFrancisco. I think that the use of the word "childish" when someone wants to express their sincere opinion about a bill is uncalled for.

I think that anyone in this chamber has the right to express their opinion. That's what we were elected for. And if we had to take a whole day and explain 24 hours here, that's what we're getting paid for.

So to call someone or to say to someone that we are childish, that someone is childish because of expressing their opinion, is uncalled for, and I think that Senator Duane deserves an apology.

If it doesn't come from that side, Senator Duane, I really apologize to you for being called childish. I think that you are a person of honor and that you're doing the job

that you were elected to do.

Thank you.

THE PRESIDENT: And how do you vote, Senator Diaz, on this bill?

SENATOR DIAZ: I'm voting -- how am I voting? (Laughing.)

I'm voting yes.

THE PRESIDENT: You will be so recorded, Senator.

The Secretary will announce the results.

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 504, by Senator Skelos --

SENATOR HASSELL-THOMPSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 510, by Senator Larkin, Senate Print 2346A, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 519, by Senator Larkin, Senate Print 6321A, an act to amend the Agriculture and Markets 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 PRESIDENT: Senator Serrano, to explain your vote.

SENATOR SERRANO: Thank you, Madam President.

This bill, as I understand it, would create a task force for whitetail deer mitigation throughout the state of New York.

Now, what troubles me with this

bill is that when we think about New York State we think about its wonderful outdoors, its recreational activities, its wonderful hiking trails and streams. And these natural resources are being threatened by overdevelopment. And this overdevelopment has created many of the problems that we're seeing because we are invading on natural habitat of these whitetail deer.

So I say instead of looking for new ways to hunt these deer and kill them, we should find ways to really make this state a place for generations to enjoy the outdoors, to enjoy seeing the deer and not necessarily shooting the deer.

So I will continue to vote no on these hunting bills, and I urge my colleagues to do the same.

Thank you.

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

The Secretary will announce the results.

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 523, substituted earlier by Member of the Assembly Tokasz, Assembly Print Number 9989, an act to amend Chapter 433 of the Laws of 1997.

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.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 576, substituted earlier by Member of the Assembly Lentol, Assembly Print Number 10224, an act to amend the General Municipal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 610, by Senator Spano, Senate Print 6995, an act to amend the Labor Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 676, substituted earlier today by Member of the Assembly DiNapoli, Assembly Print Number 9856A, 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.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 717, by Senator Golden, Senate Print 3497, an act to amend the State Finance 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.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 732, substituted earlier by Member of the Assembly Gottfried, Assembly Print Number 10203, an act to amend Chapter 693 of the Laws of 1996.

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.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 735, by Senator Spano, Senate Print 6870, an act to amend the Social Services 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.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 742, substituted earlier by Member of the Assembly Sweeney, Assembly Print Number 9956, an act to amend Chapter 459 of the Laws of 1996.

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.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 743, by Senator Robach, Senate Print 3178, an act to amend the Civil Service Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 745, by Senator Trunzo, Senate Print 6567, an act to amend the Retirement and Social Security 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.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 843, by Senator Golden, Senate Print 7377, an act to amend the Retirement and Social Security Law and the Administrative Code of the City of New York.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

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

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, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 901, by Senator --

SENATOR HASSELL-THOMPSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 915, by Senator Meier, Senate Print 7661, an act to amend the Penal Law and others.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 943, by Senator Farley, Senate Print 5948A, an act to amend the 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, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 987, by Senator Fuschillo, Senate Print 7562A, 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: Those recorded in the negative on Calendar Number 987 are Senators Bonacic, Larkin and Rath.

Ayes, 53. Nays, 3.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 990, by Senator Little, Senate Print --

SENATOR FUSCHILLO: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 1071, by Senator Fuschillo, Senate Print 7480, an act to amend the Vehicle and Traffic 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, 54. Nays, 2. Senators Duane and Parker recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

1085, by Senator Robach, Senate Print 7841, an act to amend the Civil Service 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.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1086, by Senator Robach, Senate Print 7842, an act to amend the Civil Service 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, 55. Nays, 1. Senator Saland recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

1087, by Senator Golden, Senate Print 7845, an act to amend the Retirement and Social Security 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.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1100, substituted earlier today by Member of the Assembly Gottfried, Assembly Print Number 10022, an act to amend Chapter 33 of the Laws of 1998.

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.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 1160, by Senator Padavan --

SENATOR HASSELL-THOMPSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1168, by Senator Golden, Senate Print --

SENATOR HASSELL-THOMPSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1173, by Senator Little, Senate Print 6548, an act to amend the Correction Law and others.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 9. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 1239, by Senator Morahan, Senate Print 6964A, an act to amend the Executive Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1265, by Senator --

SENATOR HASSELL-THOMPSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1310, by Senator Spano, Senate Print 7903, an act to amend the Civil Service Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the first of March.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1318, substituted earlier by Member of the Assembly Pretlow, Assembly Print Number 1973C, an act to amend the Insurance 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, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1333, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8655A, an act to amend the Family Court Act and others.

THE PRESIDENT: Read the last

section.

THE SECRETARY: Section 8. This act shall take effect on the 90th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1372, by Senator Golden, Senate Print 6622A, 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, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1374, by Senator Maltese, Senate Print 106A, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1380, by Senator Maziarz --

SENATOR HASSELL-THOMPSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1422, by Senator Young, Senate Print 7925, an act to amend the Highway 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.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 1428, substituted earlier today by Member of the Assembly Paulin, Assembly Print Number 9464, an act to amend the Vehicle and Traffic Law and 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, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1466, by Senator Golden, Senate Print 7573, an act to amend the Retirement and Social Security 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, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1482, by Senator Spano, Senate Print 7789, 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, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1490, by Senator Saland, Senate Print 7959A, an --

SENATOR HASSELL-THOMPSON: Lay it aside.

SENATOR FUSCHILLO: Lay it aside for the day.

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

THE SECRETARY: Calendar Number

1515, substituted earlier by the Assembly Committee on Rules, Assembly Print Number 9058, an act to amend the Executive Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as Chapter 186 of the Laws of 2005.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1523, by Senator Meier, Senate Print 7890, an act to amend the Social Services Law and the Tax Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 10. 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 1538, substituted earlier today by Member of the Assembly Alessi, Assembly Print Number 10479, an act to amend the General Municipal Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect June 1, 2006.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1539, substituted earlier today by Member of the Assembly Eddington, Assembly Print Number 10481A, an act to amend the Town 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 1540, substituted earlier by Member of the Assembly Weisenberg, Assembly Print Number 10480, an act to amend the General Municipal Law and the Town 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 1563, by Senator Farley, Senate Print 7524A, an act to amend the Banking Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 5. 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 1579, by Senator Bonacic, Senate Print 6792, an act to amend the Education Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th 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 1580, by Senator LaValle, Senate Print 7405A, 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 1586, by Senator Padavan, Senate Print 1263, an act to amend the Criminal Procedure Law.

SENATOR HASSELL-THOMPSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1612, by Senator Johnson, Senate Print 6785A, an act to authorize.

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

Read the last section.

THE SECRETARY: Section 5. 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

1623, by Senator Flanagan, Senate Print 2551, an act to amend the Tax Law.

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

Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of the sales tax quarterly period.

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 1626, by Senator Oppenheimer, Senate Print 5387A, an act to amend the Tax Law.

THE PRESIDENT: There is a local fiscal impact note 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, 56. Nays,

1. Senator Valesky recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1628, by Senator Nozzolio, Senate Print 5679, an act authorizing.

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 1629, substituted earlier by the Assembly Committee on Rules, Assembly Print Number 8854A, an act to amend the Local Finance 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 1630, by Senator Flanagan, Senate Print 5824A, an act to amend the Vehicle and Traffic 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 1631, by Senator Larkin, Senate Print 6009A, an act to amend the Agriculture and Markets Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 15. 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 1633, by Senator Little --

SENATOR HASSELL-THOMPSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1635, by Senator Saland, Senate Print 7133B, an act to amend the Penal 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 SECRETARY: Ayes, 56. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1636, by Senator Balboni, Senate Print 7211A,

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 1637, by Senator Balboni, Senate Print 7228A, an act requiring the Office 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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

1638, substituted earlier today by Member of the Assembly DiNapoli, Assembly Print Number 10849, 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: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1639, by Senator Volker, Senate Print 7311, an act authorizing the Erie County Legislature.

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

Read the last section.

SENATOR VOLKER: Madam President, could we hold up?

Unfortunately, I'm going to have to star this bill because we've been advised in the last couple of days that it may be unconstitutional.

So what I'd like to do --

(Laughter; groans.)

SENATOR VOLKER: I know. Why, do we bother?

SENATOR HASSELL-THOMPSON: That never stopped us before.

SENATOR SCHNEIDERMAN: If we follow that rule, you could clear out a lot of this stuff.

(Laughter.)

SENATOR VOLKER: That's true. But since I don't want to say this is interminably unconstitutional, I'd just like to star the bill, okay?

(Laughter.)

THE PRESIDENT: So ordered.

SENATOR VOLKER: Thank you.

THE PRESIDENT: Senator Volker, we're glad to see you here today. I understand you were elevated this morning in a very difficult way.

SENATOR VOLKER: Yes, but I managed to talk my way out of it. Thank you.

THE PRESIDENT: As you always do.

The Secretary will continue to

read.

THE SECRETARY: Calendar Number 1640, by Senator Saland, Senate Print 7313, an act to amend the Executive 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 1641, by Senator Maziarz, Senate Print 7320A, an act to amend the Labor Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date as a chapter of the Laws of 2006.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 1642, substituted earlier today by Member of the Assembly DiNapoli, Assembly Print Number 10743A, an act to amend the 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 1643, by Senator Marcellino, Senate Print 7364, an act to amend the Tax Law.

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

Read the last section.

THE SECRETARY: Section 14. This act shall take effect June 1, 2006.

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Thank you,

Madam President, to explain my vote.

The promotion of renewable energy and alternative fuels is both desirable for the environment, public health, economic and energy goals.

Transportation remains one of the greatest sources of carbon dioxide emissions in our society today. A number of feasible alternates to gasoline have been developed but are not in widespread use by the public.

This bill provides encouragement, through tax savings, for the greater use of alternative fuels by the public as they become more readily available. This is a good goal, a positive aim.

And in these days of high taxes on gasoline and seeking to get off the oil addiction, I vote aye on this bill and I thank my colleagues for doing the same.

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

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1644, by Senator Saland, Senate Print 7390, an act to amend the Agriculture and Markets 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 1645, by Senator Farley, Senate Print 7429, an act to amend 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, 57.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 1646, by Senator Trunzo, Senate Print 7540A, 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 1647, substituted earlier today by Member of the Assembly Paulin, Assembly Print Number 10766, 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 1648, by Senator Padavan, Senate Print 7704, an act to amend the Vehicle and Traffic 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 1649, substituted earlier --

SENATOR FUSCHILLO: Lay it aside temporarily.

THE PRESIDENT: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 1650, by Senator LaValle, Senate Print 7878 --

SENATOR FUSCHILLO: Lay it aside for the day.

THE PRESIDENT: The bill is laid

aside for the day.

THE SECRETARY: Calendar Number 1651, substituted earlier today by Member of the Assembly --

SENATOR HASSELL-THOMPSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1652, by Senator Fuschillo, Senate Print 8019, 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: Those recorded in the negative on Calendar Number 1652 are Senators Bonacic and Larkin.

Ayes, 55. Nays, 2.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1653, by Senator Volker, Senate Print 8021, an

act to amend the Correction Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2006.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1654, by Senator Wright, Senate Print 8024, an act to amend the Public Service 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

1655, by Senator Morahan, Senate Print 8027, an act to amend the Mental Hygiene Law.

THE PRESIDENT: 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 SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1656, by Senator Morahan, Senate Print 8028, an act to amend the Mental Hygiene Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. 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 1657, by Senator Fuschillo, Senate Print 8037,

an act to amend the Real Property 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 PRESIDENT: Senator Montgomery, to explain your vote.

SENATOR MONTGOMERY: Yes, thank you, Madam President.

I'm going to oppose this legislation. While I understand that individuals who are convicted of felonies are already prohibited from being a real estate broker, this bill would include people who were convicted of any sex offense, some of which are still misdemeanors, and it would cover people who had had the most minor sex-offense charge.

A misdemeanor usually means no jail time. And while I acknowledge the fact that individuals who are convicted of certain misdemeanors deserve punishment, the fact is the conviction of any other misdemeanor does

not eliminate the ability of these individuals to sell real estate.

Now, this is an example of how this house, this Legislature, keeps passing bill after bill which further limit the opportunities that people who have a misdemeanor, even, limits them from being able to live a productive life. We limit where they can live, where they can work, where they can go to school, where they can go to church or not go to church. There is absolutely no way for people to be successfully reintegrated into the communities even if they've made some minor mistake that is deemed a sex offense, no matter how minor.

It doesn't make sense to me. We need to be looking at ways of allowing people to be able to go on with their lives. And certainly I think this goes way overboard. We already have protections in place for people who are felons, so that's one thing. But to go to this extreme I think is unnecessary.

I'm voting no.

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

Senator DeFrancisco, to explain your vote.

SENATOR DeFRANCISCO: Yes, I'm also going to vote in the negative.

I know that there are many bills dealing with sex offenders and this house has generally supported these bills unanimously. But the reason I have to vote no on this bill is, number one, the felony arrests or felony convictions are already covered.

And secondly, and maybe more importantly -- and it's a question of whether we should really stop licensing for misdemeanors when -- but the real problem I have is why real estate brokers only, why real estate salesmen. If this is important to extend nonlicensing to professions, why the real estate brokers?

And it just seems to me if it's something that should be done to prevent licensing to a profession on a misdemeanor sexual conviction, that it really should be across the board if at all. So I'm going to vote no.

THE PRESIDENT: You will be so

recorded as voting in the negative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1657 are Senators DeFrancisco, Duane, Hassell-Thompson, Montgomery, Parker and Schneiderman. Also Senator L. Krueger. Also Senator A. Smith.

Ayes, 50. Nays, 8.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1658, substituted earlier today by Member of the Assembly Englebright, Assembly Print Number 10914, an act to amend Chapter 841 of the Laws of 1987.

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, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1659, by Senator Padavan, Senate Print --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1664, substituted earlier by Member of the Assembly Hoyt, Assembly Print Number 2570, an act to amend the Mental Hygiene Law.

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, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1666, by Senator Larkin, Senate Print 447A, an act to amend the Tax 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 SECRETARY: Ayes, 57. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1667, substituted earlier today by Member of the Assembly Destito, Assembly Print Number 145, an act to repeal paragraph (f) of subdivision 4 of Section 209 of the Civil Service 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, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1668, by Senator Fuschillo, Senate Print 1773B, an act to amend the Environmental

Conservation Law and the Executive Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 9. This act shall take effect on the first of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1668 are Senators Bonacic, DeFrancisco, Farley, Libous, Little, Maziarz, Meier, Morahan, Nozzolio, Rath, Seward, Winner and Young.

Ayes, 45. Nays, 13.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1669, by Senator Golden, Senate Print 2205, an act to amend the Penal Law and the Railroad Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 90th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

SENATOR MONTGOMERY: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1671, by Senator DeFrancisco, Senate Print 3329, an act to amend the Penal 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.)

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MORAHAN: The bill is laid aside.

THE SECRETARY: Calendar Number 1672, by Senator Leibell, Senate Print 3512A, an act authorizing the Governor's Traffic Safety Committee.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 4. This

act shall take effect immediately.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1673, by Senator Leibell, Senate Print 3794B, an act to amend the Tax Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

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

SENATOR SABINI: Thank you, Mr. President.

I just want to commend Senator Leibell for this piece of legislation.

You know, for a number of years I chaired the landmarks committee on the New York City Council. And a number of problems are addressed by this bill.

First of all, very often we have demolition by neglect. Historic homes are often hard to keep up. With the expansion of historic districts in areas throughout the state, more and more people live in historic districts.

And we want to make people want to live in a historic district, but some common wisdom is that a historic district is too expensive to live in because you have to keep your house up and to hire special architects and special contractors to live in those districts to keep the house in the kind of repair that matches local regulations on preservation.

This tax credit will go a long way to help people who live in those districts keep the homes up. And I want to commend Senator Leibell, and I'll be voting in the affirmative.

Thank you.

ACTING PRESIDENT MORAHAN:

Senator Leibell, to explain his vote.

SENATOR LEIBELL: Thank you, Mr. President. And thank you to my colleague.

This is a piece of legislation that's been sought for some time. And as I think we all know, we have so many beautiful old buildings and beautiful old homes in this state.

This legislation will create an incentive for taxpayers and homeowners to go out there and to rehabilitate some of this old stock. So I'm very pleased that this legislation is before the house today and am very pleased to support it.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1675, by Senator Trunzo, Senate Print 4564, an act in relation to authorizing.

ACTING PRESIDENT MORAHAN: Read

the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1675 are Senators Bonacic, Larkin and Rath.

Ayes, 55. Nays, 3.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1676, by Senator Golden, Senate Print 5030, an act to amend the Penal Law and the Vehicle and Traffic Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 90th day.

SENATOR HASSELL-THOMPSON: Lay it aside.

ACTING PRESIDENT MORAHAN: The

bill is laid aside.

THE SECRETARY: Calendar Number 1677, by Senator Spano, Senate Print 5114A, an act to amend the Education Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 180th day.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1678, by Senator Wright, Senate Print 5240A, an act to amend the Public Service Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN:

Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1679, by Senator Golden --

SENATOR HASSELL-THOMPSON: Lay it aside.

ACTING PRESIDENT MORAHAN: The bill is laid aside.

THE SECRETARY: Calendar Number 1680, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8696A, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 57. Nays,

1. Senator Duane recorded in the negative.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1682, substituted earlier by Member of the Assembly DiNapoli, Assembly Print Number 9723A, an act to amend the General Business Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1684, substituted earlier today by Member of the Assembly Zebrowski, Assembly Print Number 9757A, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1685, by Senator Spano, Senate Print 6628, an act to amend the Social Services Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 57. Nays,

1. Senator Duane recorded in the negative.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1686, substituted earlier today by Member of the Assembly Bradley, Assembly Print Number 9842, an act to amend the Town Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1688, by Senator Larkin, Senate Print 6694A, an act to amend the Agriculture and Markets Law and others.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 57. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1689, by Senator Golden, Senate Print 6891A, an act to amend the Not-For-Profit Corporation Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 57. Nays,

1. Senator Duane recorded in the negative.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1691, by Senator Golden, Senate Print 7927, an act to amend the Criminal Procedure Law and the Executive Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 90th day.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 56. Nays, 2. Senators Duane and Montgomery recorded in the negative.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1692, by Senator Golden, Senate Print 7928, an act to amend the Penal Law.

ACTING PRESIDENT MORAHAN: Read

the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

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

SENATOR DeFRANCISCO: This is one of many in a series of bills that raises the punishment for an assault depending upon who the victim is.

Now, if someone can tell me why a member of the Social Services district should be -- if you assault someone from that organization as opposed to another governmental organization it should be a felony, it's beyond me.

We had one a couple of days ago where there was another group and we had hit every type of worker within that group -- I can't remember what it was -- and now we're getting the cleaning people in that group.

So I think my point is I keep voting yes; I'm going to vote no on this one,

because it's gotten to the point where there are more exceptions to the rule than the general rule of what assault is. If we want to do it across the board, we should do it across the board and enhance the penalties, not have a series of exceptions that are now eating up the rule.

I vote no.

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

Senator Savino.

SENATOR SAVINO: To explain my vote. Thank you, Mr. President.

Oftentimes in this chamber we try to talk about trying to reduce violence in the workplace, and that's an appropriate goal.

We also started off this legislative session with a lot of attention paid to what was a terrible tragedy in New York City, which was the death of Nixzmary Brown. And it opened a focus upon the child welfare services and the Child Welfare Administration and the provision of services to children.

Having been a child welfare worker, having been a protective service worker, I can tell you it is one of the most dangerous jobs you will ever do. With very little support, caseworkers go out in the field with two things: a fieldbook and a pen. Oftentimes they go alone. They go into chaotic situations, they are intervening in the lives of families who quite frankly do not want them there, and they are assaulted on a regular basis.

They do not receive the appropriate support that they need from either their administration or from the police department or from anybody else, for that matter. It is an incredibly dangerous job.

And as we seek to decrease the numbers of cases that are reported and improve the way children are parented, we also need to provide protection to those who go out and knock on doors in the middle of the night in an effort to protect those.

So I'm voting in favor of this bill. Thank you.

ACTING PRESIDENT MORAHAN: Thank

you, Senator. You will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1692 are Senators DeFrancisco, Hassell-Thompson, Little, Montgomery and Parker. Also Senator A. Smith.

Ayes, 52. Nays, 6.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1693, by Senator Johnson, Senate Print 7936, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MORAHAN: The

bill is passed.

THE SECRETARY: Calendar Number 1694, substituted earlier today by Member of the Assembly Cusick, Assembly Print Number 2147A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1697, by Senator Spano --

SENATOR HASSELL-THOMPSON: Lay it aside.

ACTING PRESIDENT MORAHAN: The bill is laid aside.

THE SECRETARY: Calendar Number

1698, by Senator Maziarz, Senate Print 8091, an act establishing.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MORAHAN: The bill is passed.

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

SENATOR SKELOS: Thank you, Mr. President.

If we could go to the controversial reading of the calendar.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 504, by Senator Skelos, Senate Print 6872B, an act to amend the Public Health Law.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MORAHAN: Senator Skelos, an explanation has been requested.

SENATOR SKELOS: Thank you, Mr. President.

This legislation, which has been on the floor of the Senate in various alternatives for the past year, would establish a Medicaid inspector general's office.

Through the leadership of Senator Bruno, Senator Hannon, Senator Meier, this conference, we've looked in a long-term way on how we can make the Medicaid system more efficient in New York State -- which is presently over $46 billion a year, by far the largest program in this country -- but also providing quality care for those who need assistance.

As you know, as part of last year's budget process we enacted a historic cap on local Medicaid costs, which is a very positive way to alleviate the burden on local property taxpayers. But also that burden has been shifted to the state taxpayer, State of

New York, through various taxes -- the income tax -- and fortunately up to this point we have not had to raise it, nor do I hope we have to, nor should we, if the office of inspector general is adopted in this state.

Last February we enacted an ongoing discussion concerning how pervasive fraud and abuse is in our Medicaid budget; again, $45 billion Medicaid program. Everyone agrees that the estimates are that 10 percent at least of all Medicaid spending can be attributed to fraud and abuse. In New York State, that amounts to roughly $12 million a day, well over $80 million a week, $375 million a month, and $4.5 billion each year.

Last year the Senate passed, with bipartisan support, the establishment of an Office of Medicaid Inspector General to go after this fraud and abuse. Now, at that time many in the Senate Minority, the Assembly Majority, suggested that Medicaid fraud was nothing more than an urban myth. The Attorney General, the Department of Health defended their record and stated that New York State

provided a national model.

You know, it's incredible what a difference a year makes in government in our business. Following The New York Times' jaw-dropping investigative series and hearings conducted by the Medicaid Reform Task Force, the Assembly Majority, Senate Minority, Department of Health and the Attorney General reluctantly acknowledged the state's failure to effective combat this problem and its serious impact on state and local taxpayers.

This year the Senate Majority again introduced and passed its comprehensive Medicaid Fraud Reform Act. During the state budget process, the Senate and the Assembly negotiators invested over three long weeks developing compromise litigation.

Now, I should point out, in the budget that we did pass at the end of March, over $300 million is anticipated revenue by the establishment of an independent Medicaid inspector general's office in New York State.

We agreed at that time during the negotiations for over three weeks on a number of provisions, but the Assembly majority has

failed to match Senate's good-faith compromising on the term and qualification requirements necessary for an independent -- and I keep underlining that, independent -- professional office of Medicaid inspector general. These were the only outstanding substantive issues at the last point in negotiations between the two houses.

The Assembly, Assembly Speaker has requested that we go to joint conference committee. Certainly I agree and I believe that Senator Bruno agrees that if we go to joint conference committee and there is good faith shown on the part of the Assembly, that the issues can be resolved within a few short moments.

I should point out again that there are some differences between the Assembly version that has passed and the Senate version. In terms of qualifications, which I think are critically important, the Assembly bill has no qualifications, which is mind-boggling to me in terms of the appointment of an independent inspector general.

Term of office. There was a concern by the Assembly majority that the new governor that comes into office January 1st of '07 should have the ability to appoint their inspector general. As an act of good faith, the Senate indicated and the Assembly actually agreed that after nine months, from the beginning of the term of office of inspector general, July 1st, that specific individual's term of office would end and the new governor would be able to appoint their choice.

The Assembly then requested 18 months before that term of office would end. We agreed so that the new governor would have time to select his choice, but that the process of establishing this office would commence immediately. That is not in their bill.

The Assembly does not wish to have a term of office, which we believe is truly important. In order to make sure that the office of inspector general is truly independent, we would have a two-year term of office, which we have reduced from five years as an act of good faith with confirmation from

the Senate. The Assembly wishes to have the appointment and then a holdover after two years.

So those are the major differences. And one other issue that I do wish to bring up, at no time during the three-week negotiation with the Assembly did a private-right-of-action provision, which is in the Assembly version, was that brought up as a necessary component on their part in order to pass this legislation. That miraculously appeared when they passed their bill.

And quite frankly, it's my position that the Assembly is not interested in passing a bill this year. You know, obviously this type of year there are many rumors. There are some that have indicated that they want no public policy decisions made until a new governor comes into office. Some people think that their term of office begins six months before they are elected to the governorship. I think that's not within our state constitution.

And some think that whoever the new governor is would be looking to actually

abolish the office of inspector general, which Governor Pataki created by executive order, and go back to the failed ways of the Health Department and the present system that exists now that has absolutely failed.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

SENATOR SAMPSON: Mr. President.

ACTING PRESIDENT MORAHAN: Yes, Senator.

SENATOR SAMPSON: I have an amendment at the desk. I'd like to waive its reading and I'd like to be heard on the amendment.

ACTING PRESIDENT MORAHAN: Okay, we'll waive the reading and you can speak to the amendment.

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

Senator Skelos, once again I commend you on your leadership. Last week in The New York Times it talked about the lack of leadership this administration had dealing with Medicaid fraud. But I commend you especially on this legislation that you have

put forth and really making it comprehensive to really slam the door on Medicaid fraud.

And as you said before, Medicaid fraud is far from a myth. You know, we have to understand that Medicaid fraud robs our communities, most of all especially our localities who are trying to deal with what's going on with respect to Medicaid fraud.

However, even though we're trying to slam the door, as I said before, there's a crack. And the way we can seal that crack is by using the Martin Act.

And I know, Senator Skelos, you're going to tell me the Martin Act was used with respect to the securities industry when it wasn't regulated, and now we have the Department of Health now who can regulate that.

But what I'm saying is we still haven't gone far enough. As you said, 10 percent, 10 percent of Medicaid fraud -- we're talking about billions and billions of dollars. But with respect to the Martin Act, we can accomplish three things.

And the first thing, it restores

the limitation that hampers prosecutors. Which that means that now prosecutors can prosecute those individuals who engage in half-truths or deceptions or admissions.

The second thing that it does, it provides us a new investigative tool. And that tool would be using testimony under oath, which we can use in civil proceedings.

And the third thing that the Martin Act could create, it would create what we call a scheme to defraud a health plan. And this would allow us to use eavesdropping and other surveillance to get information that is necessary for us to prosecute these Medicaid fraud cases.

And I understand, when you talk about the partisanship that may be involved in a bill coming to the floor, that it's important. But irrespective of Democrats or Republicans, this is about people. And we need to act on this bill now, we can't wait. Because waiting six months, seven months, 18 months is still not going to get the results.

The bottom line here is this, that

if we can put this amendment with the legislation that you have, we can make it tight and at the same time hopefully, as you're saying, work in conference committees with the other house to ensure that we have the inspector general has all the necessary powers that he needs so we can eliminate Medicaid fraud.

Thank you very much, Mr. President.

SENATOR SKELOS: If I could just comment quickly on the amendment.

ACTING PRESIDENT MORAHAN: Senator Skelos.

SENATOR SKELOS: Number one, I would point out that in the Assembly's version of the bill that they passed, they do not have a true Martin Act in that legislation.

Number two, and I think we've discussed this before, the Martin Act really was intended to regulate the securities industry. And right now, under the laws of the State of New York, there is the ability to prosecute these cases I believe effectively.

I want to also point out there has been some discussion in terms of many of the

criminal sanctions that are within this legislation. Again, as an act of good faith to the Assembly, we've adopted the language in our bill that they have given us, all right, to avoid getting hung up on a number of these criminal sanction issues.

I mean, we want to get the office established first so that these fraudulent claims do not continue to go out the door. I mean, that is the priority of establishing an inspector general's office immediately.

Would we like stricter penalties? Absolutely yes. But the reality is, and we've seen this in so many cases with the Assembly, whether it's Megan's Law or other issues, they just do not want to deal with strict penalties or enhancing penalties.

So our position, my position is basically we have to move on, and the priority is not allowing the money to go out the door on these fraudulent claims. After this, if you want to sit down and discuss enhancing the penalties, we'd be delighted to do it, be absolutely delighted to do it.

But if we do not act within this

legislative session on this bill -- and I don't believe, quite frankly -- a true Martin Act? The Assembly would never, never adopt a true Martin Act with the powers that the Attorney General has right now under the existing federal Martin Act. Never would adopt it. Never would adopt it.

So the issue is do we want to wait until January and lose $2.4 billion, or do we want to act now and close the door on this type of fraud?

SENATOR SAMPSON: Thank you, Mr. President.

SENATOR SKELOS: And I do thank you for the kind comment about my leadership on the issue.

SENATOR SAMPSON: Through the chair.

And I agree with you, Senator Skelos, we can't wait to act and --

ACTING PRESIDENT MORAHAN: Excuse me. Excuse me. Do you have a question of the Senator?

SENATOR SAMPSON: I just wanted to respond to the Senator's comments.

ACTING PRESIDENT MORAHAN: Okay. On the amendment?

SENATOR SAMPSON: On the amendment, if possible. Thank you very much, Mr. President.

Senator Skelos, I agree with you. We can't wait. And, you know, just like you're saying that the Assembly doesn't have the Martin Act in their piece of legislation, that's why I brought this amendment to you, because of your leadership, so we can put it in your legislation and make it strong so we can get together, you're saying, in conference committees and really deal with issues.

And you're right, we can't wait. You know, what's the sense of losing $2.4 billion? That is resources that can go to my community and your community -- especially your community, where my sister is a constituent of yours.

So, you know, I would love to see something like that happen now. And I agree with you on that, Senator Skelos.

ACTING PRESIDENT MORAHAN: Senator Skelos.

SENATOR SKELOS: Mr. President, if I could respond to that.

ACTING PRESIDENT MORAHAN: You may respond.

SENATOR SKELOS: The purpose of passing this bill today, number one, I believe it stands on its own. If the Assembly adopted it, it would certainly help prevent fraud within this -- Medicaid fraud within this state.

The idea is to get to joint conference committee. And I just point out to you that under the rules of the Senate, if this bill is amended, it has to go back to the committee of jurisdiction for 10 days. Ten days would be a week from this Saturday, I believe. And there could be no joint conference committee.

So really, the series of amendments that you are offering are something that could be discussed at the joint conference committee. But if this bill was amended, there will no joint conference committee. And because of the efforts of the Senate minority, quite frankly the taxpayers of the State of

New York would probably lose $2.4 billion, $2.4 billion, because the next time we could act on this legislation would be January 3rd of '07.

SENATOR SAMPSON: Thank you.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

On Senator Sampson's amendment, those Senators in agreement please signify by raising your hands.

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

ACTING PRESIDENT MORAHAN: The amendment is not agreed to.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I believe I have an amendment at the desk. I'd like to waive the reading of the amendment and be heard on it.

ACTING PRESIDENT MORAHAN: The reading is waived. You are recognized to speak to the amendment, Senator.

SENATOR SCHNEIDERMAN: Thank you.

I echo Senator Sampson's commentary about Senator Skelos's leadership on this issue.

And I must say -- and I will have a chance to discuss the bill in chief, which I also do intend to support -- we have a lot of discussion here about hearings. And on our side of the aisle, we are advocates for having hearings. We want hearings on the death penalty, we want hearings -- Senator Duane advocates for hearings frequently on the floor, and others.

The hearings that were held on the issue of Medicaid fraud, which were cochaired by Senator Hannon and Senator Meier and Senator Skelos, with Senator Skelos's vigorous participation, were excellent hearings. They were a great model of why it is essential to have more hearings. Ideas came out -- I changed my views in the course of the hearings, I think others did. Information

came out, ideas came out.

The idea of a Martin Act for healthcare fraud that is being pushed by the current attorney general, Eliot Spitzer's office, came out of a colloquy at one of our hearings. So this was the Senate doing its work well.

I agree wholeheartedly that it would be a great shame for us to leave with two one-house bills and not address the area of Medicaid fraud. And I think that the members on both sides of the aisle in this house have been pursuing the issue. Senator Skelos was the early advocate for the model of a Medicaid inspector general.

And truly, whatever we can do on this side of the aisle to try and get the other house to cooperate in meetings, whether it's a conference committee or just negotiations after session, we will do. And I have -- in fact, I have attempted a dialogue with someone over there, and I will report on that later.

My amendment, however, would address an issue that does separate the two

houses, that does separate the two bills that are on the table now. And that is to add a False Claims Act to this bill.

And I understand Senator Skelos's comments about amendments. I suspect that this amendment will also fail. But the way the people on our side of the aisle have to advance substantive issues, one of our major vehicles is through amendments. We usually are not invited into the room when bills are being drafted.

And I don't think it's been any secret -- and there's been correspondence, and I have written to Senators Skelos, Hannon, and Meier about the False Claims Act which I am going to offer in this amendment today. So the --

ACTING PRESIDENT MORAHAN: Senator Skelos.

SENATOR SKELOS: Mr. President, could I just ask Senator Schneiderman if he would yield.

ACTING PRESIDENT MORAHAN: Senator Schneiderman, will you yield for a question from Senator Skelos?

SENATOR SCHNEIDERMAN: I will yield to a collegial question.

ACTING PRESIDENT MORAHAN: Okay, he has yielded, Senator Skelos.

SENATOR SKELOS: Senator Schneiderman, from time to time I hear, from you and from other members of the Democrat side, Why are we passing these one-house bills? You know, why are we wasting everybody's time?

Many of the one-house bills that you consider one-house bills we consider good public policy that will hopefully open up a dialogue and will motivate the Assembly to do something.

So I have no problem with you offering your amendment. I think it's positive that you do offer amendments. But I think you should consider that when we have bills that the Senate majority is putting forth, we continue to put them forth in good faith in terms of trying to influence public policy in a positive way the way we think it should be influenced.

ACTING PRESIDENT MORAHAN:

Senator Skelos, is there a question there?

SENATOR SCHNEIDERMAN: That's all right. It was collegial even if it wasn't a question, so I'll accept it.

I appreciate that. You're offering bills that may for the moment be one-house bills. We're offering amendments in an effort to advance issues.

And I do not disagree with your central point, which is that we have to get the Assembly to the table and we have to get something done. And I appreciate that you may be a little bit frustrated, since you've been advocating a Medicaid inspector general for quite some time.

I have a slight -- a few slight disagreements with your version of the history of how we've gotten to where we are today.

But this is where we are. We've got a Senate bill; the Assembly passed a bill on June 6th. We have to get them to the table so we can negotiate something. I believe that the bill we ultimately pass should include a False Claims Act, and that's the subject of this particular amendment.

The reason that I believe that is that the False Claims Act has been proven over and over again to be the most effective tool for prosecutors all over the country in rooting out Medicaid fraud. What this allows is people who are insiders, whistleblowers within healthcare institutions, to bring actions. And 70 percent of the recovery goes to the government.

The maximum -- in most cases, the whistleblower and the whistleblower's attorney is limited to 10 percent to 30 percent of the recovery. So 10, 15, 20 percent may go to a whistleblower and pay for their lawyer, but most of the money goes to the government.

Now why do I say it's been proven to be effective? It's been proven to be effective because we have a federal False Claims Act. We have federal provisions for whistleblower cases. And the federal False Claims Act has generated $12 billion over the last ten years. According the federal government, and the Republican-led federal government, it generates $13 for every $1 that the federal government spends on False Claim

Act cases.

So I think that it has been demonstrated to be the case, and in fact I would commend to my colleagues here that as we go into these -- what I hope will be honest negotiations with the Assembly, then let's recognize where the False Claims Act comes from.

And I would urge you that the chairman, the Republican chairman of the United States Senate Finance Committee has weighed in very heavily -- and I sent copies of these letters to my colleagues on the other side of the aisle -- on this issue.

I quote from a letter by Senator Grassley: "We as Republicans can be proud of our leadership in the fight against fraud, waste and abuse. Our efforts to make sure that precious tax dollars are spent both wisely and honestly are welcomed by citizens who are often skeptical about how well the government stewards their hard-earned tax dollars.

"Of course, fighting fraud is as important in the context of state and local

programs as in federal programs. That is why I'm urging you to consider enacting a law in New York that would produce the kind of success that the federal False Claims Act has."

Senator Grassley advocated so vigorously that both the Republican-led House of Representatives and the Republican Senate and the Republican President agreed to put in last year's Deficit Reduction Act a provision that provides incentives for states to adopt a False Claims Act. This is this is how strongly the national leadership of your party feels about it.

And this incentive in the Deficit Reduction Act provides that states that adopt False Claims Acts, as I hope we will in New York, get a -- and I'm reading from Senator Grassley's March 2006 letter. The Deficit Reduction Act provides that in state False Claims Acts, if they are passed and they meet certain requirements, "The state will qualify for a 10 percent increase in the state's share of any Medicaid fraud."

So the federal government is

willing to let us have more money if we enact a False Claims Act. By not putting a False Claim Act in our Medicaid inspector general bill, we are leaving money on the table, as they used to say when I was a corporate lawyer. We are not getting the maximum that we should be getting.

Now, where else has the False Claims Act been proven to be an effective vehicle against fraud? One of the things that I must acknowledge changed my mind and my view in some respects about the office of Medicaid inspector general was the testimony of the Texas Medicaid inspector general, who came to one of our hearings and reported on the work done in that state. And, you know, I'm second to none in the pride about our state being ahead of the curve, but when Texas beats us, I acknowledge it.

But I would suggest that we also have to consider the statements of Patrick O'Connell, who's the chief of the Medicaid fraud section in the Texas attorney general's office, who has stated, and it was printed in the newspapers, that, quote, probably

98 percent of the Medicaid fraud claims his office receives come via whistleblower suits.

So that's another statement. The other states that have large Medicaid programs -- California, Florida, Illinois, Texas -- all have False Claims Acts. Republican and Democratic administrations have enacted them. We should include it in our bill.

The notion, you know, that there is -- because whistleblowers and their attorneys might get between 10 and 30 percent of a recovery leaves the state out of getting the 70 percent. And the reason it is particularly appropriate in this area is that the Medicaid system is a very opaque system. There are complicated regulations. It's hard to tell exactly where the fraud lies in many cases. If you have clinics reporting that they're treating everyone for glaucoma screenings, maybe they are, maybe they're not. It's a very different area to police.

This enables us -- and it is really is, pardon the expression, sort of a Republican principle. Instead of us beefing

up with lots of government lawyers and investigators, it empowers the people who are in these agencies, in these healthcare providers, to blow the whistle on whoever is committing the fraud. And it provides an incentive for them.

So I suggest, in respecting the good faith with which this bill is offered -- and I do intend to vote for it -- that in the negotiations coming forward, we consider putting in a False Claims Act. It would get us more money, it's demonstrated to be effective. And, really, leaving out a False Claims Act would be a severe impediment to the inspector general's ability to prosecute Medicaid fraud and root out Medicaid fraud.

So I offer this amendment, Mr. President, and I hope that my colleagues will consider it. Even as I suspect it fails today, I hope that it will move forward into the negotiations along with you.

ACTING PRESIDENT MORAHAN: Thank you, Senator Schneiderman.

Senator Skelos.

SENATOR SKELOS: Mr. President,

if I could just comment before the amendment is taken up.

I want to just point out that significant portions of the False Claims Act already exist in New York State, under the Labor Law and the Social Services Law.

The Attorney General and the Senate Minority continue to support, quite frankly, the outsourcing of work that should be done by the over 900 employees that exists now between the Health Department and Attorney General's office. Three hundred, 300 attorney individuals are involved in the Attorney General's Medicaid Fraud Control Unit.

I'm happy that Senator Schneiderman is beginning to sound more like a Republican and that he is praising what is being done in --

SENATOR SCHNEIDERMAN: I'm swapping with Senator Spano.

(Laughter.)

SENATOR SKELOS: And, you know, there are many concerns, and rightfully so, quite frankly, by many of the unions that we deal with, and I say this in a very positive

way, about the outsourcing of jobs to other countries. Whether it's people that would take complaints, jobs that could go to the members of the communication workers' union, different unions, there is a real concern about outsourcing.

And I have enough confidence, I have enough confidence with the good employees of the State of New York -- there will be a new attorney general next year, and I'm sure that she will reform that department and make sure that it acts efficiently and aggressively goes after Medicaid fraud, rather than collecting one-tenth of 1 percent of our total Medicaid budget when a state like Texas and others are collecting 5 percent because they have an inspector general's office.

I also want to point out that New York State is a lot different than other states, most other states, because we have a local share. And we've had a partnership over the years with local governments, local counties in terms of monitoring the system.

But also I would prefer to provide them, which we do in our legislation, an

incentive to go after Medicaid fraud, to work with whistleblowers, the fact that we have whistleblower protection in our legislation and in the State of New York to really get this money -- well, number one, prevent it from going out the door, but recouping this money for the benefit of the state and for the benefit of our counties.

You know, we should point out that after returning the federal government's 50 percent share -- and this would be in a whistleblower situation, or if we have qui tam, actually -- and allocating attorney's fees, generally about 33 percent, and the whistleblower's bounty, which is about 25 percent, there really is very little that the state would actually recover.

I prefer to work with the local counties, the local district attorneys, reforming the system here with an inspector general, a truly independent inspector general, the Attorney General's office, and make sure that this money comes back to the taxpayers rather than, again, outsourcing responsibility. Which I'm sure that my good

friends in the Democrat minority are not in support of outsourcing responsibility and money that could be going to our good employees in the State of New York, rather than outsourcing, you know, to India, to other countries. So I think they're moving in the wrong direction.

Now, I want to also point out that under the federal Deficit Reduction Act, it does not become effective until January 1st of 2007. And the language is very, very ambiguous in terms of what would be potentially required of the states in a False Claims Act and how they would qualify for the 10 percent incentive, if in fact the hiring of private attorneys would even be necessary.

So I think, again, you're putting the cart before the horse. And what we have to do right now is, number one, prevent it from going out the door, or we could be wasting $2.4 billion by next January; not assuming that any individual running for governor effectively takes office before the election and right after we complete our work next week; and that public policy decisions

cannot wait until there is a new governor, they have to be determined now by this Legislature.

So, Senator Schneiderman, I understand your amendment, I appreciate it. I do not want to delay going to conference committee. Again, if your amendment passed, the bill would have to go back to the committee of origin for 10 days and we would not be able to have a joint conference committee. And I'm certainly sure that members of your conference committee do not want to support an amendment that would end up costing the taxpayers of the State of New York approximately $2.5 billion.

ACTING PRESIDENT MORAHAN: Thank you, Senator Skelos.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. On the amendment. I have a couple of comments in response to Senator Skelos's point.

First of all, with regard to the clarity of the Deficit Reduction Act supported by President Bush and the Republican

leadership in the house and the Senate, that was clarifying exactly what has to be in a False Claims Act that we should enact, was the purpose of the March 17, 2006, letter authored by the chair of the Senate Finance Committee in the United States Senate, Senator Grassley. And I have forwarded that to my colleagues in an effort to provide information that could make the bill that's coming to the floor today a better bill.

Second of all, I think that all of the evidence in all of the states and in the federal False Claims Act is that False Claims Acts generate hundreds of millions if not billions of dollars for every state that has them. They generate for cases for the hardworking employees in the Department of Health or the inspector general's office or the attorney general's office, whichever prong of our multiheaded hydra of a healthcare system is brought into the process once a whistleblower brings a case to our attention.

The reason this is not outsourcing is that we're talking about people who are inside the healthcare networks. It's not as

though we're saying, Oh, we're going to outsource it to random people on the street, we're giving a contract to root out Medicaid fraud to, you know, Enron or something like that.

We're giving an incentive to the only people who can help blow the whistle to come forward. It's good that we have whistleblower protection so that people can't be fired for blowing the whistle, but they don't have an incentive. This creates an incentive. It has been demonstrated, in every state that's done it, to generate large recoveries. So this would help the taxpayers of the State of New York.

I also -- you know, again, I appreciate the concern about a conference committee. It appears now that we are unlikely to have a conference committee that will complete its work by next Thursday, when we're set to adjourn. There may be negotiations that go on afterwards. We're certainly prepared on this side of the aisle to come back for a special session if that is necessary.

I don't think our commitment to passing an inspector general bill, to passing additional ammunition and additional mechanisms for rooting out and getting rid of Medicaid fraud, ends next Thursday. So whatever it is we have to do, we're offering this in good faith. We think it's a tremendously important provision.

And I would also suggest that False Claims Act -- you know, there's a problem, I know, on the other side of the aisle in this house relating to the False Claims Act, and people have complained about it being a source of revenue for trial lawyers. It's not a problem on the other side of the aisle in the House of Representatives; they support it. It's not a problem in the other side of the aisle in the United States Senate; they support it. It's not a problem on the Republican side of the aisle in the Assembly, because the Assembly's bill including a False Claims Act passed last week 128-7.

So I would urge my colleagues here, in good faith, let's look at what everyone else seems to have concluded, that False

Claims Acts are good, they provide more work for the public employees. It's not outsourcing. And let's support this amendment. If not support the amendment, at least get this on the table in the negotiations that I truly hope go forward.

And we offer whatever assistance we may be able to provide. When we talk on the bill in chief, we can discuss a few other aspects of that.

ACTING PRESIDENT MORAHAN: Senator Hannon.

SENATOR SKELOS: Mr. President, before Senator Hannon asks a question, if I could --

ACTING PRESIDENT MORAHAN: I think you spoke twice, Senator.

SENATOR SKELOS: -- ask one more question.

SENATOR SCHNEIDERMAN: I yield.

ACTING PRESIDENT MORAHAN: Senator Schneiderman, do you yield for a question from Senator Skelos, who has already spoken twice?

SENATOR SCHNEIDERMAN: He's

already spoken twice, so --

SENATOR SKELOS: Okay, if you want to call the rules, call the rules.

SENATOR SCHNEIDERMAN: No, no, no, I'm happy to yield for another collegial question. I just am cognizant of the admonition of the chair.

SENATOR SKELOS: I don't know if he admonished us, but --

SENATOR SCHNEIDERMAN: Reminded. Reminder from the chair.

SENATOR SKELOS: Just one short question.

ACTING PRESIDENT MORAHAN: Through the chair, please.

SENATOR SKELOS: If a person sees an individual committing a crime, assaulting a child, sexually abusing a child, do they -- should we be offering them a reward to report it? Or is there a civic responsibility in light that if you're seeing taxpayers' dollars being stolen, a child being molested or abused by a parent, do we have a responsibility just to report it and do the right thing rather than looking for a bounty?

SENATOR SCHNEIDERMAN: I certainly do believe in civic responsibility.

But I would note that in many areas of law relating to business organizations and environmental law and other areas where it is difficult to obtain information from insiders, the model of private attorneys general, the model of whistleblower cases has been used very effectively, and this would do that.

You know, the reason we have a criminal -- all these criminal law provisions we debate vigorously here is that some people don't honor their civic responsibilities. So I think let's -- but, you know, I do believe in it. I don't disagree that that's something that I wish everyone would do on their own.

ACTING PRESIDENT MORAHAN: Senator Hannon.

SENATOR HANNON: Thank you, Mr. President. On the amendment.

I usually don't rise about amendments on this, but it comes about with a peculiar setting.

Since the sponsor of the amendment has already said that he will vote for the

bill in chief, the main bill which will establish a Medicaid inspector general -- I believe those were your words, Senator Schneiderman.

Now the question becomes, what will take place if you add to that Medicaid inspector general this layer of a private right of action, the qui tam that he's been advocating? And I think the question is answered twofold.

One, it will become diversionary towards the purpose that we seek to achieve of trying to put forward a regular procedure for prosecuting Medicaid fraud in this state and detecting it. Because our hearings have demonstrated the system is not orderly, it's not logical, it results in the waste of effort, it results in fraud going undetected. So I believe that adding another layer becomes diversionary.

And, second, it is duplicative of what is there now. Every hospital, every nursing home, every home healthcare agency, almost -- many of the other providers that would be subject to the bills today receive

federal money: Medicare, Medicaid. That is federal money. All of those providers who receive the money are already subject to the federal False Claims Act.

We are adding nothing. We are adding another layer. So if the merits to this are there, the House of Representatives, the U.S. Senate, if all of that's accurate, they already have it in place.

And then, just as an extra twist, the City of New York -- and it was little noticed by anybody until it was written up in the law review a couple months later -- has established a very solid, substantial, thorough False Claims Act. So if there's any New York City money -- and New York City gets 70 to 75 percent of the Medicaid dollars in this state -- they're subject to that.

The whole point -- and you listen to Senator Skelos's arguments, which are true, that this would be dilatory if we pass this amendment -- is accurate. And it would be duplicative. So I see no reason whatsoever as to why we should have this amendment.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. Very briefly, because we do have more things to talk about about the bill in chief.

I hear my colleagues --

ACTING PRESIDENT MORAHAN: Senator Schneiderman, let me just interject at the moment that you have spoken several times already, and we will recognize you now to close.

SENATOR SCHNEIDERMAN: Thank you. Thank you, Mr. President.

The -- there's an interloper disrupting the proceedings, Mr. President. Thank you.

ACTING PRESIDENT MORAHAN: No campaigning in here, sir.

(Laughter.)

SENATOR SCHNEIDERMAN: Okay. When he comes up and starts checking out your chair, then we have to worry.

(Laughter.)

SENATOR SCHNEIDERMAN: In response -- and again, I have to say I've had discussions with Senator Hannon, Senator Skelos, Senator Meier about these issues. We'll continue to have discussions about the issue.

I would urge that all of the evidence that we've discussed, including the evidence from the federal government and the evidence from other states, suggests that this generates a lot of money. Why shouldn't the State of New York get some money?

If we don't have a state False Claims Act -- you know, I'm happy New York City has a False Claims Act. But we should do it at the state level. There's no reason not to. There's no reason to believe that the Republican President and Senate and House have all of a sudden become, you know, advocates for the plaintiff's bar or supporting duplicative measures.

In fact, their recommitment to the primacy of the False Claims Act and the effort to root out Medicaid fraud has led them, as, again, I have pointed out, to specifically

provide a 10 percent incentive to states that enact False Claims Acts. They are not doing this because it's duplicative of the federal effort, they're doing it because it results in more states more vigorously investigating and prosecuting Medicaid fraud.

So I urge we support this amendment. And I would further suggest, and we can talk about this when we get to the bill itself, that this issue is going to come up in the negotiations one way or the other and that my colleagues on the other side of the aisle, perhaps through this discussion, can soften their opposition to a False Claims Act.

Again, it is not an issue that Republicans in the House, Senate or Assembly have raised. I don't know if there's some, you know, very, very strong aversion to anything that might only incidentally benefit the plaintiff's bar. I don't know if someone was -- it sometimes seems almost more psychological than political.

But this is something that we should all agree on, as they have agreed in the U.S. Congress, as they have agreed in the

Assembly. Let's support a False Claims Act. Let's get that on the table.

But most importantly, I agree with my colleagues on the other side of the aisle, let's get the negotiations going so that we do not let six more months slip by. And I agree very strongly with Senator Skelos on that.

ACTING PRESIDENT MORAHAN: Thank you, Senator Schneiderman. Thank you.

SENATOR SCHNEIDERMAN: Thank you.

ACTING PRESIDENT MORAHAN: On Senator Schneiderman's amendment, all those Senators in favor signify by raising your hands.

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

ACTING PRESIDENT MORAHAN: The amendment is not agreed to.

Senator Valesky.

SENATOR VALESKY: Mr. President, I believe there is one more amendment at the desk. I ask that the reading of the amendment be waived and that I have an opportunity to explain the amendment.

ACTING PRESIDENT MORAHAN: The reading of the amendment will be waived. You will be recognized to speak to that amendment.

SENATOR VALESKY: Thank you.

First of all, I'd like to join my colleagues Senator Sampson and Senator Schneiderman in thanking and commending you, Senator Skelos, for your leadership on this issue, as well as Senator Meier and Senator Hannon. A number of long hours have certainly gone into this issue on all of your parts, and I appreciate that.

My amendment is intended to improve upon a good bill, to make a good bill even better, and to focus and direct some of the attention at the county level.

Senator Skelos, in your explanation of the bill you pointed out that in last year's state budget we were able to enact an historic cap on the local costs of the

Medicaid program. I think, in regard to rooting out fraud and putting an end to waste and abuse in the Medicaid program, that we can encourage counties to develop demonstration projects, as many counties have already done.

In fact, the New York State Association of Counties has been working with 12 counties across the state over the last year or year and a half on computer tracking and analysis of Medicaid spending.

Earlier this year, in this year's state budget, we authorized Chemung County to undertake a demonstrating project to use innovative administrative techniques, new reimbursement methods and management of care models.

It seems to me that this bill is the perfect place to encourage all counties, if they're so interested, in developing demonstration projects in their county to realize significant cost savings.

So very simply, this amendment would allow counties who are interested in doing so to apply to the Commissioner of Health for permission and assistance in

undertaking the necessary programs, again, to help save money in county Medicaid programs.

I encourage all of my colleagues, Mr. President, to support this amendment. Thank you very much.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

Senator Hannon.

SENATOR HANNON: Thank you, Mr. President. On the amendment.

ACTING PRESIDENT MORAHAN: Senator Hannon, on the amendment.

SENATOR HANNON: The proponent of the amendment would have us believe that we need to offer this ability to all counties.

However, Senator Valesky, what we did last year, in legislation that passed this house in April, the beginning of April, with Chapter 58 of the Laws of 2005, we have authorized all counties to do this, in the same way and almost in the same identical language that you have put forward in your amendment.

So it's already law. We do not need to do it. The Health Department has

rolled out 12 demos, but they are not restricted. There's no need to add or change a number. It's already in statute.

So I do not believe there's any need to adopt your amendment. Thank you.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

On the amendment, those Senators who are in agreement please signify by raising your hands.

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

ACTING PRESIDENT MORAHAN: The amendment is not agreed to.

Any other Senator wishing to be heard on the bill?

Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: On the bill.

I don't want the fact that we were

offering amendments to take away from the fact that I certainly support the legislation, I support the effort.

And as I said before, the hearings that were held on this issue were a great example of why we should have more hearings.

I want to just note a couple of other -- in my mind, there are three things that we should be doing to improve this bill. We've offered amendments on two of them. I think that Senator Sampson's amendment on the Martin Act, there are provisions, law enforcement provisions that I think are uniquely appropriate for investigating healthcare fraud that should be added to this bill and should be added to the Assembly's bill.

And, you know, I do not argue with Senator Skelos's contention that sometimes it's hard to get additional law enforcement powers through the Assembly. But in this case, I think that there is a vigorous advocate in the person of our State Attorney General, who may be able to weigh in on the issue.

The power of the State of New York to conduct interrogatories, to undertake and require people to answer interrogatories under oath, would be in Senator Sampson's amendment. That I think does belong in the bill. I'm happy to talk it again to our colleagues in the Assembly about it.

The ability to conduct examinations under oath without convening a grand jury was in Senator Sampson's amendment. I think I've said all I can say about the False Claims Act. I hope that will be added.

But I do also want to flag one other provision of the current bill that raises a particular question. And I would suggest -- and again, we sent this over to the Assembly as well -- that there was a letter written to us, to Senator Skelos, by the head of the District Attorneys Association of the State of New York. And I hope that his concerns -- Frank Clark of Erie County -- I hope that his concerns are taken into account.

The one area that he specifically highlighted -- and he has several concerns, but one area that he specifically highlighted

is an affirmative defense that somehow got into the Senate bill that is far more generous in terms of giving people an out from criminal prosecution than anything the Assembly has put on the table in this context.

And I was shocked to hear -- someone who works in the Assembly Codes Committee actually said to me something I didn't think I would ever hear while I was here, that the Senate was softer on crime in this bill than he was. Whether it's true or not, I was just shocked that he said it.

I'm calling your attention to Section 177.30, which provides an affirmative defense for someone who knowingly quits fraud if they were just following orders from a superior and don't personally benefit.

So this will eliminate the ability of prosecutors to get the bookkeeper -- you know, we all saw "The Untouchables." You get the bookkeeper and then you scare him into giving up Al Capone. That would be gone. "The Untouchables" would have been a much poorer movie had this statute been in effect in that area of law.

This is something that as far as I know doesn't exist anywhere else in the criminal law of the State of New York, and I would urge that this is something we probably should lose as we get into the negotiations. It should not be an affirmative defense for the willful and knowing commission of fraud that you were just following orders.

So those are my final suggestions. Again, there's so much more that is good in this bill than that I disagree with. I sincerely hope that everyone on the other side of the building joins with us in an effort to enact something that is a law as quickly as possible.

And I appreciate my ability to participate in the hearings and in this process. Senator Meier, Senator Hannon, Senator Skelos, people on our side of the aisle were shown courtesy in the hearings. I think we've accomplished a lot. And we are with you -- I am certainly with you, and I think most of the people on my side of the aisle are with you -- in the effort to enact a law to bring this about.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Senator Meier.

SENATOR MEIER: Thank you, Mr. President. Just briefly on the bill.

We've come a long way on this issue. And we still have a little time left in this session, and I hope we can go the rest of the way to get a Medicaid fraud inspector general bill on the books.

When we started with the Medicaid task force, one of the items identified in that study that was published was what we felt was a lack of oversight over the system, a lack of an appropriate use of technology to mine the data to look for not just the fraud but for patterns of misuse, for patterns of inappropriate medical care.

This Medicaid inspector general bill which Senator Skelos has shepherded along ends one of the problems that we also identified as we went through our series of hearings. In government, it is difficult to get results unless you have a place where accountability resides, and that is clearly

something that we need to accomplish as we begin to put this bill together.

I think the next few days are clearly going to demonstrate, though, whether the Assembly is serious about really doing something about Medicaid fraud or if this is just something where they want to kick the ball off to the sidelines and delay, delay, delay.

And when we talk about the dollars that are involved with Medicaid, the dollars that are lost through Medicaid fraud, if we could have an effective Medicaid fraud prevention system in this state, think about how different our annual budget deliberations have been.

I have been around long enough, both as a member of the State Senate and as a county executive, to watch governors from both appears send budgets down here that have such inspiring suggestions as saving Medicaid money by taking dental care away from people, by taking eyeglasses away from children. Wouldn't it be so much better if we could take the dollars away from the cheaters and the

fraud artists and the scam artists so that we could have savings within the Medicaid system and not try to balance our Medicaid budget on the backs of people who really need the care.

Senator Skelos, thank you for your leadership and your tenacity on this issue. I thank the other side of the aisle. And now it's time for the Assembly to come along.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

Senator Volker.

SENATOR VOLKER: Mr. President, I want to congratulate Senator Skelos for this bill and thank him for all the work that he's done to bring this to fruition.

Yeah, there are a couple of glitches in the bill which will be taken care of. Senator Skelos already has the information. Like everything else, occasionally there are some minor complaints to bills.

But let me just say to you that -- not that I want to defend the Senate, but I strongly think that the bill is a lot stronger than the Assembly's bill even with those

glitches. But I can assure you that for the most part, the bill is much stronger, I think personally will provide a great deal more teeth in dealing with the issue of Medicaid fraud.

Not an easy issue, because there's some major problems involving counties as to how you collect the money. And you're dealing here with some of the most significant groups of fraud people in this country. We've got to deal with it.

Senator Skelos, I thank you for sticking with it. And I thank you to everybody here who has also stuck with it, by the way. And this chamber is going to make sure that we get a good, solid, Medicaid fraud bill.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

I just want to rise up and say that, Senator Skelos, this is an area that a lot of people have worked on, and I applaud

you for it. It's certainly one of the most significant things we'll be doing here.

And particularly, I urge everybody in this chamber to try to get the Assembly on board with this. Because for those of you that care about the poor and the services that they receive through Medicaid and so forth, this really addresses the problem.

It also addresses the problem of the financial stability of this state. I've been serving here for a lot of years. There are a lot of times where we had to go in and cut things and slash and hold your nose on budgets that were so draconian. But this is an area to get billions of dollars and really deliver it to the people that really deserve it and need it.

We have one of the finest Medicaid -- certainly one of the most expensive Medicaid programs in the United States, and yet we have done nothing to try to go after some of the fraud. These are people that are stealing from the poor.

And it's something that I applaud the other side for their concern in this area.

And the other side of the aisle, you can be a very helpful to us, particularly in the other house, to get them to get to a conference committee, put this situation behind us and really attack the problem.

I think it's very, very important, and I applaud all of us working together on this issue. And I applaud the sponsor and the people that have worked in this area, Senator Meier and others.

Thank you very much, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator Farley.

Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

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

SENATOR HANNON: I want to support and vote yes for this bill because it takes that portion of Medicaid, the Medicaid fraud detection and prosecution, and seeks to

organize it in a logical fashion, streamline it, and make one person accountable, a Medicaid inspector general. It is the same thing that should be done for the entire Medicaid system.

Thanks to Senator Meier's work, he's had the insight that there's nobody in charge of the Medicaid system. So the consequence to that is poor implementation, poor planning, poor rolling out.

There needs to be an analysis of this system, there needs to be a reformation of this system. If you're going to be paying $42 billion plus a year, the entire system needs to be overhauled.

People have been proud that it pays its bills well. That is such an admission of failure. We should be looking at who are being served in terms of medical needs and care needs and who are not being served.

So part of what this bill addresses is taking care of the fraud. We also need to do it for the rest of the delivery system.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: The

Secretary will ring the bell.

Senator Marcellino, on the bill.

SENATOR MARCELLINO: Thank you, Mr. President. Just to explain my vote.

I'd like to extend my congratulations to Senator Skelos on his fine piece of work, Senator Hannon, Senator Hannon, all the others who have put their time and effort into this.

I was privileged to be at one of the hearings held on Long Island on this particular issue. Very informative.

It is something we must do to demonstrate to the hardworking, overburdened taxpayers of this state that this Legislature, this government is watching their dollars.

That's one of the prime concerns as I go around door to door in my district and talking to my constituents that they are concerned about: We send you a lot of money. What do you do with it? Where does it go? Is somebody watching to make sure it's not being stolen and it's not being misspent and it's not being mishandled?

This bill will do just that, in a

very streamlined way. This is a bill that everyone should be able to support in a bipartisan way. We need the other house to come to the table to negotiate those differences that we have. But thanks to Senator Skelos's lead on this issue, I think we can rest assured that will be done.

I vote aye.

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

SENATOR BALBONI: Mr. President, this debate has centered for the most part on the benefits of developing a system where we can save the state money.

Now, two or three years ago that motive alone would have had more impact. But as we all know -- well, everybody except for the Times Union editorial board -- the state is doing very, very well in terms of its surplus. We have a multi-billion-dollar surplus, one of the first times that we've had that in the state's history.

But that should not dissuade us from this effort, because almost more important from the savings is the fact that we

need to reinstitute integrity in what is arguably the most important operation that government does, and that is take care of people's health.

And if we can't figure out how to get rid of fraud in this size system, as important as this system is, then we've failed at one of our most basic responsibilities of government. So let's make this the session, Mr. Speaker, where we get done a budget on time, surpluses, tax cuts and the Medicaid fraud program.

I'm going to vote aye, Mr. President. Thank you.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 504: Senator Duane.

Absent from voting: Senator Connor.

Ayes, 59. Nays, 1.

ACTING PRESIDENT MORAHAN: The

bill is passed.

Senator Skelos.

SENATOR SKELOS: If we could return to motions and resolutions, I believe there are several motions to be made at this time.

ACTING PRESIDENT MORAHAN: Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Yes, thank you, Mr. President.

On behalf of Senator Spano, I wish to call up his bill, 2893B, which was recalled from the Assembly and it's at your desk.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 282, by Senator Spano, Senate Print 2893B, an act to amend the State Finance Law.

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

ACTING PRESIDENT MORAHAN: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

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

ACTING PRESIDENT MORAHAN: The amendments are received.

SENATOR FARLEY: Mr. President, amendments are offered to these following Third Reading Calendar bills:

On behalf of Senator Robach, page 32, Calendar Number 854, Senate Print 6347;

On behalf of Senator Seward, page 39, Calendar Number 1013, Senate Print 7158;

On behalf of Senator Seward again, on page 56, Calendar Number 1323, Senate Print 7737A;

On behalf of Senator Morahan, on page 60, Calendar Number 1369, Senate Print 6273;

And on behalf of Senator Morahan again, on page 68, Calendar Number 1495, Senate Print 5859.

Mr. President, I move that these bills retain their place on the Third Reading Calendar.

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

The Secretary will read.

THE SECRETARY: Calendar Number 901, by Senator Johnson, Senate Print 5270, an act to amend the Civil Practice Law and Rules.

SENATOR HASSELL-THOMPSON: Explanation.

ACTING PRESIDENT LITTLE: Senator Johnson, an explanation has been requested.

SENATOR JOHNSON: Yes. This bill imposes a $100 million cap on the undertaking of the bond that the master settlement agreement, the cigarette manufacturers' master settlement agreement have to post in order to appeal a judgment.

This bill was passed three years ago, and it was in response to a $12 billion judgment -- my phone?

As I was saying -- you shouldn't answer the phone when you're debating a bill.

(Laughter.)

SENATOR JOHNSON: Okay. This has to do with the tobacco master settlement agreement, which gives hundreds of millions of dollars to states and localities every year based on the settlement of the tobacco suit we're all familiar with.

This case that took place in Illinois in 2003 was a $12 billion judgment, and the companies said there's no way they could pay that judgment. And there was a crisis for a moment until a decision was made to limit the amount of a bond that must be posted in order to appeal a judgment of this kind.

Forty states have done that already. Other states have other mechanisms to limit the amount of money to be posted while you're on appeal from a major judgment like that.

We passed this bill last year. We have to pass it again in order to safeguard the payments that come to us on a regular basis from the tobacco companies to us, to our counties and towns and so forth. We passed it last year at the request of our county

legislators. And everybody else wanted this bill, we wanted it. We have to do it again.

Thank you.

ACTING PRESIDENT LITTLE: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. On the bill very briefly.

ACTING PRESIDENT LITTLE: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: Quite a few of us voted against this bill in 2004 and 2005, and the reason is very simple.

This is a piece of legislation that in New York State is unprecedented. It would amend the Civil Practice Law and Rules to essentially provide that with regard to one particular industry, the tobacco industry, the requirement that a bond be posted after a defendant loses a case in order to protect the plaintiffs and their ability to recover from the defendant, a defendant that has been judged to be liable would be exempt from this requirement.

It's really extraordinary. This would cap a bond and say whatever the

findings, whatever the level of the judgment is, if you lose a case and you're a tobacco company, all you have to do is post a $100 million bond.

Now, this is anticipatory relief. There isn't a judgment out there yet. But there is litigation against tobacco companies accused of falsifying data, of lying. And we know from other cases around the country there have been extraordinarily disturbing revelations about the conduct of the tobacco industry. You know, for example, the revelation that they have the ability to produce cigarettes that were less addictive and they intentionally produced cigarettes that were more addictive in an effort to hook young people.

So this legislation would single out this one industry and say no matter what the findings of fact are, no matter what the judgment is, they get an exemption. Every other industry in the state is subject to these requirements, but the tobacco industry gets an exemption from the requirement to post a bond.

This is bad public policy. This is not what we should be doing in the state of New York. I understand that people say, Oh, well, we want to ensure that the tobacco companies stay alive so we get a stream of revenue. We shouldn't be balancing our budget by being hooked on tobacco revenue the same way they hooked us on cigarettes many, many years ago.

I urge everyone to vote no, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Schneiderman.

Senator Volker.

SENATOR VOLKER: Madam President, I just want to say, as somebody that once had this bill, that I thank Senator Johnson for it.

It really should be the chairman of Finance that should carry this bill, because, Senator, it's all well and good what you just said, but if we lose that stream of revenue from the tobacco companies, the State of New York, our municipalities -- more than municipalities, because a lot of them have

borrowed against it.

What this bill does is effectively keep our municipalities, and whether we like it or not, from the possibility of losing a substantial revenue stream which, frankly, could impact on healthcare, could impact on all sorts of things.

And, you know, frankly, some of our municipalities, and the County of Erie is one of them, have, I think, not used it very wisely. But whether they used it wisely or not, if this bill didn't pass and if the people -- and remember that the people that are attacking the tobacco companies, many of them are just irresponsible. They just want to get out there and show that they're so strong against tobacco and all that sort of thing.

It's all well and good, but you've got to realize the danger that's involved here. And the answer is I know it's probably good politics to vote against this. But I would point out to you, one of the entities that would be crippled if this bill didn't pass and if the attacks on the tobacco

companies increase would be the City of New York that could take a huge hit somewhere down the line if they don't get the tobacco money.

So, you know, it's the old saying, sometimes it's a Hobson's choice. I take the Hobson's choice on behalf of the City of New York and the State of New York and the County of Erie and the City of Buffalo. So that's why I'm going to vote for this bill.

ACTING PRESIDENT LITTLE: Thank you, Senator Volker.

Is there any other Senator wishing to be heard?

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 30th day.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 901 are Senators Andrews, Coppola, Diaz, Dilan, Duane,

Hassell-Thompson, L. Krueger, C. Kruger, Oppenheimer, Parker, Paterson, Sampson, Savino, Schneiderman, Serrano, A. Smith, Stavisky and Valesky.

Absent from voting: Senator Connor.

Ayes, 42. Nays, 18.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1160, by Senator Padavan, Senate Print 409, an act to amend the Executive Law.

SENATOR MONTGOMERY: Explanation.

ACTING PRESIDENT LITTLE: Thank you.

Senator Padavan, for an explanation.

SENATOR PADAVAN: Thank you, Madam President. I'll try and be very brief, because we have on prior occasions dealt with this bill. Unfortunately, it's a law that is necessary -- shouldn't be, but it is.

What it simply says, very directly, is that there shall be cooperation between local law enforcement and the Attorney General

when someone is arrested -- and I put a big underline under that word "arrested" -- for committing a crime under state law, that their action, when they suspect, based on reasonable data or information, that that person is an illegal immigrant, they should make a referral and in effect cooperate with federal authorities relevant to that particular individual or individuals.

That is the essence of this bill.

ACTING PRESIDENT LITTLE: Thank you, Senator Padavan.

Is there any other Senator wishing to be heard?

Senator Diaz.

SENATOR DIAZ: Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you. Senator Diaz, on the bill.

SENATOR DIAZ: I believe that the immigrant in the nation has been contributing to this nation in a very positive way. Living in New York City and New York State, there are a great number of immigrants that are working very hard and that are doing everything

possible to contribute to the development and the betterment of the state.

I believe that this bill is an anti-immigrant bill. And why would I say that? I say that because we already have laws in the state and in the nation to deal with immigration. And the Department of Immigration and Naturalization in the federal government has all the tools to deal and to find out if anyone is illegal or do not have the proper documentation to be in this country.

The local police officer and the local authorities, their job are to prevent crime and to be sure that the people who are arrested for crimes under the State of New York be processed. To add and to make the local authorities a branch of the Immigration Department and to make the police officers of the City of New York and the State of New York and anywhere in the State of New York to be FBI, dealing or trying to find out if the person is undocumented, I mean, that opens the door for racism, that opens the door for discrimination, that opens the door for what

you call -- what you call targeting black, Hispanic or people that looks different to be subject to that kind of abuses.

So I think that maybe the intention of Senator Padavan will be good, but dealing with the immigrant situation and the way that we are working to make immigrants legal in this country and to protect their rights, I don't believe that today this chamber and this body should get involved in ordering the police officers to get involved and to be a branch of the Immigration Department.

I think that I ask my colleagues when they vote on this bill to think, to think, immigrants are doing a lot for this country and for this state. And don't allow the 9/11 situation to be used to discriminate and to abuse and to start stopping everybody in the street because they look different than you are.

So I'm voting no, and I ask my colleagues to vote no on this bill.

ACTING PRESIDENT LITTLE: Thank you.

Senator Serrano.

SENATOR SERRANO: Thank you, Madam President.

I rise in opposition to this bill, as I have in the past on similar bills that again create impediments and create the wrong signal for immigrants in our state.

We know that immigration is the basis and foundation of this society, of this nation, is what makes this nation great. Yet we continue to see bills, legislation -- both on the federal level and the failure there, and here on the state level -- that continues to say to immigrants that even though you're hardworking, even though you care about the American dream, even though you care to continue to build this nation, we are going to do things to make you feel unwelcome.

SENATOR PADAVAN: Madam President, will the Senator yield?

ACTING PRESIDENT LITTLE: Thank you.

Senator Padavan requests you to yield. Will you yield, Senator Serrano?

SENATOR SERRANO: Yes, I will yield.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR PADAVAN: Senator, where in this bill do you see any reference to hardworking, law-abiding immigrants? Where do you see that? Do you see a reference to someone who's been arrested for committing a crime?

The question I will ask of you, if someone in your district raped, murdered or committed a crime against one of your constituents -- who might also have been an immigrant, by the way -- and then the police determined, in the course of their investigation, that that person is here illegally, don't you think a referral to the federal authorities is appropriate under those circumstances?

SENATOR SERRANO: Through you, Madam President. My answer is no, Senator, I do not think that the local law enforcement officials should be getting involved in issues of immigration.

And you know, Senator, as well as anyone else that many immigrants are targeted

unfairly for arrest and that many are arrested unjustly. So we can't use that as a barometer to decide if we should have immigration issues involved. So there's huge problems there. So the answer is no.

So back to my original statement, I think that this sends the wrong message. And it is ethnic and racial profiling to have a bill like this. And it is also damaging to our economy, because many of the immigrants here, regardless of the status that are put upon them -- legal or illegal, I don't like to use those terms -- are working in industries that are the underpinning and the foundation of the economy in the state of New York.

We need to do a better job. We need to hold onto the principles of this nation in welcoming immigrants instead of creating impediments, instead of using 9/11 as an excuse to close the door on immigrants. These are the wrong types of bills.

We should be doing more to increase the opportunities for new immigrants, to remove the barriers that they are facing on a regular basis, barriers to citizenship that we

are seeing all the time.

And I ask my colleagues to vote against this bill, to send a strong message that we are a pro-immigrant state and that we understand that that is the legacy of this nation and that we will not turn away from the founding principles of this great nation.

Thank you.

ACTING PRESIDENT LITTLE: Thank you.

Senator Parker.

SENATOR PARKER: Thank you, Madam President. On the bill.

ACTING PRESIDENT LITTLE: Thank you. Senator Parker, on the bill.

SENATOR PARKER: Thank you very much.

I actually want to add my voice to the chorus of my colleagues who are opposed to this bill. I don't know if I can be more eloquent than Senator Serrano has been this afternoon on this. But I think it is important that we emphasize that here we are at the end of another session and here we are once again with another anti-immigrant bill.

As I've said in the past, I believe that some members of this body have the Mayflower complex. In other words, they believe that, you know, their relatives arrived here on the Mayflower and no one else has any rights to any of the resources or accessibility of the freedoms of this country --

ACTING PRESIDENT LITTLE: Excuse me, Senator Parker.

SENATOR PADAVAN: Will he yield?

ACTING PRESIDENT LITTLE: Senator Padavan.

SENATOR PADAVAN: What did you -- what complex did you say I have?

ACTING PRESIDENT LITTLE: Senator Parker, do you yield?

SENATOR PARKER: I do yield.

ACTING PRESIDENT LITTLE: Thank you. The Senator yields.

SENATOR PADAVAN: What complex did you say I have, Senator?

SENATOR PARKER: I didn't say you have. I said members of this chamber, many of them have a Mayflower complex. They believe

that -- like they came on the Mayflower and no one else has the --

SENATOR PADAVAN: As a matter of fact, Senator, my grandparents came here as immigrants --

ACTING PRESIDENT LITTLE: Thank you. Senators, through the chair.

SENATOR PADAVAN: -- to Ellis Island. I wouldn't be here otherwise. And I resent that remark.

ACTING PRESIDENT LITTLE: Thank you.

Senator Parker, through the chair, please.

SENATOR PARKER: Okay. Well, I'm sorry that people may have resentment. Then they should look, you know, more carefully at the bills they're putting on the floor.

The reality is I, like many other people in this state, represent immigrants. And we represent, you know, people who don't oftentimes get a fair shake exactly because they're immigrants.

And Senator Serrano was exactly right. Though you may in fact just see this

simply as a matter of the police cooperating with Customs and Homeland Security, but the reality is is that people are discriminated against because they're immigrants every single day, in the same way that people are discriminated against because they're black or because they're Latino or because they're women or because they have some other kind of identifiable trait.

And the reality is that you have people coming to communities like mine in Ditmas Park, in --

ACTING PRESIDENT LITTLE: Excuse me. Senator Parker, excuse me.

Senator Marcellino.

SENATOR MARCELLINO: Will Senator Parker yield for a question?

ACTING PRESIDENT LITTLE: Senator Parker, do you yield?

SENATOR PARKER: I do yield.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR MARCELLINO: Senator Parker, is there anything in this bill or anyplace in this bill that you read the

language or you read the word "race," that you read the words "black," "white," "pink," "green," any race, any religion, any ethnic group?

SENATOR PARKER: Senator Marcellino, it doesn't have to say it. It doesn't have to say it. Because I know who the immigrants are in my district.

SENATOR MARCELLINO: Are you telling me, Senator --

SENATOR PARKER: -- who the immigrants are in the City of New York.

ACTING PRESIDENT LITTLE: Excuse me. Excuse me. Senator Parker, one moment. Would you answer the question for Senator Marcellino, please.

SENATOR PARKER: I am answering it through you, Madam President.

The answer to the question is I don't need to see those things in the bill to know the impact of the bill.

ACTING PRESIDENT LITTLE: Thank you.

SENATOR PARKER: The reality is when you start talking about public policy and

you talk about implementation of public policy, you have to understand how it gets translated in the street. And so we can stand here in Albany and talk about how we believe it gets translated. However, I have to return at the end of the week to Flatbush and to East Flatbush, to Canarsie, to Ditmas Park, to Midwood and to Borough Park, places where actual immigrants live.

And I know how the police department in those communities treat my constituents. I know what the FBI does when they come through and make sweeps through my constituency and the fear and terror that is invoked upon my residents, upon the people I represent every single day.

And I would be criminal if I stood here and allowed this bill to pass without any comment on how I know it's going to be implemented.

ACTING PRESIDENT LITTLE: Thank you.

Senator Marcellino.

SENATOR MARCELLINO: Will the Senator yield for another question?

ACTING PRESIDENT LITTLE: Thank you.

Senator Parker, do you yield for another question?

SENATOR PARKER: Yes, Madam President, I do.

ACTING PRESIDENT LITTLE: Thank you.

The Senator yields.

SENATOR MARCELLINO: Senator, do you think a nation or a state should have any control over who comes in and out of their borders or of their country?

ACTING PRESIDENT LITTLE: Senator Parker.

SENATOR PARKER: Madam President, through you. I do believe that they should, and I think that that's the federal government's responsibility and I think that the federal government should continue to do its job.

However, neither the New York City Police Department, the state troopers nor the municipal police departments has any responsibility, according to our Constitution,

in that role and responsibility.

ACTING PRESIDENT LITTLE: Thank you.

Senator Marcellino.

SENATOR MARCELLINO: Would the Senator continue to yield?

ACTING PRESIDENT LITTLE: Thank you.

Senator Parker, do you continue to yield?

SENATOR PARKER: Yes, Madam President, I do continue to yield.

ACTING PRESIDENT LITTLE: Thank you.

The Senator yields.

SENATOR MARCELLINO: Senator, will you agree that if someone commits a crime they should be arrested and punished to the fullest extent of the law?

SENATOR PARKER: Madam President, through you, I absolutely believe that they should be arrested and -- if they have in fact committed a crime.

ACTING PRESIDENT LITTLE: Thank you.

Senator Marcellino.

SENATOR MARCELLINO: If Senator Parker would continue to yield.

ACTING PRESIDENT LITTLE: Thank you. Senator Parker, do you continue to yield?

SENATOR PARKER: Yes, Madam President, I do continue to yield.

ACTING PRESIDENT LITTLE: Thank you.

The Senator yields.

SENATOR MARCELLINO: Senator, will you agree with me that this bill talks about those people who came here illegally who committed a crime are the only ones who need to be worried about anything in this bill?

SENATOR PARKER: Madam President, through you. I believe, from reading this bill and knowing not only the context of this bill but also how the police departments and law enforcement works throughout this country, that this is an issue that is going to extend beyond just people who are arrested. It is going to be -- it is going to extend to every single person who may be in fact perceived to

be an illegal immigrant. Which may be any one of us.

And I believe that the undue consequence of this bill will in fact mean that we're going to be giving up many of our rights that we enjoy as American citizens.

SENATOR MARCELLINO: Madam President, would the Senator continue to yield? For one more question.

ACTING PRESIDENT LITTLE: Thank you.

Senator Parker, do you continue to yield?

SENATOR PARKER: Yes, ma'am, I do continue to yield.

ACTING PRESIDENT LITTLE: Thank you.

The Senator yields.

SENATOR MARCELLINO: Senator Parker, correct me if I'm wrong, but what you're saying is you believe that the New York State troopers, the Police Department of the City of New York, the Federal Bureau of Investigation are racist?

SENATOR PARKER: Madam President,

through you. Unfortunately, because we have not passed my bill, which would actually provide for a study of racial profiling in this state --

SENATOR MARCELLINO: I didn't ask you for a study. I asked if you think these agencies of law enforcement, the FBI -- as you said at the beginning of your statement, the FBI, the New York City Police Department, the troopers of the State of New York, are they racist?

SENATOR PARKER: Madam President, through you. Again, I believe that if we pass the bill that I have on racial profiling, which provides for a study, we would know that for certain.

But I certainly know what my constituents deal with for an absolute fact. What has happened in the Pakistani community in my district, where people have been stopped and frisked simply because they're Muslim and simply because they're Pakistani. I know what happens in my community with people who are of African-American descent and Caribbean descent. I know what's happened to me,

Senator Marcellino, as I travel up and down the roads of I-95 as a state legislator representing my people in Albany.

So absolutely I know. And I know that there are in fact -- not everyone is racist, but in fact some of the systems are racist, some of the legislation that comes out of this body and out of Albany is racist. And absolutely, some of the ways that these bills get, again, unintended consequences of -- some of this legislation gets carried out in a very racist manner when it hits the street.

SENATOR MARCELLINO: Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Just as a reminder and as a point of information, when two senators speak at the same time, the stenographer cannot get an accurate record of what is going on.

Senator Balboni.

SENATOR BALBONI: You done?

No, he's still talking.

SENATOR PARKER: I'm still on the bill. I thought I was still on the bill.

ACTING PRESIDENT LITTLE: I'm sorry. Senator Parker, on the bill.

SENATOR PARKER: Thank you very much, Madam President.

I'm really hoping that we will vote no on this bill today. You know, I recognize that people are afraid. I recognize that especially since 9/11, people are concerned about our borders. We're certainly concerned about any kind of illegal activity that's happening.

But we also -- I think there's a way to, in fact, deal with those, deal with illegal activity without in fact creating a state of panic, a state where our Zionist tendencies take over and we start looking at everybody and every one of our neighbors as somebody that is other.

And that certainly when we start empowering the police, the municipal police and the State Police, who have no jurisdiction over Customs and over Immigration, when we start, you know, empowering them with responsibilities they should not have, we certainly run the danger of taking the thing

that is most important to our communities, which is our freedom -- that's why people come to this country. That's why many of our ancestors came to this country, for the freedoms.

And the reality is when we pass bills like this, we erode the freedoms that the founders intended us to have, we erode the freedoms that our troops right now are fighting all over the world for us to have.

And I certainly hope that people understand that, that people vote no, that we hold onto the original intentions of freedom and democracy in this country, that we make sure that we are not looking at the very lifeblood of our communities in our state, which are immigrants.

The lifeblood of this city, of the city of New York, and the lifeblood of the state of New York are its people. And immigrant communities add as much as anyone else to that lifeblood, and we should not taint it with this legislation.

Thank you very much.

ACTING PRESIDENT LITTLE: Thank

you.

Senator Balboni.

SENATOR BALBONI: Madam President, I was not going to speak on this issue, but given what has happened nationally, what continues to happen here in this state, I thought I might just offer the following observation. And this comes from my work in the national government on the Real ID Act, which is the -- I was involved in the implementation process by the Department of Homeland Security in a law that now says that all Americans must have the same driver's license and it must have the same security features and you must go through the same checks in terms of status, immigration status and verification of address.

And it's in the course of that discussion that I think all of the emotions and issues that have been evidenced here this afternoon come into play and interconnect.

There have been references to 9/11 and how that somehow changed the dialogue in this nation, and that we are cautioned that we shouldn't use that as a veil for

discrimination. Likewise, there is a concern about the immigration community and the prevalence of racism or the ability to have law enforcement not be as unbiased as it could be. All those concerns are things that need to be examined, but not in the context of this legislation.

If I were to take and adopt the logic of my friend Senator Serrano and my friend Kevin Parker, that because there exists -- and I will admit that there are in any system, in any country, facets of the system that are, in fact, racist and that are not unbiased. But in order -- but following your logic, then, we would not have a penal law until we fixed those issues.

And there is a great irony in that, plus a huge impracticality. That would be like saying, Senator Parker, that until we fix the racism that might be inherent in our judicial system, that we should suspend any laws for murder. That's absurd.

But your point is well taken in that there are injustices that must addressed. But again, not in the context of this

legislation.

We have a knee-jerk reaction to anything that is immigrant- or immigration-related in this country now, thanks to how this has been brought up in the media and portrayed as an us-versus-them, in almost a civil war context. And that doesn't help anybody. That doesn't help the immigrant community, and that doesn't help the American public. Because we are a nation of immigrants. That is our strength. But unfortunately, we only see things through the prism of you versus me. And that's wrong.

But if you read this bill, the only thing this bill says is that if you are arrested, that the law enforcement officer will make an inquiry as to your status. That's it.

Now, compare this approach with what happens in Europe. I traveled to a little town in Czechoslovakia before the Wall fell, called Bratislava. Within the space of three blocks, I and my family were stopped three times by law enforcement officials asking me for my visa, for my passport, and

for my license. Three times. And they weren't friendly about it. And they had submachine guns.

I mean, sometimes we get crazy with our own system. This is not a bad idea, because you know what? You know who we may be saving? We may be saving the other members of the immigrant community.

And the work that I've done on gangs, here's the one thing I know. You know who are the victims of gangs in the Salvadorian communities? The Salvadorians. They don't go after the white folks. They go after the people in their own neighborhood, and they prey on them.

And the single best thing I can do as a legislator for the immigrant communities are so important to me is to make sure they're safe too, as well as the white folks are safe. That's why you've got to enforce the laws.

And doing this is a good way to do it, because all it says is we're going to make an inquiry. And then we're going to notify people as to your status. That's all it does. It doesn't say that you've got to go after

immigrants, it doesn't say there's an extra penalty if you're an illegal immigrant. It says none of that.

Now, I know for a fact that members of the law enforcement community are not happy with this bill. They don't want to be saddled with the responsibility of doing this. It's the truth.

But you know what? As a legislature, I think we need to do that, because we need to have less of a disconnect between what goes on in Washington with immigration policy and what goes on in the street. That's the problem here, ladies and gentlemen.

And, de facto, the implementation of the Real ID is going to create this local immigration interface. It's going to happen. Because when you have the Real ID in effect, if you don't have it, well, then, people are going to suspect you're not here legally. So the cop who stops you on the street is going to be forced, de facto, to inquire as to your immigration status. So Senator Padavan's amendment here of the law is in fact a

precursor to what's going to come down the pike as a result of federal law anyway.

But let me take this opportunity to just weigh in for two seconds on immigration generally. You know what the answer to immigration is? The United States should do something it has never done. It should invest in immigration. It should spend billions of dollars on the immigration system so the hardworking men and women who have come here and who are not legal in this country can become legal. So you don't have to line up for blocks around Foley Square every day, and you get processed in more than a year or two years.

But then, once that investment is done and there's a suitable time period -- let's say a year -- then the message should go out: If you're here illegally after you've gotten a chance to become a citizen, now you're not welcome. Because now you've broken the law.

That's what rubs everybody the wrong way. Immigrants who have come here law-abiding and have become citizens resent --

I'm not talking about native-born Americans, which you could argue were Indians. I'm talking about folks from Portugal, folks from El Salvador, folks from all over the Asian countries who have come here and become citizens. They resent this debate that says we should do amnesty, because they did it the right way. They went through the laws.

And so folks that are saying, you know, let's just give everybody amnesty, that is short-sighted and wrong, in my opinion.

But the key here is the rule of law. Because it is not only for the benefit of those who are wealthy or here beforehand, it is for the benefit of the immigrant communities. It's so crucial.

This is not that big a deal. This is consistent common sense when it comes to a very emotional issue. But at the same time, I completely appreciate your sensitivity to the immigration issue. And it's appropriate. Just try not to have a knee-jerk reaction anytime this issue is brought up. Because I believe that this bill in particular is a sensible approach to a very, very difficult

topic.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Larkin.

SENATOR LARKIN: Madam President, after listening to Mike Balboni, I ought to sit down.

But, you know, I've read this eight times since we've been debating it. It's a two-page -- a page and a half by Senator Padavan.

You know, I've heard since 9/11 from that side of the aisle and their people in Washington and others: We need greater cooperation, the FBI and the CIA and the local cops. The New York City Police Department wasn't involved in it. There was an incident that happened, and nobody transferred the information backwards forwards.

Now, if you read this, any sixth-grader could read this and it says: "With respect to any person who is so arrested and who is reasonably suspected of being present in the United States in violation of

federal immigration laws, every law enforcement agency shall do the following." And it goes on: Attempt to verify the status. Is he a citizen of the United States, an alien lawfully admitted as a permanent resident, a person who is otherwise authorized under federal law, is an alien, is something else. And it tells what happens and what you do.

What's wrong with it? I hear you complain that nobody is coordinating and cooperating with anybody else and everything is the Republicans' fault.

Now Senator Padavan has put something in that says we're going to stop that, we're going to make sure it's done right, we're not going to infringe on the rights of anybody, we're going to do it the right way. This is our local people being participants with county, federal agencies, whether it's Immigration, the FBI, or what agency it might be.

But anybody who reads this and says, oh, this is to stake out against this one, this is this -- you know what it is? It's you're ashamed to admit that we need to

cooperate with one another. Ashamed.

This is a serious matter. We just talked about New York City losing a ton of money from Homeland Security. But yet when we have an opportunity to say let's make sure that what we do we do right, we're not going to hinder somebody, we're going to verify their status and then, if it's so, we'll do one of two things, let them go or report it. Report it to the Attorney General. Report it to the Bureau of Customs. Report it to the immigration office.

Come on, let's get real. We're here supposedly to do the people's business. And what are we doing? We're arguing about something that we should be proud to be a part of, to ensure that we protect those that are legal and, for those that are not, we bring them together so we can address the issue.

We talk about immigrants. My parents came from the other side of the ocean, as most of us did. They came here and they did it the legal way. What we ought to be thinking about is how do we do and straighten it out.

But the biggest issue is let's address the issue of how do we verify somebody and what does that local agency do. Because more times than ever, we'll find that the locals have a bigger impact on stopping someone, verify them and reporting it up the line.

If you're ashamed of that or you're afraid of that, my question to you is, what are you afraid of? Don't you want your community to be safe? What you're saying today is, oh, no, it's going to be bad for my side and it's going to be bad here. No, it's not. It's going to say that you're a good American and that you want the fair treatment for everybody.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Diaz.

SENATOR DIAZ: Thank you, Madam President. Would the sponsor yield for a question?

ACTING PRESIDENT LITTLE: Thank you.

Senator Padavan, do you yield for a

question?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT LITTLE: Thank you.

The Senator yields.

SENATOR DIAZ: Senator Padavan, when the bill says that when a person is arrested, when someone is arrested in the state of New York for killing anybody, what is the procedure there?

SENATOR PADAVAN: What does this bill call for?

SENATOR DIAZ: No, no. What is the procedure now when someone is arrested?

SENATOR PADAVAN: When someone is arrested committing a crime? Obviously there's an investigation, the DAs prosecute, and whatever actions take place thereafter within our criminal justice system will occur.

SENATOR DIAZ: And the person will be found -- through you, Madam President. And the person will be found guilty or innocent in the court of law; right?

SENATOR PADAVAN: Will be found what?

SENATOR DIAZ: And the person will be -- he or she will be found guilty or innocent in the court of law?

SENATOR PADAVAN: Yes.

SENATOR DIAZ: And if the person is found -- through you, Madam President, will the Senator continue to yield?

ACTING PRESIDENT LITTLE: Thank you.

Senator Padavan, do you continue to yield?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT LITTLE: Thank you.

The Senator yields.

SENATOR DIAZ: After a person is arrested and going through the process of the law and the person is found innocent, what happens to that person?

SENATOR PADAVAN: With regard to this legislation?

SENATOR DIAZ: No, no. Right now, according to the law.

SENATOR PADAVAN: If they're innocent, they're innocent. I don't

understand your question.

SENATOR DIAZ: I'm going there.

The person will be sent home; right?

SENATOR PADAVAN: Pardon?

SENATOR DIAZ: Will be released, the person will be released, sent home.

SENATOR PADAVAN: Yes, obviously.

SENATOR DIAZ: So right now, if in your bill -- through you, Madam President, I'm sorry. Will the Senator --

SENATOR PADAVAN: Yes. Yes, I will.

ACTING PRESIDENT LITTLE: The Senator continues to yield.

SENATOR DIAZ: Thank you.

So right now, in your bill, if I am driving, I'm an illegal, I have no papers -- oh, no, better than that, I forgot all my papers, I lost all my papers. I'm Puerto Rican, I'm a citizen, but I lost all my papers, and I'm driving and I get arrested and --

SENATOR PADAVAN: Can I ask what you were arrested for?

SENATOR DIAZ: Huh?

SENATOR PADAVAN: May I find out what you were arrested for?

(Laughter.)

SENATOR DIAZ: Because I was driving -- for whatever reason, I was stopped. Because I was black, I was stopped. Whatever the reason. Whatever the reason, I was stopped and I was arrested because I don't have a --

ACTING PRESIDENT LITTLE: Excuse me, Senator Diaz. Through the chair, please. Direct your question more directly to Senator Padavan through the chair.

SENATOR DIAZ: I'm sorry. I'm sorry, Madam President, through you.

ACTING PRESIDENT LITTLE: Your question?

SENATOR DIAZ: I'm arrested because I lost all my papers. I am a legal United States citizen. I lost all my papers, but I was arrested --

SENATOR PADAVAN: Senator, you haven't read the bill. The arrest referred to here is an arrest for committing a crime under

state law. Such as assault, robbery, murder, rape, any of those categories and many others.

SENATOR DIAZ: Thank you. To speak on the bill, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Diaz, on the bill.

SENATOR DIAZ: Senator Balboni, in his lecture to us -- Senator Balboni, in his lecture to us, said it is not a big deal, that this bill, it is not a big deal.

Ladies and gentlemen, the bill is not only a big deal, it is very dangerous. You have to live, Senator Balboni and all of my friends here, you have to live and reside in our neighborhoods for you to be able to understand the process that -- what goes through our neighborhood.

You come from a different neighborhood, and you think that everything is roses in your neighborhood. Even I am a state senator, and when I'm stopped I get different treatment than when you are stopped in your district. So you have to live, you have really, really live in our neighborhood so you

could understand what is it that we are opposed in this bill. Because in our neighborhood, the treatment is very different.

The Senator over there asked if Senator Parker believed that the FBI and the police department are racist. That's what he asked. Ladies and gentlemen, you really have to live in our district, you have to really walk our streets, go out on there, so then you could -- you will have an answer to that question.

The treatment is very different. I was a member of the Civilian Complaint Review Board in the City of New York for three years. I represented the County of the Bronx as a commissioner in the Civilian Complaint Review Board, three years. And I studied cases and I saw complaints -- you got to see the things that go on over there, you got to see the things that happens in the City of New York.

And by the way, by the way, ladies and gentlemen, when a police officer, for whatever reason it is, stop you and curse you and call you names, that doesn't happen in your district. No, that doesn't happen in

your district. In your district, when they stop you: Oh, madam, your paper, please. Yes, sir. Oh, yes, sir. Oh, yes, ma'am. In our district, they call you with an F, and when you -- shut your F mouth. That's what happens in our district.

So you have to really live in our district for you to understand where we coming from. So it's a different story. Fernando Ferrer used to say two cities. It's two worlds. Go, go to my world, come to the South Bronx and paint yourself black and walk with me in the streets. And you, you will find out the different story.

See, me being a senator, state senator, oh, that's worth a lot in your district. Oh, yes, you are a god in your district, as state senator. In my district, ah --

(Laughter.)

SENATOR DIAZ: -- get out of here. So that's what we say when a police officer really stop you for no reason and handcuff you.

And, you know, on the Civilian

Complaint Review Board I learned and I saw police officers abusing and using excessive force, and then they arrest you. They pull you on something so when you made the complaint, you have no complaint. That's what happens in our district.

So to walk in -- hey, I seen black people walking in white districts and they don't even want them there.

So when you were talking about they are -- the FBI and other people are racist, Senator Parker said no. Or I don't know what he say, he say -- he went around. But I'm telling you, come to my district. Paint yourself black, come and see what's happening there. Come and see how the police officers, when they stop you, how -- the way they behave. Different than Senator Balboni.

Senator Balboni, when I go to see my pastor members in your district, oh, they think you are god over there.

SENATOR BALBONI: Will Senator Diaz yield for a second?

ACTING PRESIDENT LITTLE: Thank you, Senator Balboni.

SENATOR DIAZ: Let me finish my --

ACTING PRESIDENT LITTLE: Will you yield for a second, Senator Diaz?

SENATOR DIAZ: Madam Chairman, let me finish my line of thought and then I will yield.

ACTING PRESIDENT LITTLE: The Senator will not yield for a question.

SENATOR DIAZ: Yeah, let me finish my line of thought. Because, you know, then I lose my thought and . . .

This bill says when a person is arrested -- and that is really the key, the key sentence here, when a person is arrested, the police officer will try to investigate if the person is really a documented person or not. When the person is arrested.

Everybody will be arrested in my neighborhood for whatever reason, as I said before. As I said before, I am a legal resident, I am a United States citizen. And if I lose any papers and I'm driving or I do whatever, I'm walking, and then they stop me, they could arrest me for not having my papers.

And when I get arrested, they report me to the Dominican Republic, send me over there, to another country because I don't have the papers.

So this is a real dangerous bill when it comes to our community, when it comes to my district. As Senator Parker was saying, when it comes to our community, this is a very, very dangerous and very, very, very big issue in our district.

So now if my colleague Senator Balboni has a question for me, I will entertain. No question?

ACTING PRESIDENT LITTLE: No, thank you.

SENATOR DIAZ: Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Sabini.

SENATOR SABINI: Thank you, Madam President. On the bill.

ACTING PRESIDENT LITTLE: Senator Sabini, on the bill.

SENATOR SABINI: I have a couple

of problems with this bill that have sort of not really been addressed by the debate.

Senator Balboni points out, rightfully, that the federal government, intentionally or unintentionally, has caused a lot of perceived problems with people living here without status. The federal government has caused the problem; we shouldn't be required to clean up.

My problem with one part of this bill is that it says that law enforcement officials should report people who are arrested who are reasonably suspected of being illegal aliens. I don't know what that means. Does that mean they talk with an accent? They look different? Could be from Canada. I don't know what that means.

In fact, up until about six years ago, the largest group of illegal aliens defined by the federal government by country was from Italy. And they blend in very well in some of our neighborhoods.

So I don't know how a law enforcement official is supposed to reasonably suspect someone's an illegal alien in a just

way. Yeah, they might reasonably suspect it based on accent, based on look, based on the neighborhood they live in. But that's not a system of justice. That's not a system of rational thought.

The other thing I object to in this bill is in Section 1, paragraph 3, in that it compels local government to comply with this and cannot allow local governments to overturn this action.

Now, we have an executive order within the City of New York instituted by Mayor Edward I. Koch, reinstituted by Mayor David N. Dinkins, reinstituted by Mayor Rudolph W. Giuliani, reinstituted by Mayor Michael R. Bloomberg. A pretty disparate group of people with the same idea, that the City of New York should not be compelled to be immigration police. This deals with law enforcement. The executive order also deals with all kinds of other kinds of city agencies, because it's not appropriate.

ACTING PRESIDENT LITTLE: Senator Padavan, why do you stand --

SENATOR PADAVAN: Would Senator

Sabini yield?

ACTING PRESIDENT LITTLE: Thank you.

Senator Sabini, will you yield for a question?

SENATOR SABINI: Yes.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR PADAVAN: Senator, are you aware of the fact that Mayor Bloomberg amended Executive Order 124 to provide that law enforcement would have an exemption to the prohibition of inquiring about immigration status?

SENATOR SABINI: Through you, Madam President. Yes, I am aware of it, but I am also aware of the fact that it's not being done yet.

SENATOR PADAVAN: Well, whether it's being done or not, you made mention of the fact that there were three mayors, all of whom had issued that order, but you failed to advise everyone else who's not from the City of New York, who may not know, that this mayor realized that not only is there federal law

that goes back to 1996, but also there's a need.

And so he amended that executive order, allowing the police department, when they make arrests, to deal with the issue of illegal immigration.

Now, would you yield to a second question?

SENATOR SABINI: Well, I'd like to --

ACTING PRESIDENT LITTLE: Thank you.

Senator Sabini, do you yield for a second question?

SENATOR SABINI: I'd like to answer the Senator's point, if that's okay, Madam President.

ACTING PRESIDENT LITTLE: Yes.

SENATOR SABINI: You know, I don't believe that if you asked Mayor Bloomberg, he would support this legislation. And I invite you to get an opinion from the City of New York.

I also mentioned four mayors, not three. And the point has been consistent that

they do not want -- as Senator Balboni noted, law enforcement agencies don't want this legislation to pass.

So I'll now yield to a second question if you want.

SENATOR PADAVAN: Senator Sabini, no, I didn't ask Mayor Bloomberg if he's in support of this legislation. But I do think we have an obligation, when you state a fact here, to be accurate. And that simply was the genesis of my inquiry.

The second thing is you made a comment relevant to the issue of what is reasonable. Now, there are two sources of information that I'd like to refer you to and to ask you whether you are familiar with them. One of them is the Webster's Dictionary, which defines "reasonable." And the other is Black's Law Dictionary, which goes even further in terms of identifying what is reasonable under the Fourth Amendment and gives certain citations and stipulations as to what is reasonable in these cases.

So the word "reasonable" is not an arbitrary term. It has a foundation not only

in general law but also in legal terms, and it must be applied by all law enforcement agencies.

Therefore, when the word "reasonable" or the act of being reasonable by a police officer, when he or she makes an arrest, must conform to existing statutes. Were you aware of that?

SENATOR SABINI: Madam President, through you, yes, I am aware of it. As a legislator for 14 years, I'm aware of rebuttal of presumptions and the term of "reasonable" in the law.

But I am also rather baffled as to how operationally you would use "reasonable." If a policeman hears an accent, is that reasonable? I guess by your definition it is. By mine, I would object to that. If a law enforcement personnel sees someone who is Chinese or Pakistani, you might declare that reasonable; I do not. So we have a difference of opinion. We have a difference of opinion.

I believe that immigration law should be done by the federal government. And we have a national debate on that now. But

this is compelling local law enforcement, from the constable of Fredonia right through the New York City Police Department, to become immigration police. And I don't think that's our responsibility.

So yes, I guess under the law you could be correct, if this were to pass. I think there's little danger of this passing, because I don't think it's going to pass the Assembly. But I do not feel and I think many New Yorkers don't feel that law enforcement personnel should be playing a sort of guessing game as to someone's ethnicity or where they came from or if that ethnicity is likely to be an illegal alien -- because we all have an ethnicity. We all have one.

I don't believe that law enforcement should be charged with that action, that game. I think it's not what they should be doing and, frankly, not a just way of investigating someone's status.

Now, you could say check everyone through the system, and there could be a federal mandate to do that. But if you're arrested, check everybody. I don't know if I

would subscribe to that, but I don't think we should be deputizing local police to say, gee, this guy looks kind of funny, let's run his citizenship status.

You know, we're running into a slippery slope here, nationally, when we start figuring out, based on the way someone looks or whether they buy a one way ticket or not that they should be double- and triple-checked. I don't subscribe to that. I hope many of you don't.

I'm very hopeful that Senator Spano's bill on driver's licenses gets considered here and that we can protect our communities, because this is supposed to be a country -- we don't have, like Bratislava, we don't have checkpoints every block. We don't have people with guns asking you your status and why you're here. That's why we live in America. That's why people come here, and to achieve a better status in their lives.

So we have a fundamental disagreement as to whether or not government should be part of that, and I subscribe that it should not. And while I respect the

sponsor's sincerity, I don't see how we can write into the patrol guide of our police forces if someone looks a little odd, let's run a check on them. That's not what I think we should be doing as legislators.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Is there any other Senator wishing to be heard?

Senator Serrano.

SENATOR SERRANO: Madam President, will the sponsor yield for a question?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT LITTLE: Thank you.

The sponsor will yield for a question.

SENATOR SERRANO: I have two very quick questions, Senator.

Again, just to jump off the topic of what you have in your bill, the language "reasonably suspected," you did go through some pains to explain how this is a legal term

that can be used. But I want to hear from you, Senator, what you consider to be reasonably suspected, what would be the criteria in this application.

SENATOR PADAVAN: It's not what I consider, Senator, it's what the law considers.

And I'll read it to you: Reasonable. Such suspicion which will justify officer, for Fourth Amendment purposes, in stopping defendant in public place, his quantum of knowledge sufficient to adduce an ordinary, prudent and cautious man under circumstances to believe criminal activity is at hand. It must be based on specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrants intrusion.

If you boil it all down, he has to have a reason.

SENATOR SERRANO: And what would that reason be, Senator?

SENATOR PADAVAN: Just what I said. Based on facts at hand.

SENATOR SERRANO: Through you,

Madam President. In your explanation, Senator --

SENATOR PADAVAN: For example, Senator -- you want a real example?

ACTING PRESIDENT LITTLE: Just a moment, please.

Senator Serrano, do you want the sponsor to yield for another question?

SENATOR SERRANO: Sure.

SENATOR PADAVAN: Let's say the common thing for a police officer when he stops you is to ask for your driver's license and your registration, and what he finds out when he looks at those things is that they're forged, they're illegal. That's a reason.

Any other document that you might have in your possession that is forged, illegal. Wrong name, wrong photograph with the right name, any one of a variety of things that could give that officer pause.

But keep in mind -- and I keep going back to this -- in order for him to have stopped you in the first place, you committed a crime under state law.

SENATOR SERRANO: Not --

SENATOR PADAVAN: Yes, you did. Read the law -- the bill. You had to be --

SENATOR SERRANO: Madam President --

SENATOR PADAVAN: -- arrested for committing a crime under state law.

You're not dealing with a casual occurrence of someone running into someone else. You committed a crime. You raped someone, you murdered someone, you robbed someone, you broke into someone's home. That's what you did.

SENATOR SERRANO: I understand --

ACTING PRESIDENT LITTLE: Senator Serrano, Senator Padavan is answering your question.

SENATOR PADAVAN: -- how that law enforcement officer --

SENATOR SERRANO: Madam President, through you.

Senator, I understand what you're saying, but you cannot assume that a crime was committed just because someone was arrested. And I'm not a lawyer, and I know that.

So there may be an alleged

suspicion of a crime, but we know often, especially in African-American and Latino communities, or what would be seen as maybe new immigrant communities, there are many false arrests, based on their accent or based on suspicion that something is going on when indeed there isn't.

So what I say to you is --

SENATOR PADAVAN: What is your second question, please?

SENATOR SERRANO: Okay, what I'm saying to you, Senator, is that the reasonable -- what is considered in the language of your legislation here "reasonably suspected" will boil down to, as Senator Sabini said, the accent of the individual, maybe the way they're addressed, maybe the music they're listening to. And that is ethnic profiling, and that is unconstitutional, and that is un-American. And that is my statement on that.

My second question --

ACTING PRESIDENT LITTLE: What is the question, Senator Serrano?

SENATOR SERRANO: Madam

President, through you. Senator, my second question is if someone is arrested is arrested but found not guilty, what safeguards -- is that person still going to get deported? What safeguards are there in this legislation to avoid abuse for someone who turns out to be innocent?

SENATOR PADAVAN: Of the crime?

SENATOR SERRANO: Yes.

SENATOR PADAVAN: If that person is in this country illegally and Immigration has been notified, a decision whether asylum or any other category under the immigration laws is to be applied will rest with the federal authorities.

The decision to deport or not to deport at that point in time rests with the federal government.

SENATOR SERRANO: So through you, Madam President. So, Senator, what you're saying is there are no safeguards. Basically, you could be --

SENATOR PADAVAN: I don't consider that a safeguard.

SENATOR SERRANO: You could be

pulled over on some frivolous and trumped-up charge, and if it turns out that you don't have papers, you are then going to be deported. Is that what you're saying?

SENATOR PADAVAN: Madam President, in the first place, I resent the -- you know, the imputation here that it's a frivolous, trumped-up charge.

SENATOR SERRANO: If. I'm saying if. If.

SENATOR PADAVAN: Let me share with you a real-life circumstance. All right? Happened only the latter part of last year. In Nassau County, 25 individuals, 25, all men, who had been arrested involving sexually abusing children, ages from 6 to 67. Some had been involved with robbery, some had been involved with a variety of other -- endangering the welfare of a child -- I'm reading from this citation -- all 25 of them.

Referral was made to Immigration. They were all deported. Who were their victims? Other immigrants in their community. They were abusing children. They were doing all kinds of things, in addition to robbery

and theft and so on. And they were all deported. Now, I'm not going to feel sorry for them, nor should you.

Forty percent of my district, at least, is foreign-born. I have every ethnic group you could possibly think of. And I know what concerns them is the safety of their community, the safety of their children, the institutions that they participate in, in terms of living a decent, safe life. And they don't want these kind of people in their community. Nor should you.

So my bill is simply saying if you arrest someone and it's not a trumped-up charge -- I don't know how many arrests are made in the city of New York based on trumped-up charges. I really don't. Perhaps you have some data on this. And I'm sure Commissioner Kelly and Mayor Bloomberg would be very interested in getting that information. But the fact remains, most of the arrests that are made are made for a valid -- if not 99 percent of them -- reason.

Someone committed an act of violence and they were arrested, like these

people were in Nassau County. Now, they did cooperate with Immigration. They did work together, and it resulted in their deportation. And I say good riddance.

That's the answer to your question.

SENATOR SERRANO: Madam President, through you. On the bill.

ACTING PRESIDENT LITTLE: Thank you.

Senator Serrano, on the bill.

SENATOR SERRANO: I appreciate the sponsor's comments. And I firmly believe that anyone convicted of a crime should pay the price to the fullest extent of the law. And no one should get away with criminal activity in any community. And oftentimes, as the Senator mentioned, victims of crime are members of their own community, and that's very unfortunate. And that happens in every ethnic group that we see.

But I still think that there should not be a different set of standards for new immigrants. And there should not be the wrong message being sent. And that is the point of my discussion here.

We've heard some of the other Senators mention that their families came over through Ellis Island and so on. And I love to see the newsreels, the old black-and-white newsreels of new immigrants coming in through Ellis Island, getting their first taste of the American dream, working hard in communities, adding to the rich cultural fabric. All of our relatives did it. My family did it coming from Puerto Rico in the 1950s. It is what makes this state great.

But I think it's so unfortunate that that's not the case right now. The new federal laws that are being proposed, the new sentiment and the spirit of the discussion has changed. It isn't what it was back then. And we're not welcoming new immigrants in the same way. And that's not right. And we have to be conscious of that and be cognizant of that, so that we don't send the wrong message out.

And that is my point, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Stavisky.

SENATOR STAVISKY: Thank you, Madam President.

Let me just mention a couple of things I think that have not been mentioned. I represent a large immigrant community in Queens. And not all of them are easily recognizable as immigrants. For example, some of them are white, as was mentioned by Senator Balboni. For example, I represent a large number of people who came here from the former Soviet Union. And as far as I understand, they are here legally. Many of them have limited English proficiency because they came at an older age. And for older people, this could represent a very traumatic experience.

Secondly, we've heard many discussions over the years on mandates without money. And it seems to me that this is a mandate on the City of New York, and there is no appropriation, no way for the city to pay this added burden.

And, lastly, I notice that the City of New York and, in fact, no other municipality has filed any memos in support or in opposition. And I wanted to point that

out.

Madam President, I shall vote no on this bill.

ACTING PRESIDENT LITTLE: Thank you.

Senator LaValle.

SENATOR LaVALLE: Thank you, Madam President.

I've been listening to the debate. I wasn't going to speak, but this is an issue, the illegal immigration issue is one that is particularly acute in the County of Suffolk, and people have taken a great deal of interest as they have followed the debate in Congress.

And the one thing that I hear over and over again from people in the First Senatorial District is that there seems to be a disconnect in Washington and the legislators on this issue. And the disconnect and the thing that is troublesome for people, and that this legislation addresses, is people who are illegal immigrants. Illegal. They are not here in accordance with the law.

And I can sympathize, and I think everyone agrees with what Senator Serrano

talked about, the richness that we have in this state because of our diversity. But we are talking about people who have come through a process legally. Legally. And it almost defies a rational basis for saying that you oppose the legislation in dealing with illegal behavior. Illegal behavior.

So, Senator Padavan, I think that you, for an individual who is a nonattorney, answered the question with great clarity in terms of the reasonable suspicion. Because there is a basis of law under stop-and-frisk laws under Terry and many other things, other cases, in dealing with probable cause. And you can go on and on.

So this is not something that people just do, police officers do, in a willy-nilly way. There are court decisions, there are statutes that have been tried in our courts that provide them with the basis to stop someone.

And if they are doing something illegally and there's criminality, I can't see anything wrong with asking them questions if they suspect that the person is here

illegally. And we in this chamber should not be part of the disconnect that I hear from my constituency in the First District.

ACTING PRESIDENT LITTLE: Thank you.

Is there any other Senator wishing to be heard?

Senator Schneiderman.

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

ACTING PRESIDENT LITTLE: Thank you.

Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I think this debate really illustrates the conflict that is a national conflict over the issue of immigration in our country right now.

I would respectfully suggest that this debate is worth reading, because I think that there are comments that are replete with stereotypes and there are very different views of how we should deal with the 11 or 12 million people who are here who don't have papers. I mean, they're here. They're not all going away.

And as Senator LaValle I'm sure knows, there are a lot of people who are concerned about illegal immigrants who are dependent on those people to take care of their houses, mow their lawns, watch their children, and do a lot of other tasks. So these people are integrated into our economy.

And I would urge my colleagues, what you're hearing from those of us who do live in communities with large immigrant populations, people are wrongfully arrested sometimes. There is prejudice out there in the state of New York, and even with some law enforcement officers and some members of the judiciary.

The notion that we can have a policy with -- and I am glad to be reminded of my days curled up with Black's Law Dictionary -- the notion that we can have a policy, as Senator Sabini pointed out, where every law enforcement officer understands the same time thing when they see the words "reasonably suspected" of being present in the United States in violation of federal immigration laws, that is a big requirement.

That is a reach.

My suggestion is this. We know there have been instances in which people have been arrested. You want to talk about facts? Some immigrants who were playing soccer and a town official sent the police over -- in Brewster, New York, this took place -- to arrest them for trespassing on the school soccer field, and then they were questioned and some of them were deported, including someone who was the father of five, has never been in any trouble, was gainfully employed.

The overwhelming majority of immigrants without papers in this country are hardworking citizens who are not criminals, the overwhelming majority. So let's stop all the stereotyping where we're talking about rapists and criminals and killers. In fact, the statistics indicate that they are far less likely to commit crimes.

So what would be the unintended consequence of this bill? It does put a burden, as my colleagues have said, on the local government. Law enforcement officials -- as our expert on law enforcement,

Senator Balboni, has acknowledged -- don't want to be stuck with this duty. It is an unfunded mandate, as Senator Stavisky pointed out.

You know what else it's going to do? It's going to drive people underground. It's going to get people who should be cooperating with the police to fear even interacting with the police. Where are you going to get the witnesses for a crime? Where are you going to get the people to come forward and cooperate? Are people who have communicable diseases going to go into clinics to try and seek help, or are they going to be hiding? That's the effect of bills like this.

So I'm going to vote no. But I think the most interesting thing about this debate is the disconnect that exists in this room, in this chamber, and in chambers like this throughout the country. We have very different views of what to do about immigration. I would suggestion our national consciousness is evolving --

ACTING PRESIDENT LITTLE: Senator LaValle, why do you rise?

Excuse me, Senator Schneiderman.

Senator LaValle.

SENATOR LaVALLE: Would Senator Schneiderman yield to one question?

ACTING PRESIDENT LITTLE: Thank you.

Senator Schneiderman, would you yield for one question?

SENATOR SCHNEIDERMAN: If I could just finish my question, I'd be glad to yield.

National consciousness is evolving on this issue. And I would respectfully suggest to my colleagues that this is an issue that is evolving and, as with the rules about racial segregation that were brought down when national consciousness evolved, so will the rules regarding about immigrants change when our national consciousness evolves.

And I will be glad to yield.

ACTING PRESIDENT LITTLE: Thank you.

Senator LaValle.

SENATOR LaVALLE: I just want to make sure that I understood a piece of your remark. Are you suggesting that people who

are here illegally, that we should be blindfolded to that and just accept that, that they are here illegally?

SENATOR SCHNEIDERMAN: Thank you. Through you, Madam President. No, I'm suggesting that we take the blindfolds off and acknowledge that they're here. There's 12 million of them. They take care of our kids, they mow our lawns.

I mean, you know, Senator Oppenheimer, in your district are there people -- they're integrated into the economy. This is the conflict in Suffolk County. It's not that they're here because there's no work, they're here because there's lots of work for them.

They're here. Take off the blindfolds. And they're not going away. And we're not going to deport all of them, and that's the fact. I suggest that it's some of the other people in this room who need to take off the blindfolds.

But I will be voting no, Madam President. This is a debate that is going to come back again and again and again. I look

forward to continuing it with my colleagues proceeding in good faith on both sides of the aisle. But I will be voting no again.

ACTING PRESIDENT LITTLE: Thank you.

Seeing no other Senators wishing to speak, 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 30th day.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Thank you.

We have some who would like to explain their vote. Before we do, I would like to remind everyone that due to the length of the calendar, we are adhering to the two-minute rule and we are using the clock.

Senator Parker, to explain his vote.

SENATOR PARKER: Thank you, Madam President, to explain my vote.

During the debate, in my fervor I used the word "Zionist" when I really meant "xenophobic." I hope no one was offended by that. If so, I apologize.

But I don't apologize about my passion on this issue, how important it is for us really to protect the rights of immigrants and to make sure and really understand that DAs are already doing this job, this is not what the New York City or any other police department ought to be doing. And that we want to make sure that the rights of people here are secure in the same way we want our lives secure.

You know, like I said, there's an unintended consequence of this bill, which is the continued racial profiling that we already see in law enforcement across our city and across our state.

And I also wanted just to clarify one other thing, which is that in responding to Senator Marcellino's question about whether I thought police departments were racist, Senator Diaz thought that I skirted the question. I was very clear about the fact

that I don't think that the departments are within themselves racist, but I do think racism happens. And I think racism occurs in these departments. And I want to be clear about that. And I think that's something that this bill does not address, unfortunately.

I'm voting no.

ACTING PRESIDENT LITTLE: Thank you. Senator Parker will be recorded in the negative.

Senator Savino, to explain her vote.

SENATOR SAVINO: Thank you, Madam President.

I'm voting against this bill in spite of the fact that last year when it came up I actually voted for it.

After having listened to the debate here today and watching the debate on the national level for the past several months, I've come to some conclusions, particularly about this piece of legislation.

We are going to continue to struggle with how we deal with illegal immigrants and how we deal with legal

immigrants. That's not going to go away. As Senator Schneiderman said, they're here. There are 12 million of them here; they're not going anywhere.

And they're going to continue to come here as long as they come from countries where they have no human rights laws, where they are treated as less than human beings, and countries that we continue to have lucrative trade policies with. They are going to keep coming to the United States, and we need to get a handle on how we deal with that.

But with this particular piece of legislation I have some problems, because, one, we're going to be imposing upon local police organizations the requirements of enforcing the federal law without the training, without the resources to accomplish that. We're going to be asking local police officers to make value judgments upon what is considered reasonable. We're going to be asking them to do that without the tools necessary, or the training.

So how to we define "reasonable"? Is it accent? Is it somebody who has a

turban? Is it somebody who dresses appropriately or inappropriately? How do we define that? How do they define that?

I represent a district that has a disproportionate number of immigrants: Latinos and Asians in Sunset Park, Russians in Coney Island and Bensonhurst, Italians and Irish and West Africans in Staten Island. Any one of those individuals, the vast majority of whom are here legally, could be held for being arrested for a crime -- and they should be, if they commit a crime, they should be arrested.

But we all know that the cooperation that exists between city, state and federal agencies is almost nonexistent. We would be asking local precincts to hold people in their lockups while they try and ascertain whether or not people are here legally. Without the resources, without the tools.

I understand the intent behind this bill. I think it's a greater public policy debate. I don't think --

ACTING PRESIDENT LITTLE: Excuse me, Senator Savino. How do you vote?

SENATOR SAVINO: I'm voting against this bill, Madam President.

ACTING PRESIDENT LITTLE: Thank you. You will be recorded in the negative.

SENATOR SAVINO: My two minutes are up.

ACTING PRESIDENT LITTLE: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1160 are Senators Andrews, Breslin, Connor, Coppola, Diaz, Dilan, Duane, Hassell-Thompson, L. Krueger, C. Kruger, Montgomery, Oppenheimer, Parker, Paterson, Sabini, Sampson, Savino, Schneiderman, Serrano, A. Smith, M. Smith, and Stavisky.

Those Senators absent from voting: Senators Gonzales and Volker.

Ayes, 36. Nays, 22.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Skelos.

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

Room, and the Senate will stand at ease.

Once the Rules Committee comes back, we'll report the bills, but we'll continue with the calendar.

ACTING PRESIDENT LITTLE: Thank you.

There's an immediate meeting of the Rules Committee in the Senate Conference Room. While they are meeting, the Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:31 p.m.)

(Whereupon, the Senate reconvened at 3:45 p.m.)

ACTING PRESIDENT LITTLE: Senator Skelos.

SENATOR SKELOS: I believe there's a Rules report at the desk. I ask that it be read at this time.

ACTING PRESIDENT LITTLE: Thank you.

The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills:

Senate Print 2277, by Senator Fuschillo, an act to amend the Vehicle and Traffic Law;

3033A, by Senator Maltese, an act to amend the General Municipal Law;

3043A, by Senator Robach, an act to amend the Retirement and Social Security Law;

3975A, by Senator Padavan, an act to amend the Retirement and Social Security Law;

4017A, by Senator Larkin, an act to amend the Tax Law;

4099A, by Senator Fuschillo, an act to amend the Vehicle and Traffic Law;

4147, by Senator Robach, an act to amend the Administrative Code of the City of New York;

5430A, by Senator Spano, an act to amend the Retirement and Social Security Law;

5628A, by the Senate Committee on Rules, an act to amend the Administrative Code of the City of New York;

5668A, by Senator Leibell, an act to amend the Public Officers Law;

6403, by Senator Marcellino, an act

to amend the Penal Law;

6533, by Senator Robach, an act to amend the Executive Law;

6655, by Senator Robach, an act to amend the Executive Law;

7004A, by Senator Winner, an act to amend the Agriculture and Markets Law;

7079, by Senator LaValle, an act authorizing;

7257A, by Senator Trunzo, an act to amend the Public Officers Law;

7369, by Senator Leibell, an act to amend the Real Property Tax Law;

7424A, by Senator Farley, an act to amend the Real Property Tax Law;

7505, by Senator Golden, an act to amend the General Municipal Law;

7514, by Senator Skelos, an act to provide;

7643A, by Senator Meier, an act to amend the Social Services Law;

7713, by Senator Leibell, an act to amend the Not-For-Profit Corporation Law;

7836, by Senator Golden, an act to amend the Penal Law;

7868, by Senator Johnson, an act to amend the Environmental Conservation Law;

7871, by Senator Golden, an act to amend Chapter 912 of the Laws of 1920;

7946, by Senator Stachowski, an act to authorize;

7963, by Senator Marchi, an act to amend the Public Authorities Law;

7998, by Senator Alesi, an act to establish;

8001, by Senator Libous, an act to amend the Retirement and Social Security Law;

8026, by Senator Robach, an act to amend the State Finance Law;

8029, by Senator Morahan, an act to amend the Mental Hygiene Law;

8046, by Senator Balboni, an act to amend the Domestic Relations Law;

And Senate Print 8062, by Senator Larkin, an act authorizing the City of Kingston.

All bills ordered direct to third reading.

ACTING PRESIDENT LITTLE: Senator Skelos.

SENATOR SKELOS: Move to accept the report of the Rules Committee.

ACTING PRESIDENT LITTLE: Thank you.

All those in favor of accepting the Rules report signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: All those opposed.

(No response.)

ACTING PRESIDENT LITTLE: The report is accepted.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could return to the regular calendar. And I believe we would commence with Calendar 1168, by Senator Golden.

ACTING PRESIDENT LITTLE: Thank you.

The Secretary will read.

THE SECRETARY: Calendar Number 1168, by Senator Golden, Senate Print 2199, an act in relation to requiring certain state and federal education aid.

SENATOR OPPENHEIMER:

Explanation, please.

ACTING PRESIDENT LITTLE: Thank you.

Senator Golden, for an explanation.

SENATOR GOLDEN: Thank you, Madam President.

This bill requires a school district to relinquish any funds received by a school district which are intended for a nonpublic school within 45 days of receiving those funds. The failure to do so would result in a 5 percent penalty per annum on that money.

I think it's no different than any individual that pays money out for dental or for healthcare and they expect that money back in a reasonable length of time. And it's like any business. If a business makes a disbursal of funding, they expect that money back in a reasonable length of time. And we believe that 45 days is appropriate.

SENATOR OPPENHEIMER: If the Senator would yield for a couple of questions.

ACTING PRESIDENT LITTLE: Thank you.

Senator Golden, will you yield to Senator Oppenheimer?

SENATOR GOLDEN: I do indeed, Senator.

ACTING PRESIDENT LITTLE: Thank you. The Senator yields.

SENATOR OPPENHEIMER: Thank you, Senator.

Now, would this be any state or federal aid that was coming to the nonpublic school?

SENATOR GOLDEN: This would be any state aid received by the school of which we have jurisdiction over.

SENATOR OPPENHEIMER: So it would include federal aid?

SENATOR GOLDEN: Yes, it would.

SENATOR OPPENHEIMER: I have my doubts about the legality of the state charging a fee for not transmitting federal aid, but that's neither here nor there.

SENATOR GOLDEN: Senator, I could answer that question if you allow me.

The school district has already received the money, and the money's been

laying there for 45 days. So we're asking the school district that's had that money for 45 days to send that money out to the nonpublic school. We're not asking them to submit money that they don't have or haven't been given to them as of yet. We're talking about money that's already been received, money that's been there for 45 days, that that money be disbursed to the nonpublic school.

SED said that they've corrected this. So if SED said they've corrected it, they should have no problem with the bill.

ACTING PRESIDENT LITTLE: Thank you, Senator Golden.

SENATOR OPPENHEIMER: Then I do have another question.

So you say that this bill --

ACTING PRESIDENT LITTLE: Thank you.

Senator Golden, do you continue to yield?

SENATOR GOLDEN: I do indeed, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Oppenheimer.

SENATOR OPPENHEIMER: The bill says that we should be penalizing the public system because there are perhaps some inefficient people working in that school district. That's your theory, is that not --

SENATOR GOLDEN: That is correct, Madam President.

SENATOR OPPENHEIMER: Is there any exception if there was a good reason for this not having been transmitted? Is there any panel that can be appealed to?

SENATOR GOLDEN: Madam President, there is no panel.

If we don't penalize the school district for giving that money to the nonpublic school, then they have to penalize the people that go to that nonpublic school. So someone's being penalized here. And I believe the one that should be penalized is the one that's in receipt of that money and has that money now for 45 days.

And if they have a problem with that, they should try to correct it. And this 5 percent per annum would help them try to

correct that problems that they have at that school district, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Golden.

SENATOR OPPENHEIMER: Thank you, Senator Golden.

On the bill, if I may.

ACTING PRESIDENT LITTLE: Thank you. Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: Well, I agree with Senator Golden that we ought to be paying our bills promptly, all of us and every agency of government. And I think personally, also, we should be living by that. However, I think it's very poor public policy and poor education policy to be fining school districts.

Schools are not businesses. We do not have in public service a bottom line. We should be doing -- analyzing our programs for the validity of that program, is that program providing what we want it to provide.

But there is no bottom line in government. And I think that's a huge distinction. We don't have profit and loss

statements.

But I think it's at a time when public education has to be in serious need of additional monies. And I think we have to protect all the monies that we do get, seek more monies, and look for every penny under every carpet.

So I am in support of assessing accountability of all the services that we're providing -- things like, you know, transportation, library, health services, computer services. But I think it is very poor policy to be fining public schools, which in effect you are doing by their not being prompt.

And I think it's a sad direction for our public system to be fining them. So I'm going to be voting no, and I hope my colleagues will also.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

I'd like to ask the Senator if he

would yield to a couple of clarification questions.

ACTING PRESIDENT LITTLE: Thank you.

Senator Golden, do you yield?

SENATOR GOLDEN: Madam President, I do.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

Through you, am I to understand that according to what exists, the portion of money that the public school district is given on behalf of the nonpublic school has nothing to do with any of the services, such as transportation, supplies, or anything that the public school is supposed to supply to nonpublic schools?

SENATOR GOLDEN: That's correct.

SENATOR HASSELL-THOMPSON: Madam President, if the sponsor will continue to yield.

ACTING PRESIDENT LITTLE: Thank you.

Does the Senator continue to yield?

SENATOR GOLDEN: I do.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

Through you, Madam President, then the amount of money that you believe that should be paid to the nonpublic school within the 45 days is totally unencumbered money, and at this point the public schools are just holding that money and not forwarding it to the nonpublic school? Is that what I hear you saying?

SENATOR GOLDEN: That's correct.

SENATOR HASSELL-THOMPSON: Okay, it kills my argument. Well, it kills one argument.

SENATOR GOLDEN: Madam President, tell the Senator thank you.

ACTING PRESIDENT LITTLE: Senator Golden says thank you.

(Laughter.)

SENATOR HASSELL-THOMPSON: Thank you, Senator.

Just on the bill.

ACTING PRESIDENT LITTLE: Thank you. Senator Hassell-Thompson, on the bill.

SENATOR HASSELL-THOMPSON: I am very uncomfortable having public school districts fined.

And I would hope and I would think that while I think that what you're trying to create is an incentive to get the public schools to move faster and to move monies more quickly through the systems, I just don't believe that this is the way to do that.

Because the money that -- the percentages, the 5 percent you're going to fine them is coming out of the public school budget that is there to support children who are already in need.

I don't want to get into the CFE question, but I certainly need to raise that as a specter, that we are not yet putting the appropriate amount of money into our public schools and therefore any money we take out in the form of fines is injurious to the students. And while it may appear that it's an incentive to the administration, children

are hurt by this process.

So I would hope that we would come up with another vehicle, another way to create an incentive to get the public school district to pay this money in a more timely fashion.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Stavisky.

SENATOR STAVISKY: Madam President, if the sponsor would yield for a couple of questions.

ACTING PRESIDENT LITTLE: Thank you.

Senator Golden, do you yield for a few questions?

SENATOR GOLDEN: I do, Madam President.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR STAVISKY: Through you, Madam President, there are 680 school districts in New York State. How many would be affected by this legislation? In other words, how prevalent is this problem?

SENATOR GOLDEN: Well, I believe there's over 700 districts in the State of New York. And I believe that it's not prevalent, but that it does go on and that there are students in these nonpublic schools that are being affected and deprived and denied of that funding.

And we believe 5 percent is not a lot, but it's enough to tell that district, you'd better wake up and do what's supposed to be done and get that money into those nonpublic schools.

SENATOR STAVISKY: In other words, we don't have a dollar amount of how much we're talking about?

SENATOR GOLDEN: I do not have a dollar amount. I can get that dollar amount for you if you wish.

Madam President, I apologize.

SENATOR STAVISKY: I've been informed that I do so wish.

SENATOR GOLDEN: Pardon? Pardon me? Oh, she wishes.

ACTING PRESIDENT LITTLE: Senator Stavisky, do you have another question?

SENATOR STAVISKY: Yes, I do.

ACTING PRESIDENT LITTLE: Senator Golden, do you continue to yield?

SENATOR GOLDEN: I do.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR STAVISKY: Is this done in any other agencies in state government?

SENATOR GOLDEN: Madam President, I am aware of this being a problem within the education -- SED, and I put a bill forward that would address that concern. This is my only concern. If there are other agencies and other issues pending from and to state agencies to nonpublic schools, I'm not aware of it.

SENATOR STAVISKY: I thank you, Senator.

And I understand your concerns. However, I too agree with what Senator Ruth Hassell-Thompson has said, that it is almost unfair to penalize a school district, particularly in light of the fact that while we satisfied the construction part, the capital part of the CFE decision, we did not

really resolve the question of a fair and equitable treatment statewide.

And this bill is statewide, and I am inclined to vote no, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Is there any other Senator wishing to be heard?

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 July.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Senator LaValle, to explain his vote.

SENATOR LaVALLE: Madam President, I certainly understand what Senator Golden is trying to do. And I think he's probably on the right track in trying to solve the problem of the nonpublic school getting their monies in a timely way.

But I think that the troublesome

part of this is the penalty provision. You really have to look -- and I'm not sure there exists in the Education Law a penalty. Because when we penalize a public school district, we are penalizing the taxpayers.

And for instance, there is a provision that school districts can only carry in their reserve funds 2 percent in that reserve fund. School districts routinely go above 2 percent -- 3 percent, 6 percent. I had a district with 30 percent. I said to the State Education Department, "What are you going to do to that district that is flying in the face of the law?" And they said "Nothing."

And so I have a piece of legislation that says that a school district, if they violate the law, has to publicly disclose it to their voters. And if you did something like that, Senator Golden, I could support this legislation, because it makes sense that we shouldn't penalize our nonpublic schools.

And unfortunately, I'm going to have to vote in the negative on this bill.

ACTING PRESIDENT LITTLE: Thank you. Senator LaValle will be recorded in the negative.

Senator Montgomery, to explain her vote.

SENATOR MONTGOMERY: Yes, Madam President, just very briefly.

I'm joining my colleagues in opposing this legislation, because certainly there may be any number of reasons why a school district, especially one as large as the district of New York City -- but I'm sure many other districts across the state might have difficulty with this time frame of 45 days.

And so we're now not only putting an additional mandate on the school district to perform within 45 days, but we're also penalizing them with 5 percent of the amount that they are supposed to be passing on. They already are strapped for funds. We have districts across the state that are in very serious financial trouble. And I think this only is -- this is robbing Peter essentially to pay Peter, and we certainly don't want to

have that happen.

So I'm going to vote no.

ACTING PRESIDENT LITTLE: Thank you. Senator Montgomery will be recorded in the negative.

Senator Golden, to explain his vote.

SENATOR GOLDEN: To explain my vote. Thank you, Madam President.

I heard some interesting debate here, and I really have to clarify for the record.

I heard that schools aren't a business. It's probably the biggest business in the State of New York. That's why we have a business agent in each school.

I heard that it's a mandate on the school district. So it would rather be a mandate on the school district instead of on the nonpublic schools, who are being denied that money so that the school districts can hold that money and use it for cash as they use their disbursals and make sure they have enough dollars on hand to meet their needs by using that nonpublic-school money.

This is an appropriate measure to have those school districts, over 700 of them, respond to those nonpublic schools that have bills to pay. So the only mandate I see here is on the nonpublic schools, for those people that vote against this bill.

This money is 45 days in their possession. Forty-five days, Madam President. And I think that is enough time. I know for any household, anybody in this room to have to wait more than 45 days for their money, I know they would be very, very upset.

So, Madam President, I'm voting aye, and I thank my members for a good discussion.

ACTING PRESIDENT LITTLE: Thank you. Senator Golden will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1168 are Senators Andrews, Breslin, Connor, Coppola, Duane, Fuschillo, Hassell-Thompson, Klein, L. Krueger, LaValle, Libous, Marcellino,

Montgomery, Morahan, Oppenheimer, Paterson, Sabini, Sampson, Schneiderman, Serrano, A. Smith, Spano, Stavisky and Valesky.

Absent from voting: Senator Gonzalez.

Ayes, 35. Nays, 24.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1265, by Senator Trunzo, Senate Print 6611, an act to amend the Social Services Law.

SENATOR HASSELL-THOMPSON: Explanation.

ACTING PRESIDENT LITTLE: Thank you.

Senator Trunzo, an explanation has been requested.

SENATOR TRUNZO: Madam President, what this bill does, it authorizes local governments to require that any family or a multiple dwelling used for family daycare be the primary residence of that particular -- of the resident itself. They have to be the primary owner of the home, and so that the program, it ought to be done within the

confines of that particular residential area.

There are two various different types of forms for the daycare centers. And one in particular, regular daycare centers, which go up in business areas because they are there for business, that's one area. But there also is other areas, what they call family daycare centers, or multiple daycare centers. And those particular centers are created in residential areas.

And what has been happening, due to the loophole in the law, some of these companies that have been opening daycare centers in other areas have been buying individual residential homes in residential communities and then begin to open up actually a business in the residential community.

And as a result of that, the feeling was that the person who's going to run that should actually be a resident of that building and not from some corporation who were trying to buy the operation.

ACTING PRESIDENT LITTLE: Thank you, Senator Trunzo.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Yes, thank you, Madam President.

Senator Trunzo, I wish to thank you for your explanation. My concern -- I will speak on the bill.

ACTING PRESIDENT LITTLE: On the bill.

SENATOR HASSELL-THOMPSON: My concern is that your efforts to keep major corporations from buying up and creating childcare/play kind of facilities is appropriate. But what in this language prevents smaller daycare facilities -- for instance, the licensure is given to an individual and they may have more than one site and one facility in which those daycare centers are --

ACTING PRESIDENT LITTLE: Senator Hassell-Thompson, do you request that Senator Trunzo yield or are you speaking on the bill?

SENATOR HASSELL-THOMPSON: I will want him to yield, because I really want him to be able to respond. So yes, I will phrase that in the form of a question that he will accept, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Trunzo, do you yield?

SENATOR TRUNZO: Yes.

ACTING PRESIDENT LITTLE: The sponsor yields.

SENATOR HASSELL-THOMPSON: What is there in this bill that will prevent smaller facilities or smaller daycare providers who operate out of more than one facility to be affected? Because according to the language, it must be their primary residence in order for it to be acceptable.

And I know that there are childcare centers -- many years ago when I was in daycare, one of my responsibility was to work with family daycare, help them to prepare for licensure. And they would receive a license or they could be licensed in more than one site under the same licensure.

My concern is that this bill will in some way affect their ability to continue to do that, and yet they're operating legally according to state law.

SENATOR TRUNZO: Well, they're

operated under state law; the thing is being the resident who's registered with the town. In other words, it's a permissive type of legislation. It wouldn't be mandatory at this stage of the game.

It's a fact that these corporations are buying homes in a particular area and residential areas and suddenly are registered under some individual who's going to run the show without living in that particular house. They just run the operation and at the end of the day they close down, and the next day they start in again.

So if there's more than one home, that the license has to be issued to the person who is registered in that particular home that is being used for family care operations.

ACTING PRESIDENT LITTLE: Thank you.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Madam President, through you, if the Senator will continue to yield.

ACTING PRESIDENT LITTLE: Thank

you.

Senator Trunzo, do you continue to yield?

SENATOR TRUNZO: Yes, ma'am.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

I heard your answer, Senator Trunzo, and I do hear your concern. But I don't see how the answer responds to my question and my concern.

SENATOR TRUNZO: You mean about an owner having two homes in a particular area?

SENATOR HASSELL-THOMPSON: Yes.

SENATOR TRUNZO: Well, that, I think, again, would be up to the town itself who's going to set up the rules and regs to take care of that particular situation. It's part of their regulation, whatever local law they may put together.

It's not mandatory to the town to do this, but by local law they can probably cover that particular issue.

ACTING PRESIDENT LITTLE: Thank you.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: On the bill.

ACTING PRESIDENT LITTLE: On the bill.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

I continue to be concerned. And I do hear what Senator Trunzo is attempting to say. But I also know that licensure is issued on a statewide basis and not by the local municipality. And in many of the communities, depending upon the type of childcare facility that we're talking about, it is not a zoning requirement. And it would not require that zoning laws come into effect.

Because in family daycare, for instance, which would in fact be affected by this bill, it does not require a special zone for persons to operate a family daycare within their own facility. And if they have more than one site that is covered by the license, it will still not be the primary resident of

the owner, but the licensed center will still be covered.

I think this bill presents a problem for the daycare people. And I would really like to hope that Senator Trunzo would give us an opportunity to explore this some more, to look at how we can look at the language to ensure that those legitimate daycare homes and family daycares that do exist in communities will not in fact be adversely affected by the way in which this bill is framed.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Is there any other Senator wishing to be heard on the bill?

The debate is closed.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1265 are Senators Hassell-Thompson and Montgomery. Also Senator Schneiderman.

Those Senators absent from voting: Senators Gonzales and Hannon.

Ayes, 55. Nays, 3.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1380, by Senator Maziarz, Senate Print 1160, an act to amend the Criminal Procedure Law.

SENATOR SCHNEIDERMAN: Brief explanation, please.

ACTING PRESIDENT LITTLE: Thank you.

Senator Maziarz, an explanation has been requested.

SENATOR MAZIARZ: Thank you very much, Madam President.

This legislation would expand the scope of criteria that judges are allowed to consider when setting bail. This bill would give the judge discretion to decide if the individual is a possible threat to the alleged

victim, if the individual has made any prior threatening comments to the alleged victim.

This legislation would also allow the judge to decide whether or not the individual has violated past court orders when setting bail. The judge would be able to consider if the defendant has a pattern of violence or threats of violence against the victim or towards others.

While this bill would cover all bail proceedings, I'm most concerned with setting of bail in the cases of domestic violence. My very learned colleague Senator DeFrancisco, one of the preeminent attorneys in all of New York State, informs me that -- well, Senator Schneiderman asked me to be collegial. So I'm just being collegial, Madam President.

But Senator DeFrancisco has informed me that this is the identical type of criteria that is used at the federal level.

Thank you.

ACTING PRESIDENT LITTLE: Thank you.

Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: This bill has come before us before, and I'll be voting against it for the same reasons as I voted against it in the past.

The problem I have with it is that I don't believe that this bill as it is currently drafted would have the effect that the sponsor has just articulated.

The problem with this bill is that it changes every bail hearing -- not just hearings for people who have been indicted, hearings for anyone who is brought in before a court where there's an issue of possibility of bail. And it adds a second, completely independent type of open-ended inquiry to the current bail procedures.

Now, currently a court can take into account lots of factors in evaluating whether or not someone is likely to show up in court. Certainly the propensity of that person to go out and commit another crime is a factor that is routinely considered now under the current law of the State of New York.

This would require an additional open-ended inquiry into the principal -- I'm

now reading from the bill -- whether the principal -- and again, they don't use the term "defendant," because this includes people who haven't been indicted -- whether the principal is a danger to the alleged victim, members of the community, or to him- or herself.

This is essentially an unfunded mandate that courts conduct a psychological inquiry into whether someone is suicidal, whether someone could potentially be a danger to some third party, that has nothing to do with the crime that is alleged.

So I think this is something that is -- it's not carefully enough crafted to accomplish the goal that the sponsor has set out for himself in getting additional protections for people who may be victims.

And this is a serious problem. And I acknowledge that, particularly in domestic violence situations, this is something that courts should take that account. Courts are allowed to take that into account now, but they're not required to conduct an open-ended inquiry on this issue.

I also would suggest that when you're talking about bail hearings that then turn into psychological evaluations, this would exacerbate the existing disparity between rich people and poor people. Because you want -- if there's an allegation that someone is suicidal or is, you know, capable of violence -- this could be someone who's pulled over for, you know, some problem -- maybe drunk driving, perhaps -- is brought in and then the whole question of whether or not this person in a totally unrelated matter might have threatened someone has to be evaluated in a hearing.

That's not practical, it's not a good use of court resources. And people who can afford lawyers and psychiatrists and things like that would have an unfair advantage.

So I'm going to be voting no, Madam President. I appreciate the sponsor's sincerity and passion on the issue of trying to prevent particularly domestic violence situations, but I don't think this bill as drafted would accomplish that goal.

I don't think it will be passed into law in the Assembly, and in its current form I don't think it should be passed. So I will be voting no once again.

Thank you.

ACTING PRESIDENT LITTLE: Thank you.

Are there any other Senators wishing to be heard?

The debate is closed.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1380 are Senators Andrews, Breslin, Connor, Hassell-Thompson, L. Krueger, Montgomery, Parker, Paterson, Schneiderman and A. Smith.

Those Senators absent from voting: Senators Gonzales and Hannon.

Ayes, 48. Nays, 10.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1586, by Senator Padavan, Senate Print 1263, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT LITTLE: Read the last section.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT LITTLE: Thank you.

Senator Padavan, for an explanation.

SENATOR PADAVAN: Thank you, Madam President.

Currently the law provides, in a case where someone would seek a verdict of acquittal by reason of insanity, two choices open to the jury. One would be acquittal by reason of insanity, and the other would be guilty. Two extremes in what are usually very complex cases.

What this bill would provide for is a third alternative: guilty but mentally ill. Something that is now currently the law, it has been for many years in 20 states, such as California, Illinois, Vermont, just to name several.

There's an interesting article in the Law Journal not too long ago that related to this issue, and they talked about the Kendra case. You may recall in that case a young lady was killed, and the first trial ended in a hung jury because two of the jurors were concerned that that individual perpetrator had a degree of mental illness. The other 10 had voted guilty. There was a second trial, and at that time he was found guilty.

It seeks to highlight the need for alternative, an alternative that allows the defendant to plead guilty but mentally ill, to seek that particular cause of action and determination by a jury.

What will it do for that individual? First, when he goes to prison, he will have to be provided -- and it's in the

statute that we propose -- specific care and treatment for mental illness. If his mental illness becomes reduced or to a level that's appropriate or cured, for that matter, he would then be transferred to a psychiatric facility. That is what the law provides.

Now, currently, someone who is acquitted by reason of insanity goes to a secure mental health facility such as Mid-Hudson and every two years he can apply for reevaluation and release. If psychiatrists say he's not longer mentally ill, he can be back out on the street. And that's something that concerns the prosecutors, it concerns juries and concerns the general public.

So in doing this, we are in effect solving two problems. First, we're making sure that someone who is mentally ill yet guilty, when he or she goes to prison, will be treated for that mental illness.

And, secondly, we prevent the abuse of someone who is acquitted by reason of insanity and is back out in a reasonably short period of time in society, which many would

consider to be certainly a miscarriage of justice.

Now, there are two things that this bill does not do, and I think it's important for those of you who might be scholars on the subject. It does not eliminate the insanity defense, acquittal by reason of insanity, meaning, in simple terms, that the individual did not know the consequences of his act. It's referred to frequently as the M'Naghten Rule, something that occurred in England decades ago.

It does not eliminate that. That is still a plea that can be entered by a defendant. So we want to be sure of that fact.

And what it doesn't do is allow for someone who is found guilty to not have his mental illness, which is recognized certainly during the course of a trial either by psychiatric evaluation ordered by the court or whatever -- it does not permit that that illness would not be treated.

So those are the things it proposes to do and, importantly, what it doesn't do.

ACTING PRESIDENT LITTLE: Thank you.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. On the bill.

ACTING PRESIDENT LITTLE: Thank you. Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I think that it's interesting just to hear this really from -- this really is an issue that has a lot of different aspects to it. We have spoken quite a bit here and my colleague Senator Duane has spoken quite a bit about the issue of ensuring that all people in New York who have a need of treatment for mental disabilities or problems get it.

And I think that there is certainly a need in our prison system to ensure, as Senator Padavan pointed out, that people who have mental problems get the treatment they need when they're incarcerated.

The problem with this bill and the reason that I oppose is that what we're really talking about here is changing a system in which a tiny portion of the criminal

defendants in this state ever are acquitted by reason of insanity or, as the Senator pointed out, really a finding that they didn't understand what they were doing. And I think the image that was used in a previous year's debate was someone who was cutting a person and really thought they were cutting a piece of fruit at the time. They don't know the consequences of their act, as Senator Padavan said.

The difficulty with this bill is that you would open the door to jurors who I think would quite easily be confused by this. You have someone who does something terrible, pushes someone onto a subway platform. You want to punish that person. But if you believe the person truly did not understand what they were doing, guilty but mentally ill offers the possibility of someone going to prison. It just is an easier decision for a juror to make. And yet they will be led to believe, I'm sure, by the prosecution they will receive the proper treatment but they will be guilty.

I think it's going to make it much

harder for us to actually apply the existing law that provides that people who truly do not know the consequences of their action lack the mental state necessary to commit the crimes at issue.

I mean, the intention of someone, the mental capacity of someone, is a critical issue in the criminal law. And it is not just an issue of people with mental health problems, it's an issue of diminished capacity through intoxication, sometimes through age. Children are subject to different standards because of it. And I'm afraid that this particular approach would confuse the issue.

The fact of the matter is if you don't know what you're doing, if you meet the definition of the M'Naghten Rule, then you should be acquitted by reason of insanity. It's a very tiny number of defendants. It's a very tiny number of people.

And I don't think we should seal that rule off. They don't have the mental capacity to understand the wrong they're doing. They don't meet the requirements of mens rea for the crime. And I think that

that's something that should be left intact.

This bill would open the door, I'm afraid, to jurors feeling that, Well, I don't think they really knew what they were doing, but they are guilty in the sense that they did commit the action. And I think it would very, very difficult.

Also, again, and I think this is a very important point, when you open up the door -- and this was true of the bill we just debated earlier -- when you open up the door to this kind of assessment of mental capacity, there is a disparity between people who can afford expert testimony and to hire psychiatrists and to have private attorneys dealing with it, and people who cannot afford it.

So I'm going to vote against this. I think it doesn't address the real problem that needs to be addressed. The real problem that needs to be addressed is really that we don't have the facilities and the resources for treatment of the mentally ill in the State of New York.

Senator Nozzolio actually sponsors

a very good bill which provides for the creation of psychiatric correctional facilities and transitional services for state prison inmates with severe mental illnesses. So I would wish that we would take that bill up.

And I again am constrained to vote no on this bill, which has been around, I think, since the early 1980s. And I don't think it's going to move forward this year any more than it has in the past. I think it's time to move off of this approach and to look at things like Senator Nozzolio's bill that provide, I think, a much more direct way of addressing the real problem here.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Schneiderman.

Senator Connor.

SENATOR CONNOR: Thank you, Madam President.

Madam President, I think maybe this bill has been around since the late '70s. I wasn't going to debate, because I remember debating it in 1979 or 1980. I just wanted to

congratulate Senator Padavan for his persistence. Something tells me it's not going to jump into the law books this year either.

I want to thank Senator Schneiderman for picking up the cudgels here. I remember saying pretty much saying the same thing in 1980 about mens rea and how juries might be -- their eye might be turned in the wrong direction by this as an option.

I remember Senator Padavan used to quote in the early '80s a professor, I think he was at SUNY New Paltz -- Thomas something or other, Gross or Gropps or something -- who was the expert in the field. And this was really a hot topic then. This was really a forward-looking -- being urged, I should say, by a number of people a as a forward-looking approach.

I suspect that professor has gone on to the great tenure in the sky, or at least Florida or somewhere else. Senator Padavan is still here, and we're all glad for that.

And I still think the bill is a bad idea, and I'm still going to vote no. And I'm

not going to get as worked up about it as I did in the early '80s when I thought this might actually become part of the law books.

ACTING PRESIDENT LITTLE: Thank you, Senator Connor.

Is there any other Senator wishing to be heard?

If not, the debate is closed and --

Senator Padavan.

SENATOR PADAVAN: Just to explain my vote.

ACTING PRESIDENT LITTLE: We have to ring the bell.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Senator Padavan, to explain his vote.

SENATOR PADAVAN: I just want to explain my vote, if I may.

One of the things I failed to

mention earlier as a positive aspect of this bill -- it's not going to change any votes, but I think it ought to be on the record -- is the issue of probation. If someone is found guilty but mentally ill, serves a sentence perhaps of five years or more and then is put on probation, under current law, there would no follow-up treatment involved. That person might relapse back into some state of mental illness that would be quite disastrous for him or her or the public.

This bill requires that a condition of probation be continued mental health care, which I think is significant.

Now, the other concerns that were mentioned here belie the fact that California enacted this in 1984, Illinois in 1981, Michigan in 1991, Pennsylvania in 1982. This is not a new concept. It's been a law in these states, and I don't think we can view them as being backward, unenlightened jurisdictions. It's been in law for decades, and they've found no problems with it.

Yes, it's not used very often. These cases don't come up very often. But

when they do, they become significant. And I think we should take that into consideration. I vote aye.

ACTING PRESIDENT YOUNG: Thank you, Senator Padavan.

Senator Padavan votes in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1586 are Senators Andrews, Breslin, Connor, Coppola, DeFrancisco, Duane, Hassell-Thompson, L. Krueger, C. Kruger, Montgomery, Parker, Schneiderman, Serrano, A. Smith, M. Smith, Stachowski and Stavisky.

Absent from voting: Senator Gonzalez.

Ayes, 42. Nays, 17.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 1633, by Senator Little, Senate Print 6546, an act to amend the Executive Law.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT YOUNG: Senator Little, an explanation has been requested.

SENATOR LITTLE: Thank you.

This bill would amend the Adirondack Park Agency Law and the Executive Law that governs the Adirondack Park.

What I would like to explain before I go through this is a little bit about the Adirondack Park, a 6-million-acre park. I represent a great deal of it. Three million acres are owned by the State of New York; about 3 million acres -- actually, less than that -- are owned by private individuals.

All of the land within the Adirondack Park is under the jurisdiction of the Adirondack Park Agency. Within that jurisdiction, they have land classifications. And in those land classifications, they allow how many buildings can be permitted within a certain amount of acreage.

You have a hamlet, and those are the concentrated areas of the park -- by the way, there are 105 towns in the park -- and in that area you can have the concentration of buildings. With the moderate intensity, you

have can have one building for 1.5 acre; low intensity, you can have one building for 3.5 acres; rural use, 1 building for 8.3 acres; and resource management, where you can have one building for 42 acres.

Over 26 percent of the park is zoned resource management, so that you can have one building for 42 acres. And if that resource management is within the state land, then you can have no buildings for 42 acres.

In recent years the state has continued to purchase land in the Adirondack Park. Every time they purchase land, while it does improve -- and I really know that our value in the Adirondacks, our attraction for tourists is because we have so much open space and recreational opportunities. So the state land certainly is an asset. But every time the state purchases land, that eliminates a building right.

So if they purchase 10,000 acres of resource management land, where you could build one house for 42 acres, they have eliminated 260-some houses or properties from that amount of land.

What we are saying is that those building rights should be able to be transferred to the local government.

Now, does that mean that there would be 268 buildings? There probably wouldn't be. But it would give local governments the opportunity to use those building rights on other classifications of land or increase the density in the hamlets or in the moderate-intensity areas.

Right now, to transfer a building right, you have to go through a very lengthy process with the Adirondack Park Agency. Which in many ways makes it all very elitist, because if you don't have an engineer or a lawyer, an architect, a planner and an archeologist to examine your land, you're not going to get a permit.

Now, one of the oppositions to this is the Adirondack Park Agency. And this is a new bill, and I think that there may be opportunities to maybe reduce the amount of building rights that are transferred. Like a percentage would be transferred and put in a bank with that local government. And that's

something that we can certainly look at.

But in their opposition, they talk about 500 permit applications expected this year. Keep in mind, some of those permit applications are for a deck, for a garage, for any kind of add-on to an existing structure, or a boathouse. And if you are in a town that does not have an approved APA land-use zoning -- and there are only 12 of those towns that have those -- everything goes through the Adirondack Park Agency.

They also claim that many of those are for 100-to-300-unit developments. To my knowledge, there are two large developments planned and in the process of going before the APA. One of them is in Tupper Lake and one of them is in North Creek, and they are condominiums, for the most part are going to be second homes.

At any rate, the reason for this bill is to allow for changes in the hamlet. If we could increase the building rights and the density in the hamlets, we would be able to expand our hamlets and have those building rights and have those in a bank.

There's one town in Hamilton County, the town of Arietta, 96 percent of the land in that town is owned by the State of New York. It's very difficult to have a community and have what you need in a community in a town that only has 4 percent of its land allowed for private development and for people to live on. And actually the school, I believe, has 15 students.

So that's what we're up against. And this bill we would hope would be something that would help us correct and to be able to accommodate more people living within the Adirondack Park so that we could have sustainable communities.

SENATOR OPPENHEIMER: Madam President, if the Senator would yield for a couple of questions.

ACTING PRESIDENT YOUNG: Thank you, Senator Oppenheimer.

Senator Little, will you yield?

SENATOR LITTLE: Yes, I will.

SENATOR OPPENHEIMER: Thank you, Senator.

I thought that in the hamlets there

weren't restrictions. And you seem to be saying --

SENATOR LITTLE: There aren't. There are no restrictions. Although if the hamlet is in a town that does not have an APA-approved zoning land use plan, then it has to go through the Adirondack Park Agency to get a permit to build.

But some of the hamlets are very small. They don't like a hamlet unless you have water and sewer for that hamlet, and that's very expensive. I mean, when you have to run a sewer pipe 600 feet to get from one house to another house, it makes it a lot more expensive. And the annual income of the year-round residents is very low. So that in itself is a problem.

We need to expand our hamlets. But these building rights would allow for a building right to be given or increase the density in a moderate-intensity area, which is 1 1/4 acres, normally. Many, many people talk about affordable housing and how we can do it, and I know it's an issue in everyone's district. But it's very difficult to have

affordable housing when you need 8.5 acres for one house or 42 acres for one house or 1 1/3 acres for one house. And other than that, you're in the hamlets.

So this is necessary -- I mean, I'll be the first one to admit this is probably going to have to be negotiated. But the point is to put this on the table so that we can do something to help sustain community developments within the Adirondack Park.

SENATOR OPPENHEIMER: And if I may --

ACTING PRESIDENT YOUNG: Senator Little, will you continue to yield?

SENATOR LITTLE: Yes.

ACTING PRESIDENT YOUNG: Senator Little yields.

SENATOR OPPENHEIMER: I understand the pressures on both sides in the Adirondack Park. I spent many, many years having discussions with Ron Stafford on this.

And of course we want the people who live in the park to be able to have work, employment. They want also to have a sustainable environment, because they

recognize the need of tourists; tourists come there and spend their money there.

Why have some of -- here's the question. Why have some of the hamlets not even proposed plans for their -- you know, they're supposed to be developing plans for their areas. And why have they not done that?

SENATOR LITTLE: Because most of the people in the Adirondack Park feel that having to have a plan development approved by the Adirondack Park Agency is very difficult and makes life very difficult.

The Adirondack Park Agency, the APA, has jurisdiction over a building if it is over 40 feet tall even if you have a plan. And I also have a bill that says that they need to measure that 40 feet the same way the building code enforcement laws of New York State measure 40 feet. They do not. They are currently -- they measure from the slope of land and the lowest slope.

I mean, I have so many horror stories I could tell you. And my frustration level obviously is very high.

However, we need some assistance

and we need understanding. And I don't think that people from the city or from your area really understand, what would it be like if you opened owned an apartment building with 100 apartments in it and you had a governing agency, the APA -- whatever you want to call it in your area -- that said it's very crowded here, we now say you can only rent 50 of those apartments. It makes it very tough.

SENATOR OPPENHEIMER: That sounds a bit bizarre. But --

SENATOR LITTLE: We believe it is bizarre.

SENATOR OPPENHEIMER: But on the other hand -- and I think another question, if you will yield.

ACTING PRESIDENT YOUNG: Senator Little, will you yield?

SENATOR LITTLE: I continue to yield.

ACTING PRESIDENT YOUNG: Thank you, Senator.

SENATOR OPPENHEIMER: You would agree with me, I believe, that the goal of the state land acquisition is specifically to

prevent great future development in the area where they want to protect open space, and they want to protect water quality and they want to protect, in a way, tourism.

So do you agree that the state seems to have an important role here that would benefit the people that live in the area?

SENATOR LITTLE: Thank you. In answer to your question, I do believe that the state and the Adirondack Park Agency and the Adirondack Council, their purpose is to control development and to prevent increased development of the Adirondack Park.

But I will tell you that tourism is very, very important in our area, but I believe that we're headed for a day when there will be no one to pump the gas. We have chambermaids who can work in Lake Placid who are driving 40 miles at the price of gas today to go to a chambermaid job and to go home. And there is very little public transportation.

We also have declining enrollment in almost all of our schools -- I've gone

through this before, and I don't mean to -- but declining enrollment, we have nursing homes that are not at occupancy rates, making it very difficult for them. We have a grocery-store chain that could not be sustainable, they've closed, and we have a few that have been able to reopen.

Sustainable communities are very difficult for year-round residents. We love the second homes, we love the tourists. We need to have sustainable communities where we have year-round residents as well.

SENATOR OPPENHEIMER: Thank you, Senator.

If I may, on the bill, please.

ACTING PRESIDENT YOUNG: Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: I do hope that the two sides will sit down, both houses, and try and work this through. The Adirondack Park is such a complex area with, you know, about half owned privately and about half owned publicly. And it's fraught with a lot of complicated issues.

But I think it would be incongruous

for the state to have purchased this land for the purpose of open space and then to give it to the local government for the purpose of development. It just seems incongruous to me.

I hope this can be worked out, the interests of both sides, the open space and the need to have areas where the housing can be built on small plots. That is necessary, and there has to be a lot more negotiation. But for the time being, I will have to be in the negative.

ACTING PRESIDENT YOUNG: Thank you, Senator.

Senator Farley.

SENATOR FARLEY: Yes, I rise in support of this bill.

I represented Hamilton County, which is one of the largest counties in the State of New York in area, 5,000 people, for a number of years and spent a lot of my formative years growing up in Hamilton County, in Indian Lake.

But, you know, what Senator Little is talking about -- and when I first came into the Senate, I think some of the older members

would remember it, there was almost like open warfare between the natives up there and the APA, which was unfortunate. It's gotten a little bit better. But believe me, the Adirondacks -- and for the people that are living there, it's almost depressing. They're some of the poorest, most discouraged -- town after town has lost their grocery stores. It's just unbelievable. They move out, the grocery stores close.

And this is just a modest thing saying please allow us to keep these building rights so that maybe somebody can come and live in this area. Because it is a very difficult lifestyle. If you want to see people that are really deprived, go up to Senator Little's district. Now, it looks very nice to drive through as far as tourists are concerned, but it's a very hard place to live.

And what this does is to try to help the people that are living there or would be living there. And I think it's a reasonable piece of legislation. If anybody thinks that this is going to become law, I think it's kind of unrealistic. But at least

she's getting the issue out there on the table so that some of these people that live in the Adirondack Park -- and I do have some of them, even now, in my district, but -- because they really need some sort of attention by this Legislature.

The late Senator Stafford spent most of his career talking about some of the inequities that are happening to the people that live up there.

I'm going to vote aye, and I think it's a good piece of legislation.

ACTING PRESIDENT YOUNG: Thank you, Senator Farley.

Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President.

I want to thank Senator Little for her explanation of this problem.

We have a little bit of the same problem in Delaware County, where we have economic strangulation because of the regulations of DEP. The rules are so stringent that you can't do any building. And what's happening is you are seeing people

leave that county. It's getting more difficult to bring professionals in that county of medical personnel, doctors, teachers.

And the case that Senator Little is making is so much more extreme. And the best way I can describe it is this way. New York City, I'm told -- and I'm not sure if I'm factually correct -- is about 11,000 acres. About. I'm not sure. Approximately. You have 8.5 million people. The acreage that Senator Little is talking about is somewhere close to 6 million acres, and the population is 130,000 people.

And this legislation is talking about recapturing some building rights for maybe, to the maximum, increasing that population by 10 percent.

Now, when we have elected officials that carried the water for the environmental lobbyists, there's nothing wrong with that. But you have to distinguish those environmentalists that are what I call fringe, that never want to see a leaf disturbed, who never want to see a house built. I call that

extreme environmentalists. That's not the environmental community that I support.

So we always ask for a balance, an equity. But keep those figures in mind: 11,000 acres, 8.5 million people; 6 million acres, 130,000 people.

Thank you, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Bonacic.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

I join Senator Oppenheimer and others here in hoping this will be negotiated out. I appreciate the comments of Senator Little, the sponsor, and my other colleagues.

I do, however -- I personally don't view the Adirondack Council and the EPL as fringe characters. I think they're raising a legitimate question. If we have a state program that spends state money to acquire land to prevent development, if we then just turn the development rights over to a local government, what's the point of having a state program?

I mean, this is, you know -- I wish that my local governments could get land turned over to them that we pay for with state money. But I don't think that's fair or reasonable.

I also raise a serious question. I know this is a new bill and as we move forward, hopefully, in efforts to get some more reasonable negotiations underway, which as Senator Little has said is her intent, I think there may be a constitutional problem with this. I don't think that the state is allowed or should be allowed to simply transfer valuable development rights for no consideration, no compensation, to a local government.

So both on a practical level -- there's no point having a state program to spend state money to prevent development if we're then going to just transfer the development rights -- and on a constitutional level, that the state is not allowed to just give away resources, I think that this is a bill that needs some work.

I will be voting in the negative,

but I do understand and appreciate the concerns that are raised here. And I hope we will be able to take action that does allow these communities to survive and indeed to flourish.

Thank you, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Schneiderman.

Senator Volker.

SENATOR VOLKER: Madam President, I'm one of those people that was here back in the '70s when the Adirondack Park was created. I understand the politics of the Adirondack Park.

Let me tell you something. In order to get rid of the land in the Adirondack Park, if you opened up the entire Adirondack Park, we'd all be dead before they ever got through one-third of it. You have to realize how huge it is. You've got to be there to understand it. I've been around the up North Country my whole life. I was there when I got the call from Laurence Rockefeller saying, "Assemblyman Volker, I hope you'll vote for my park -- my park."

Because remember, the arrogance of the people that formed this whole thing was unbelievable. It was Nelson Rockefeller and a very strong group of wealthy environmentalists who decided they were going to take a piece of land that is bigger than most of the -- I think it's not bigger than the whole of New England, but it's pretty close.

The problem is, I can assure you if there were anything close to the restrictions on the Adirondack Park anyplace in New York City, this place would explode in a pile of whatever.

The Adirondack Park and the Adirondack area -- not just the Adirondack Park, the area -- has been in recession for 30-some years. The interesting thing is all this talk about upstate New York, it's the Adirondacks that are in terrible shape. But no one really cares. The environmentalists could give a damn. And the reason they don't care is they don't care about the people, they care about the land. And I think it's just such arrogance.

What she's talking about here is a

very, very minute part of the Adirondacks. If you developed all that and really developed it, you'd still have a little piece in this whole huge -- I mean, I would ask every member of this Legislature, and I know a lot of you have -- to go up to the Adirondacks. Of course there's a lot of it you can't get even in any place. I was up to the Beaver River Falls, which is near Old Forge, which is about as far up as you can go. That's where the road stopped. I've fished and hunted. Although where I go most of the time is in Senator Wright's district, which is in Black Lake, which is farther over.

The only thing I got to say to you is the one thing that bothers me the most is the absolute arrogance of some of the people who say, Look, you can't -- that's our land, our. That's New York State's land. That's the wealthy environmentalists. They own this land. After all, they're the ones that got this amendment through. The arrogance is unbelievable. And they don't even go there very much. Oh, they live in their big estates and all that.

But, you know, I hate to say this, as I've gotten a little older -- I know I probably shouldn't say this stuff, except that it's these people that are why our taxes are as high as they are. It's why the Adirondacks is a sad place. No one seems to care about the people except the representatives there. And I don't mean the people of this chamber; they just don't realize.

The people who are part of the EPL and all these other -- they're not from the Adirondacks. They're from other parts of the state. Some of them are from my part of the state. I know who they are. Most of them have estates up there that are huge. And that's wonderful, except for one thing. There's people up there. There's towns and villages.

And it just seems to me -- and if it were my part of the state, I'd be jumping up and down, I'd be screaming, I'd be chasing everybody. They're the way Western New York was after Bethlehem left and all the other people. Now we've got a lot better situation, because we were able to do it. They are not

able to do it, because an agency and groups are keeping them from doing even a modicum of development.

So, you know, I won't -- there's no sense, I know, talking -- the Assembly wouldn't listen to us anyways. And we realize that. But Betty is absolutely right. And, you know, you talk about crying out for justice. The Adirondacks cries out for justice.

ACTING PRESIDENT YOUNG: Thank you, Senator Volker.

Senator Montgomery.

SENATOR MONTGOMERY: Thank you, Madam President.

I rise to join my colleagues who have some concerns. And I just want to say to Senator Little and any other Adirondack Park rep in here -- I don't know if there's any; I don't believe so. It belongs to her at this moment -- that I think that it's certainly in the state's interest to have such a wonderful preserve as this. And hopefully it will remain open space and the beauty of it will be able to be appreciated, for generations to

come, forever.

But I hope that we can also plan for any development that happens there that would be of economic benefit to the area, the people who live there and who are looking for economic improvements and opportunities. But that it's balanced very well with the issue of the need for open space.

And I certainly think that there is opportunity. It's a magnificent, beautiful state. The park is certainly part of it. And I have great hope that with the economic upswing that the park will be able to part of that, as every other part of the state.

So I'm going to vote no just as a precautionary measure, with the hope that we will have some way of negotiating this issue for the benefit of all of us in the state.

Thank you, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Montgomery.

Senator Connor.

SENATOR CONNOR: Thank you, Madam President.

I'm just a little surprised. I

I've been in this chamber for -- this is my 29th session, and over the years most of the class-warfare rhetoric I've heard has come from this side of the aisle. And I'm kind of surprised to hear a dear colleague on the Republican side talking in class-warfare terms.

But I'm very familiar with the Adirondacks. I have a little place there and have been going there for years before I had a place there. I've slept on the ground, in tents, and been in all sorts of places in the Adirondacks, and I've fished, done a lot of fishing there and a little bit of hunting. I love the Adirondacks.

It is the largest wilderness east of the Mississippi. So if you think about other wilderness areas -- like, you know, they talk about the Ozarks and Maine and whatever -- right here we have the largest wilderness east of the Mississippi. Larger than you'll find in West Virginia and all these other places people talk about being wild country. We got it here.

And, look, the Adirondack Park

didn't get created when the Adirondack Park Agency was created. The Adirondack Park goes back into the 19th century and constitutional protections that it should be forever wild. Teddy Roosevelt spent a lot of time there, to talk about the upper classes on the Republican side -- hunted, fished, was actually in the Adirondacks when he got the telegram saying that out in Buffalo, Senator Volker's area, President McKinley had been shot and was laying on his deathbed, and rode a horse and carriage down to the railhead at night on a wilderness road to go off to Buffalo and become president under sad circumstances.

So the Adirondacks has meant a lot to New Yorkers of all classes for a lot of years. And let me say, at least -- you know, maybe it's me; my place is not like any of these fancy places in the Adirondacks. Pretty country, pretty rural, and not a lot of rich people around there. A lot of great folks, though, that I enjoy spending time with.

And I'm kind of conflicted about this bill, because as the ranker on Local Government -- I think Senator Little and I

chatted about this a couple months ago -- I think giving local towns and municipalities a role in their development plans -- because most of these municipalities don't have any great big development plans. And frankly, at least in this century we're in now, it's hard to foresee that they'll undergo any major developmental pressures in the way that the rest of the state would understand it.

That said, almost none of these -- 80 or 90 of the municipalities, out of 110 or so, 105 or whatever it is, have no development plan. Now, that shouldn't surprise us, because town officials are very part-time in most of these municipalities. They don't have big budgets for planning staffs or outside consultants or whatever.

And I would like to see the conflict represented by the opposition to this bill being resolved by negotiations. But what I would propose, if this Legislature is serious about supporting Senator Little and the residents of the Adirondacks for their needs, the state ought to find a way to appropriate money into a fund to provide the

technical assistance to all of these municipalities so that they can come up with a professional development plan that they submit to the APA and they get approved.

I think it's beyond most of these towns. They know what they want to do, but when you're talking about preparing a plan, I can't imagine about how a part-time supervisor --

ACTING PRESIDENT YOUNG: Senator Little, why do you rise?

SENATOR LITTLE: Senator Connor, if I could, just in your comments, in this year's budget there was -- the Governor did put planning money in for mountain communities and for planning for the Adirondack communities.

Many of these communities, regardless of whether they have a planning or zoning, once they have a building over 40 feet high or they have any kind of a building lot with a wetland, regardless of whether it's the size of your desk or not, it goes under Adirondack Park Agency anyway.

So many of them have rejected it,

but we are working towards that direction. But there's a tremendous opposition and conflict because of the way the APA has operated with the towns.

So -- but there is money. As long as you mention that, I did want to explain that.

SENATOR CONNOR: Thank you. Thank you, Senator Little. I'm delighted to learn of that. That, for a variety of reasons, wasn't the part of the budget I was particularly focused on this year.

But I think, you know, we need to support that kind of planned professional development. It's going to be very limited in most of these places. And it's not going to threaten the wilderness character of the great Adirondacks.

That said, I can't vote for this bill because in essence what it says is when the state acquires land, the state's not going to get the whole basket that it acquired. In fact, any developmental rights that are attached to it are going to flip back to the municipality. And I don't think that's right.

And most of the land that the state acquires is pretty remote, from what I have observed. I don't think the state is acquiring land in hamlets or in those areas that have some population concentration.

So until this kind of thing gets worked out, I'm going to have to vote no.

Thank you.

ACTING PRESIDENT YOUNG: Thank you, Senator Connor.

Any Senator wishing to be heard?

Then the debate is closed, and the Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Senator Little, to explain her vote.

SENATOR LITTLE: Thank you.

I'd like to begin by thanking my colleagues for their support and for those who stood up and spoke in support of this

resolution.

I also think that I need to clarify something. The development rights -- when the state buys land, the development rights would not be used on any of the state land. The development rights would go to the town, where they could be allocated to private landowners within the hamlets, the moderate intensity, and they would be under the APA jurisdiction for anything that they did on those lands.

Keep in mind, we talk about the hamlets in the Adirondacks, and that's where most of the people live. The hamlets occupy 53,415 acres of the 6 million-acre park. So the building rights are very important. And the tourism is important. But so is healthcare and the people that need to be there to provide it.

Thank you. I vote aye.

ACTING PRESIDENT YOUNG: Senator Little will be recorded in the affirmative.

Senator Oppenheimer, to explain her vote.

SENATOR OPPENHEIMER: I'm voting in the negative. But I do want it understood

that I hope some accommodation can be made in the hamlet areas.

ACTING PRESIDENT YOUNG: Can we have some order, please.

SENATOR OPPENHEIMER: When we talk about density, it really is not applicable. And it's not applicable because in our New York State Constitution, it says a large portion -- I forget what portion it is -- is forever wild. It doesn't have roads, you can't build in there. You can walk in, and that's about all you can do.

So to compare that density with New York City is sort of apples and oranges. They don't have any -- it doesn't have any meaning.

But I do at the moment feel that the land that has been paid for with state money, it seems incongruous to just say, well, then, let's give it to the local governments. We bought with it our money, the state, and there was a purpose for it. And the purpose was to maintain as much as we could of the land, in open land and protecting our water and protecting our species.

And so I'll be voting no, but I certainly do hope that things can be worked out, because I really feel that the hamlets could be enlarged. And I wish you good luck with the Assembly.

I'll be voting no.

ACTING PRESIDENT YOUNG: Senator Oppenheimer, you will be recorded in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1633 are Senators Andrews, Connor, Coppola, Dilan, Duane, Hannon, Hassell-Thompson, L. Krueger, C. Kruger, LaValle, Leibell, Marcellino, Montgomery, Onorato, Oppenheimer, Padavan, Parker, Paterson, Sabini, Sampson, Schneiderman, Serrano, A. Smith, M. Smith, Spano, Stachowski and Stavisky.

Absent from voting: Senator Gonzalez.

Ayes, 32. Nays, 27.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number

1649, substituted earlier today by Member of the Assembly Sweeney, Assembly Print Number 10982, an act to amend the General Municipal Law.

SENATOR SKELOS: Lay it aside for the day.

ACTING PRESIDENT YOUNG: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 1651, substituted earlier today by Member of the Assembly Towns, Assembly Print Number 10026, an act to amend the Executive Law.

ACTING PRESIDENT YOUNG: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President, on the bill.

This is legislation that was introduced by Senator Spano, and I rise in support of it. It is to commemorate the work of Rosa Parks by establishing a Rosa Parks Day.

And I want to just acknowledge that this is one of the heroes or heroines of America, because she was a catalyst for --

ACTING PRESIDENT YOUNG: Could we

have some order, please. Let's give our colleague some respect here. Thank you.

SENATOR MONTGOMERY: Yes, thank you, Madam President.

She was a catalyst for change in America that benefited so many people, especially African-American people and people of color across the spectrum in America. I call her the mother of the Second Reconstruction.

So it is a pleasure to see that all of us in this house, Republican and Democrat, have joined to honor this person in a nonpartisan way, and I just want to thank Senator Spano for introducing it.

And I believe that he has also opened up this legislation, and this is indeed what Rosa Parks' life meant and represented. And I'm appreciative of the Senator for allowing us to be able to do this.

Thank you, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Montgomery.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank

you, Madam President.

I rise to commend also Senator Spano for his thoughtfulness in this commemoration of Rosa Parks. You've already heard from Senator Montgomery, but -- and most of us historically understand what this woman has meant to the entire country.

When people say that one person can't make a difference, if we look at the life of Rosa Parks, we would have to change that, because she was one person who understood clearly that to change the way people think is to change the way you behave. And so she was successful in doing that.

And so I rise to support this legislation and again to thank Senator Spano for his thoughtfulness and his progressive thinking in terms of being the one to bring forth this legislative resolution today.

ACTING PRESIDENT YOUNG: Thank you, Senator.

Senator Ada Smith.

SENATOR ADA SMITH: Thank you, Madam President.

I too would like to join the chorus

of those commending Senator Spano, because Rosa Parks was truly an inspiration to most of us. And we shall never forget that she sat down so that all of us could stand up.

ACTING PRESIDENT YOUNG: Thank you, Senator Smith.

Any other Senator wishing to be heard?

Senator Spano.

SENATOR SPANO: Let me just say that I appreciate the comments from my colleagues.

And as has been said, that it's both entirely appropriate that we look to establishing February 4th of each year as Rosa Parks Day in the State of New York. It's even more appropriate, given her recent death, that we pay tribute to someone who's come to us and been known by many names, but most notably as the mother of the civil rights movement.

We all know that Rosa Parks was both a pioneer and someone who has courageously fought for equality, and that we recognize that determination for equality as we pay tribute to her and so many others who

followed her in making sure that those life-changing achievements that occurred would never go unrecognized.

So I appreciate the comments today and am very glad and proud to be a sponsor of this bill in a bipartisan way, which shows the way that we should in fact recognize people who do go above and beyond and do change the lives of not only their community, our nation, but in fact the world. And Rosa Parks did that.

ACTING PRESIDENT YOUNG: Thank you, Senator Spano.

Any other Senator wishing 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 4th of February next succeeding.

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to

Calendar Number 1651, absent from voting: Senator Gonzalez.

Ayes, 59. Nays, 0.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 1659, by Senator Padavan, Senate Print 8045, an act to amend the Real Property Law.

SENATOR MAZIARZ: Read the last section.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 1659, absent from voting: Senator Gonzalez.

Ayes, 59. Nays, 0.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 1669, by Senator Golden, Senate Print 2205, an

act to amend the Penal Law and the Railroad Law.

SENATOR MONTGOMERY: Explanation.

ACTING PRESIDENT YOUNG: Senator Golden, an explanation has been requested.

SENATOR GOLDEN: Thank you, Madam President.

A criminal trespass on the subway and railroad tracks is trespass on subway or railroad tracks that can create many problems, ranging from schedule delays to more serious threats of physical harm, either to the trespasser or passenger or, more gravely, through terrorist attacks perpetrated on the rail system.

The bill establishes a new Class E felony, criminal trespass in the second degree, which is committed if a person knowingly enters or remains unlawfully on railroad or subway tracks or in a designated railroad right of way or yard, thereby causing or creating substantial risk of public inconvenience, annoyance or alarm.

The three elements are the person has to knowingly enter and remain; the second

is it has to be clearly identified as no trespassing. The person has to know that they shouldn't be there. And the person creates a substantial risk of public inconvenience, annoyance or alarm.

ACTING PRESIDENT YOUNG: Thank you, Senator Golden.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President.

I want to raise just to point out to the sponsor and my colleagues that this legislation goes very far. Because, as Senator Golden has explained to us, he talks about a Class E felony for trespass that will inconvenience the public -- I can't find my bill. So that it's really quite wide open and I think goes too far.

And of course if someone -- there are a lot of people who are -- that we know to spend time on the railroad tracks that are homeless and people who are really not there to do any harm but, rather, are there to get out of the elements or to just, you know, unfortunately, find shelter.

And although we don't want them there and of course the mayor and New York City has attempted, the police chief has attempted to remove people, we know that they still are going to find their way onto the train tracks.

And I think that for anyone who is on the tracks and is arrested based on this law, they are going to be charged with an E felony. And once again, it's raising the bar for people who are destitute, essentially. Because I don't think you find yourself on the railroad tracks.

And while I understand Senator Golden talks about his concern about terrorism and all of that, we're using terrorism essentially to capture people who are least likely to do anything to anyone because they are destitute, primarily.

So I'm going to oppose this legislation because I think it's not related necessarily to terrorism, but it is a penalty, a punishment for poor, down-and-out, destitute people. Thank you.

ACTING PRESIDENT YOUNG: Thank

you for your comments on the bill, Senator.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

Yesterday when this bill came to Rules, I became extremely concerned. And I know that sometimes in this chamber that some of my colleagues believe that when we argue points, that it's semantical. But one of the things that I am very cognizant of is that it is the semantics of language that means the difference between life and death.

And somewhere in the description, I became incensed because it used words like "inconvenience," "annoyance" -- and I couldn't think of the third word. I was trying to find the language. And to raise the bar to an E felony for inconvenience incensed me.

If you talk about safety issues, then let's talk about it being a safety issue. But please let's not talk about E felonies in the same breath as inconvenience.

And that not mean a lot to you, but as we look at how people live in this society and how they move in this society, what is an

inconvenience should not in fact become a felonious act.

ACTING PRESIDENT YOUNG: Thank you, Senator.

Senator Diaz.

SENATOR DIAZ: Thank you, Madam President.

I rise to support this bill. And I am going to read something that says here that the new felony will be criminal trespass in the second degree and will be committed if a person knowingly enters or remains unlawfully on railroad or subway tracks or in a designated railroad right.

Madam President, it reminds me that some time ago in Spain a terrorist attack on a train, on a subway, caused a lot of loss of life. And on this occasion I am supporting this bill because we have to -- we take every precaution and every necessary step to protect the people of the city of New York. And this bill calls for anybody that knowingly trespasses and remains in the railroad tracks.

And I'm in favor of this bill and I think it's a good bill and I ask my colleagues

to support this bill.

ACTING PRESIDENT YOUNG: Thank you, Senator Diaz.

Senator Volker.

SENATOR VOLKER: Madam President, very quickly. I just want to point something out about how the criminal justice system in the City of New York works.

An E felony is automatically reduced to an A misdemeanor in virtually any case. It's no secret that if you have an A misdemeanor, it ends up in what amounts to an offense.

I can't imagine the police in the City of New York, by the way, arresting homeless people. They don't -- they don't -- unless they assault them or something like that. That almost never happens, from my understanding.

But the truth is, the reason it's an E misdemeanor is the courts in the city don't pay any attention to anything but a felony. I mean, I got to -- there are courts in New York City, as I understand it, for drug offenses. If it's not a felony, they just

wash it out.

You know, that's why Senator Golden is doing this. Because in certain serious cases, you've got to have a way to move people before they kill themselves. And, I mean, it -- I think you have to -- we really have to think about that a little bit.

So I only mention that because -- I don't want to get into these debates except for the fact that I know one thing. The years that I've tried to deal with the Assembly on some of these issues, they are just fanatical about not doing felonies. And there's a reason. Because if you do a felony, people pay attention to it. And they pay attention to it. If they don't, if it's a misdemeanor, then it goes from an A to a B, which is like a traffic offense. And if it doesn't go to that, it goes to a disorderly conduct.

Now, I only point this out because -- in fact, it sometimes tends to clog up police stations with people who probably shouldn't be there in the first place. So I only mention that because this is really a reaction to the way in which the City of

New York as a whole has been operating with law enforcement recently.

So I just point that out.

ACTING PRESIDENT YOUNG: Thank you, Senator Volker.

Any Senator wishing to be heard?

Then the debate is closed.

The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 90th day.

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Senator Parker, to explain your vote.

SENATOR PARKER: Yes, Madam President, quickly to explain my vote.

Again, I want to commend Senator Golden for, again, his conscientiousness in trying to keep New York City and its residents safe. And I think that is really important and a really admirable goal. I don't think that this bill does -- takes us where we need to go.

I guess my continued frustration about how we handle things in this body has been really after the fact. And I really would love to see us look at things that prevent crimes from happening, that provide security.

Some of you may know that in my previous life I had the chance to work with the first lady, now our junior senator, Hillary Clinton, and the then President. And having the opportunity to work closely with the Secret Service at that time, I found that their methods were always about how do you not track down the killer once they've killed the president, it's how do you keep the president safe.

And I think that that's what we ought to look at as we go to look at safety. The question is not how do we track down or how do we punish people, but the reality is how do we in fact protect our train system. I don't think this bill does it.

I think that most of the punitive things we do don't do that. I think we're going to wind up prosecuting and giving a lot

of crimes to graffiti writers and to a lot of young people who may be misguided and shouldn't be doing that, but we certainly shouldn't be ruining their lives over this.

And certainly if Senator Volker wants to come to Brooklyn and ride the trains with me sometime, I will show him transit police officers arresting homeless people every single day.

So I hope that we let cooler heads prevail, look for some solutions like adding more police officers to the streets of New York, adding more transit cops, and vote no on this bill.

Thank you.

ACTING PRESIDENT YOUNG: Thank you, Senator Parker. You will be recorded in the negative.

Senator Golden, to explain your vote.

SENATOR GOLDEN: Thank you, Madam President.

I note there was a remark that we're doing this under the guise of terrorism. Terrorism obviously is a very real reason to

be concerned, but it's not only reason.

Millions of people use that system on a daily -- daily. And if you take a look at what's happened, if the system goes down, any part of that system, tens of thousands of people are inconvenienced. People going to work, people going to hospitals, people going to school, people going to business, those people are inconvenienced because they can't get to their place of business or to school or to the hospital.

So it's a lot more than just terrorism. I mean, when you think about the blackout of August 2003, when you had tens of thousands of people trapped in that system, trying to get out of that system and trying to use those exits underneath the tunnels and coming into encampments where you had beds and mattresses and boxes, where people couldn't get out and had to walk over that in the dark of night.

When you have different types of people setting fires underneath those tunnels and shutting down the system, people hitting the third rail and causing electrocutions or

throwing pipes on those third rails, causing that system to go down, those are the reasons that the City of New York has requested this bill. And this is the reason that I put this bill forward, for the betterment of the City of New York, not just for terrorism, but for transportation as a whole. So I will be voting yes.

Thank you, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Golden. You will be recorded in the affirmative.

Senator Balboni, to explain your vote.

SENATOR BALBONI: Very quickly.

A no vote on this bill, Madam President, is one of the most ironic votes that I could see happening. Do you guys know that we're spending over $600 million right now an a major capital plan for the MTA? Do you know that the reason why we're doing that is to improve security on the transit systems?

This is completely consistent with that whole program. To do anything else is absolutely ridiculous. I mean, guys, to

relegate the homeless population to the train tunnels, kind of a "modest proposal"? That's not acceptable either.

Madam President, it's a threat not just to the transit system but to everybody who rides it, including the people who are in the tunnels.

So let's have a little bit of common sense here. It's not safe to be in the tunnels. You shouldn't be there. It's good to outlaw that kind of behavior, period.

I vote in favor. Thank you.

ACTING PRESIDENT YOUNG: Thank you, Senator Balboni. You will be recorded as voting yes.

Senator Krueger, to explain your vote.

SENATOR LIZ KRUEGER: Thank you. I rise to explain my decision to vote no on this bill.

Thank you, Senator Balboni. The answer to homelessness in the City of New York or anywhere else is certainly not to relegate people to live in the subway system. But the solution to homelessness, of course, is also

not to criminalize people who have nowhere else to live.

So I agree, Senator Balboni, we need to do far more to address the problems of homeless people, but the answer is not to make them felons or pile them into our police precinct houses or our jails. Our answer is to provide smart social programs, affordable housing, access to healthcare, mental health care.

Senator Duane is out of the chamber, but if we had Timothy's Law we would have mental health care services for many of the homeless.

So I vote no. Thank you.

ACTING PRESIDENT YOUNG: Thank you, Senator Krueger. You will be recorded as a no.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1669 are Senators Andrews, Connor, Hassell-Thompson, L. Krueger, Little, Montgomery and Parker.

Absent from voting: Senator Gonzalez.

Ayes, 52. Nays, 7.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 1671, by Senator DeFrancisco, Senate Print 3329, an act to amend the Penal Law.

ACTING PRESIDENT YOUNG: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

We have debated this bill with the sponsor before. I don't really think I need an explanation. I'll try to be very brief.

This is a bill to amend the law relating to what is commonly called felony murder. It is a doctrine in the law that provides that there's an enhanced penalty -- in the case of the statute in New York, the death penalty would apply if you kill someone in the course of committing another crime.

And I realize that this is a somewhat creative effort to respond to a particularly tragic incident. But what this bill does is redefines the crime of burglary to essentially eliminate all of the

requirements currently under the Penal Law for the crime of burglary.

And in essence, what this bill would do is say if you just go into any place with the intent to commit a murder, then that is transformed into committing a murder in the course of another crime.

If you want to impose the death penalty for all intentional murder, then we should just have a bill that in a straightforward manner says that. This is a kind of a back-door way to try and expand the death penalty, because everyone presumably is going someplace if they're intending to commit a murder. So this essentially categorizes any entry into a premises as a burglary and thereby elevates it to a capital crime.

This is not the right way to proceed. This is not the right way to draft the statute. This is a back-door way to expand the death penalty. If -- you know, if the sponsor believes, as some people do, that every intentional murder should be subject to the death penalty, then let's just say so. But this is the wrong way to go about it.

Many of us voted against the bill the last time it came up for this reason. I oppose the expansion of the death penalty. And I will continue to do so, and I will vote no on this bill.

Thank you, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Schneiderman.

Any other Senator wishing to be heard?

Then the debate is closed. Ring the bell.

Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: Yes, I'm going to vote aye.

This bill was crafted after the Court of Appeals threw out a death-penalty conviction, the same case that Senator Maziarz

spoke about yesterday, Jill Cahill, someone in my district.

Basically, the court reasoned that the breaking and entering, which is a burglary, with intent to commit a crime in a dwelling house could not support the death penalty because the crime that was being considered and intended was a murder.

Which leaves the incredibly absurd result that a defendant who unlawfully enters a dwelling to steal something but then murders the individual can end up being convicted of a felony murder; in this case, a death penalty situation.

And on the other hand, if your intent in breaking and entering this dwelling was to kill somebody, that you could not under those circumstances be death-penalty eligible, which I think is an absurd result. The dissenting judges thought it was an absurd result. It certainly wasn't in the intention of the Legislature. But it's a creative way not to enforce the death penalty by a court that chooses not to be in favor of the death penalty.

So that's the purpose of the bill. And it's not a back-door way. Every murder doesn't necessarily involve a burglary. And since burglary is the breaking and entering of a dwelling house with the purpose to commit a felony, it should be that a murder felony, that's the felony, should be good enough to result in the death penalty.

I vote aye.

ACTING PRESIDENT YOUNG: Thank you, Senator DeFrancisco.

You will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1671 are Senators Andrews, Connor, Coppola, Diaz, Dilan, Duane, Hassell-Thompson, L. Krueger, Montgomery, Oppenheimer, Parker, Paterson, Schneiderman, Serrano, A. Smith, M. Smith, and Stavisky. Also Senator Breslin.

Absent from voting: Senator Gonzalez.

Ayes, 41. Nays, 18.

ACTING PRESIDENT YOUNG: The bill

is passed.

THE SECRETARY: Calendar Number 1676, by Senator Golden, Senate Print 5030, an act to amend the Penal Law and the Vehicle and Traffic Law.

SENATOR MONTGOMERY: Explanation.

ACTING PRESIDENT YOUNG: Senator Golden, an explanation has been requested.

SENATOR GOLDEN: Thank you, Madam President.

This bill talks about secret vehicle compartments, which are often used for illegal drugs and gun trafficking. They have become more advanced and even have a potential to cause bodily harm to police officers searching a vehicle, due to booby traps.

This bill defines the crimes of unlawfully installing or possessing a concealed vehicle compartment in the first and second degree, a Class E felony and a Class A misdemeanor respectively.

They still have to reach the level of search and seizure before this can take place. And there is a presumption and a rebuttable as well.

ACTING PRESIDENT YOUNG: Thank you, Senator Golden, for that explanation.

SENATOR MONTGOMERY: Explanation satisfactory. Thank you, Senator.

ACTING PRESIDENT YOUNG: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 90th day.

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Announce the results.

THE SECRETARY: In relation to Calendar Number 1676, absent from voting: Senator Gonzalez.

Ayes, 59. Nays, 0.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 1679, by Senator Golden, Senate Print 5768, an act to amend the Penal Law.

SENATOR HASSELL-THOMPSON: Explanation.

ACTING PRESIDENT YOUNG: Senator

Golden, an explanation has been requested.

SENATOR GOLDEN: Thank you, Madam President.

This bill adds a new section to the Penal Law, refusing to identify oneself upon questioning, which would be a Class A misdemeanor. This would apply during what is called a Terry stop, meaning that the police officer or court officer in question must have reasonable suspicion to stop an individual.

What is reasonable suspicion? It is a legal standard in United States law that a person has been or is or is about to be engaged in a criminal activity based on specific or attributable facts or inferences.

Just yesterday we discussed the dangers faced by police officers on a regular basis. Police Officer Corr was one of them. Terry stops are especially dangerous, because often an officer is approaching a vehicle when he reasonably suspects criminal activity but he has no idea what he or she is walking into.

This bill would simply require someone who has been stopped by an officer based on reasonable suspicion to identify

himself or herself upon request.

The Supreme Court has held that such a requirement is not a violation of a person's constitutional rights.

Thank you, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator.

Senator Montgomery.

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

ACTING PRESIDENT YOUNG: Senator Montgomery, on the bill.

SENATOR MONTGOMERY: Yes. Once again, unfortunately, Senator Golden has all of bills that I don't like today. And this is just one of them.

(Laughter.)

SENATOR MONTGOMERY: This bill, Senator Golden, the language in the bill talks about that if someone fails to provide their name to a police officer or a court officer who reasonably suspects that such person is committing, has committed, or is about to commit either a felony or a misdemeanor.

Now, I just -- you know, going too

far is one thing, but this seems to be just totally out of orbit. If someone walks into a court, I walk into a court and some court officer or police officer says he wants me to identify myself because he thinks that I am about to commit a crime, that is totally and completely unconstitutional.

So I think that based on the fact that Senator Volker has sort of set the standard for this, if we are dealing with a situation which is as blatantly unconstitutional as this, it should be withdrawn. And I believe that what Senator Volker did was that he withdrew his bill to make the appropriate language correction.

Because I don't think that Senator Golden intends for this bill to do what it says, based on the language, it will do. And that is force someone or assume that someone or charge someone with committing a crime because they did not identify themselves based on the fact that someone thought that they might commit a crime.

So, Madam President, obviously we are all going to oppose this legislation

because I think there is a great problem with the way that it is worded.

Thank you.

ACTING PRESIDENT YOUNG: Thank you, Senator Montgomery.

Senator Connor.

SENATOR CONNOR: Thank you, Madam President.

You know, I have no problem with, under the right circumstances, an officer having someone identify themselves. I just -- the bill troubles me because I don't know what it means to say, you know, that someone has to identify themselves or they commit a crime. Does it mean they just have to throw out a name? Do they have to give a name and address? You know, can they say "John Doe"? And then if the officer says "Which John Doe," do they have to give their address?

I don't think the bill is specific enough to make its violation a crime. And a Class A misdemeanor is a crime.

Secondly, does it mean when the officer says "Prove it, let me see your ID," is this a bill now to require all citizens to

carry and present upon request, when there's reasonable suspicion, an identification of some sort in paper or they've committed a Class A misdemeanor?

I mean, if someone in this new era wants to put in a bill to require all residents of New York State to carry an official ID -- and I recognize you'd better have one if you want to fly, ride a train, or do a whole lot of other things, including getting into an office building to visit someone. But as of yet, it's not a crime not to have ID on you.

And if we're going to do that, somebody ought to have a hearing and come up with -- see, I don't believe people necessarily have a right to anonymity. So I'm not one of these people who says, Oh, it would be terrible if we had a national ID card. I'd have a lot of questions about who, where, when, how and what it could be used for.

But this bill leaves it open. I don't know what it means to identify themselves. Do they have to identify themselves truthfully? What if they give them

a nickname and it's not their real name? Have they committed a crime now because, you know, your name is not whatever it is -- think of a nickname. You know, your name is not Ace Connor, your name is Martin Connor, so you lie to the police officer, you've committed a Class A misdemeanor.

So before we make something a crime, I think we have to really specify what it is we're doing here, what constitutes the crime, and what is the person who is about to be charged required to do to avoid being charged.

And this bill doesn't do it for me, so I'm going to vote no.

ACTING PRESIDENT YOUNG: Thank you, Senator Connor.

Read the last section.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you. I thought I had signaled that I wanted to speak. I was trying not to stand until I had to, Madam President.

Just on the bill.

Senator Golden again is making an

effort, I know, to conform perhaps with our concerns and our need for safety issues under homeland security and terrorism, under those banners.

But I become really concerned at what I believe to be the vagueness in this bill. For instance, I believe that the bill specifically fails in defining "reason to believe," "reasonably suspects," "upon questioning," and "temporary questioning."

I also think that this bill fails to define these -- particularly because these are the basis for which an officer can arrest and hold an individual.

This vagueness could and probably will result in numerous arrests of young men and women, especially for my community. And I'm going to be voting no on this bill because of those reasons.

Thank you, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Hassell-Thompson.

Any other Senator wishing to be heard?

Then the debate is closed.

Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Senator Bonacic, to explain your vote.

SENATOR BONACIC: Thank you, Madam President.

I have to agree with Senator Montgomery, Senator Connor, Senator Hassell-Thompson. I'm a police advocate. I lobby for all their legislation. But this language is so broad it cries out for constitutional reform. I'm voting no.

Thank you, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Bonacic. You will be recorded in the negative.

Senator Golden, to explain your vote.

SENATOR GOLDEN: Thank you, Madam President.

There was some comment made on the

floor about people walking into a courtroom and being arrested or being stopped because they could have been part of that reasonable suspicion.

You have to actually have reasonable suspicion before you can stop that individual. So no, the majority of the people would not be stopped going into a courtroom and be detained and in fact arrested.

And there was another comment made about the specificity of do we need identification. And the answer again is stipulated right in the bill. It says no, it's name only.

And as a police officer, I know when reasonable suspicion came into my purview, asking of a simple name and that person would not give you that name raised my suspicion.

But having said that, this is proven constitutionally in Hiibel v. Nevada, and this bill would stand constitutionally.

So I think it's important that we pass bills that work. If there had been a description of a truck that was white with a

black front and that truck was parked in front of that courthouse and there was an individual on that truck, as a police officer, one may reasonably suspect that this truck parked in front of this court building with a description of an individual in that truck may stop that truck and ask that individual for his name. And that truck may be loaded with terrorist intent.

So I believe that this bill works. And having been tested in the state of Nevada, I believe we should put it forward in this state, along with the other bills that I've put on this floor today.

Thank you, Madam President. I vote aye.

ACTING PRESIDENT YOUNG: Thank you, Senator Golden. You will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative are Calendar Number 1679 are Senators Andrews, Bonacic, Breslin, Connor, DeFrancisco, Diaz, Dilan, Duane, Hassell-Thompson, L. Krueger, Little,

Montgomery, Parker, Paterson, Sabini, Savino, Schneiderman, Serrano, A. Smith and M. Smith. Also Senator Sampson.

Absent from voting: Senator Gonzalez.

Ayes, 38. Nays, 21.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 1697, by Senator Spano, Senate Print 8080, an act to amend the Public Authorities Law.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Announce the results.

THE SECRETARY: In relation to Calendar Number 1697, absent from voting: Senator Gonzalez.

Ayes, 59. Nays, 0.

ACTING PRESIDENT YOUNG: The bill

is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, we will be taking up a Senate supplemental calendar, 56A. There will be some motions made before that. The calendar will be taken up noncontroversial.

After that, there will be a meeting of the Rules Committee, of which we'll come back and report those bills but they will not be taken up this evening.

ACTING PRESIDENT YOUNG: Thank you, Senator Skelos.

SENATOR SKELOS: So if we could return to motions and resolutions.

ACTING PRESIDENT YOUNG: Motions and resolutions.

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Madam President.

Amendments are offered to the following Third Reading Calendar bills:

Senator Larkin, page number 43, Calendar Number 1094, Senate Print 7600;

By Senator Winner, page number 69,

Calendar Number 1497, Senate Print 6542;

By Senator Padavan, page number 73, Calendar Number 1568, Senate Print 3169B;

By Senator Winner, page number 74, Calendar Number 1591, Senate Print 3304D;

By Senator Wright, page number 38, Calendar Number 968, Senate Print Number 4487A;

And by Senator Alesi, page number 62, Calendar Number 1405, Senate Print 4993A.

ACTING PRESIDENT YOUNG: Thank you, Senator Nozzolio. The amendments are received, and the bills will retain their places on the Third Reading Calendar.

Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, I wish to call up Senate Print Number 5005D, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT YOUNG: The Secretary will read.

THE SECRETARY: Calendar Number 1044, by Senator Wright, Senate Print 5005D, an act to amend the Penal Law.

SENATOR FUSCHILLO: I now move to

reconsider the vote by which the bill was passed.

ACTING PRESIDENT YOUNG: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

SENATOR FUSCHILLO: I now offer the following amendments.

ACTING PRESIDENT YOUNG: The amendments are received.

SENATOR FUSCHILLO: On behalf of Senator Volker, I wish to call up Senate Print Number 6753, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT YOUNG: The Secretary will read.

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

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT YOUNG: The Secretary will call the roll on

reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

SENATOR FUSCHILLO: I now offer the following amendments.

ACTING PRESIDENT YOUNG: The amendments are received.

Senator Skelos.

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

ACTING PRESIDENT YOUNG: The Secretary will read.

THE SECRETARY: On page 1 of Supplemental Calendar 56A, Senator Leibell moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 7993B and substitute it for the identical Senate Bill Number 5668A, Third Reading Calendar 1709.

ACTING PRESIDENT YOUNG: Substitution ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could go to Senate Supplemental Calendar

56A, noncontroversial.

ACTING PRESIDENT YOUNG: The Secretary will read.

THE SECRETARY: Calendar Number 1700, by Senator Fuschillo, Senate Print 2277, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Announce the results.

THE SECRETARY: Ayes, 59. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 1702, by Senator Robach, Senate Print 3043A, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 1704, by Senator Larkin, Senate Print 4017A, an act to amend the Tax Law.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Announce the results.

THE SECRETARY: Ayes, 59. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT YOUNG: The bill

is passed.

THE SECRETARY: Calendar Number 1705, by Senator Fuschillo, Senate Print 4099A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT YOUNG: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 120th day.

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 1707, by Senator Spano, Senate Print 5430A, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 1709, substituted earlier by Member of the Assembly Latimer, Assembly Print Number 7993B, an act to amend the Public Officers Law and the State Technology Law.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 1710, by Senator Marcellino, Senate Print 6403, an act to amend the Penal Law.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Announce the results.

THE SECRETARY: Ayes, 58. Nays, 2. Senators Hassell-Thompson and Montgomery recorded in the negative.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 1711, by Senator Robach, Senate Print 6533, an act to amend the Executive Law.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 1712, by Senator Robach, Senate Print 6655, an act to amend the Executive Law.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 1714, by Senator LaValle, Senate Print 7079,

an act authorizing the assessor in the Town of Brookhaven.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 1715, by Senator Trunzo, Senate Print 7257A, an act to amend the Public Officers Law and the Education Law.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 1716, by Senator Leibell, Senate Print 7369, an act to amend the Real Property Tax Law.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 1718, by Senator Golden, Senate Print 7505, an act to amend the General Municipal Law.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 1719, by Senator Skelos, Senate Print 7514, an act to provide for the payment of retirement benefits.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT YOUNG: The bill

is passed.

THE SECRETARY: Calendar Number 1722, by Senator Golden, Senate Print 7836, an act to amend the Penal Law.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 1723, by Senator Johnson, Senate Print 7868, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the

roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Announce the results.

THE SECRETARY: Ayes, 59. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 1724, by Senator Golden, Senate Print 7871, an act to amend Chapter 912 of the Laws of 1920.

THE PRESIDENT: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1724 are Senators Duane, Maltese and Rath.

Ayes, 57. Nays, 3.

ACTING PRESIDENT YOUNG: The bill

is passed.

THE SECRETARY: Calendar Number 1725, by Senator Stachowski, Senate Print 7946, an act to authorize the Town of Hamburg, County of Erie.

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

Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 1726, by Senator Marchi, Senate Print 7963, an act to amend the Public Authorities Law.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 1727, by Senator Alesi, Senate Print 7998, an act to establish a statewide first responder mapping systems.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number

1728, by Senator Libous, Senate Print 8001, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 1729, by Senator Robach, Senate Print 8026, an act to amend the State Finance Law.

ACTING PRESIDENT YOUNG: Read the last section.

THE SECRETARY: Section 9. This act shall take effect on the first of January next succeeding.

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 1730, by Senator Morahan, Senate Print 8029, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 1731, by Senator Balboni, Senate Print 8046, an act to amend the Domestic Relations Law.

ACTING PRESIDENT YOUNG: Read the

last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT YOUNG: The bill is passed.

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

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

ACTING PRESIDENT YOUNG: There's an immediate meeting of the Rules Committee in the Majority Conference Room.

ACTING PRESIDENT ALESI: Senator Skelos.

SENATOR SKELOS: Mr. President, can we return to reports of standing committees.

There's a report of Rules Committee at the desk. I ask that be it read at this time.

ACTING PRESIDENT ALESI: Senator Skelos, I think we're still awaiting the report. The report is en route, sir.

SENATOR SKELOS: There it is.

ACTING PRESIDENT ALESI: The report is arriving.

The Secretary will read the Rules report, please.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills:

Senate Print 3522, by Senator Robach, an act to amend the Mental Hygiene Law;

4227A, by Senator Maltese, an act to amend the General Municipal Law;

4409A, by Senator Robach, an act to amend the Retirement and Social Security Law;

6223A, by Senator Maziarz, an act to amend the Vehicle and Traffic Law;

6505A, by Senator Breslin, an act to amend the Tax Law;

6907, by Senator Robach, an act to amend the Education Law;

7186, by Senator Oppenheimer, an act authorizing;

7394, by Senator Marcellino, an act to amend the General Business Law;

7448, by Senator Marcellino, an act to authorize;

7838, by Senator Golden, an act to amend the Penal Law;

7844B, by Senator Golden, an act to amend the Administrative Code of the City of New York;

7885A, by Senator Golden, an act to amend the General Municipal Law and others;

7987, by Senator Larkin, an act to amend the Criminal Procedure Law;

7990, by Senator Bonacic, an act to amend the Private Housing Finance Law;

7994, by Senator Marcellino, an act to amend the Environmental Conservation Law;

8003, by Senator Marcellino, an act to amend the Environmental Conservation Law;

8031, by Senator Libous, an act to amend the Vehicle and Traffic Law;

8032A, by Senator Bonacic, an act to amend the Public Authorities Law;

8036, by Senator Meier, an act to amend the Alcoholic Beverage Control Law;

8043A, by Senator Padavan, an act to amend the Real Property Tax Law;

8052, by Senator Johnson, an act to establish;

8063, by Senator Skelos, an act to amend the Public Authorities Law;

8064, by Senator Leibell, an act to amend the Real Property Tax Law;

8069, by Senator Balboni, an act to amend the Executive Law;

8071, by Senator Libous, an act to amend the State Finance Law;

8081, by Senator Spano, an act to amend the Penal Law;

8086, by Senator Nozzolio, an act to amend Chapter 211 of the Laws of 2005;

8087, by Senator Bonacic, an act to establish;

8090, by Senator Maziarz, an act to amend the Environmental Conservation Law;

8092, by Senator Little, an act to

legalize, validate, ratify and confirm;

8093, by Senator Nozzolio, an act to amend the Tax Law;

8096, by Senator Skelos, an act to amend the Judiciary Law;

8097, by Senator Little, an act to authorize;

8099, by Senator Meier, an act to amend the Parks, Recreation and Historic Preservation Law;

8100, by Senator Wright, an act to authorize;

8101, by Senator Wright, an act to amend the Education Law;

8109, by Senator Leibell, an act to amend the Public Authorities Law;

8112, by Senator Little, an act to amend Chapter 540 of the Laws of 1992;

8114, by Senator Leibell, an act to repeal;

8115, by Senator Meier, an act to amend the Social Services Law;

8118, by Senator Little, an act to authorize;

8122, by Senator Padavan, an act to

amend the Civil Service Law;

8126, by Senator Padavan, an act to amend the Public Authorities Law;

8127, by Senator Marchi, an act to amend Chapter 586 of the Laws of 2005;

8130, by Senator Meier, an act to amend the Education Law;

8131, by Senator Meier, an act to amend the Social Services Law;

8146, by Senator Little, an act to amend the Criminal Procedure Law;

8147, by Senator Skelos, an act to amend the Labor Law;

8149, by Senator Saland, an act to amend the Education Law;

8151, by Senator Little, an act to authorize;

8152, by Senator Golden, an act to amend the Family Court Act;

8153, by Senator Johnson, an act to amend the State Law;

8157, by Senator Trunzo, an act to authorize;

8159, by Senator Spano, an act to amend a chapter of the Laws of 2006;

8160, by Senator Golden, an act to amend the Transportation Law;

And Senate Print 8197, by Senator Bruno, an act in relation to granting.

All bills ordered direct to third reading.

SENATOR SKELOS: Move to accept the report of the Rules Committee.

ACTING PRESIDENT ALESI: All in favor of accepting the report of the Rules Committee signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ALESI: Opposed, nay.

(No response.)

ACTING PRESIDENT ALESI: The report is accepted.

Senator Skelos.

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

ACTING PRESIDENT ALESI: No, sir, there's no further business at the desk.

SENATOR SKELOS: Just think of it, Mr. President -- Senator Meier is there with you, you, me, and Senator Stachowski --

oh, I didn't see Ada Smith and Ruth Hassell-Thompson -- what we could do right now on the consent calendar.

(Laughter.)

SENATOR SKELOS: There being no further business to come before the Senate, I move we stand adjourned until Thursday, June 15th, at 11:00 a.m.

ACTING PRESIDENT ALESI: On motion, the Senate stands adjourned until Thursday, June 15th, at 11:00 a.m.

(Whereupon, at 6:58 p.m., the Senate adjourned.)