NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 21, 2006

11:24 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: With us this morning to give the invocation is the Reverend Dr. Larry Hendricks, pastor of Grace Lutheran Church in Vestal, New York. Who's been with us before, I might add.

REVEREND DR. HENDRICKS: Let us pray.

Almighty God, we are grateful that Your sovereignty is demonstrated in service. And as the Senators do their work here, may Your deep love for them find reality in their speech and action.

And, as You offer Yourself freely, as a way of bringing hope, overcoming discouragement and offering a challenge to be our best. Free society does not work unless there are in it caring citizens who use those

freedoms and rights which it affords them.

We freely admit the fear we feel. When we imagine giving ourself to each other, it seems overwhelming. When we recall that You told us it is possible to so love even our enemies. Lord, what a revelation that would be, a revelation of new life for all.

Take from our minds all fragments of fear that would lead us to withdraw into self-absorption. Give us the gift of freedom to fight without reserve for the community of humankind. The enjoyment of the world as Your gift to everyone, and the special role that this great New York Senate has in bringing this gift to the state and nation and the whole world.

Grant health and favor to all who bear office in our land, so on this day may the Senators know that the people of this state not only lay heavy responsibilities on them but also hold them up in prayer, all the way from the west -- Senator Maziarz -- to the east -- my friend Senator Padavan -- and the central -- my Senator, Senator Libous.

We know that the greatest deed of

all is to pray for civil authorities. May the gracious power of Your love be served in what is done in this hall today.

Amen.

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, June 20, the Senate met pursuant to adjournment. The Journal of Monday, June 19, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Little.

SENATOR LITTLE: Thank you, Madam President.

On behalf of Senator Golden, on page 18 I offer the following amendments to Calendar Number 691, Senate Print Number 4502, 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 LITTLE: Thank you.

Also, Madam President, on behalf of Senator Maziarz, on page 58 I offer the following amendments to Calendar Number 1954, Senate Print Number 7350B, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR LITTLE: Thank you.

THE PRESIDENT: You're welcome.

Senator Wright.

SENATOR WRIGHT: Thank you, Madam President. I believe we have Resolution Number 6086, by Senator Morahan. I would ask that its title only be read.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Morahan, Legislative Resolution Number 6086, commemorating the 60th Anniversary of Cerebral Palsy Associations of New York State.

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 Wright.

SENATOR WRIGHT: Thank you, Madam President. Would we please note that the resolution will be open for any member who wishes to cosponsor it.

THE PRESIDENT: Any member who does not wish to cosponsor the last resolution, please notify the desk.

Senator Wright.

SENATOR WRIGHT: May we take up the noncontroversial reading of the calendar.

THE PRESIDENT: The Secretary

will read.

Senator Wright.

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

THE PRESIDENT: Yes, there are, Senator.

The Secretary will read.

THE SECRETARY: On page 5, Senator Bonacic moves to discharge, from the Committee on Housing, Construction and Community Development, Assembly Bill Number 3526 and substitute it for the identical Senate Bill Number 2216, Third Reading Calendar 121.

On page 23, Senator Meier moves to discharge, from the Committee on Commerce, Economic Development and Small Business, Assembly Bill Number 2656B and substitute it for the identical Senate Bill Number 2322B, Third Reading Calendar 849.

On page 42, Senator Young moves to discharge, from the Committee on Rules, Assembly Bill Number 196A and substitute it for the identical Senate Bill Number 7558, Third Reading Calendar 1325.

On page 43, Senator Fuschillo moves to discharge, from the Committee on Health, Assembly Bill Number 5733C and substitute it for the identical Senate Bill Number 2602C, Third Reading Calendar 1344.

On page 53, Senator Wright moves to discharge, from the Committee on Rules, Assembly Bill Number 6529B and substitute it for the identical Senate Bill Number 3305A, Third Reading Calendar 1670.

And on page 60, Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 11278A and substitute it for the identical Senate Bill Number 8268, Third Reading Calendar 1998.

THE PRESIDENT: Substitutions ordered.

Senator Wright.

SENATOR WRIGHT: Madam President, may we now proceed with the noncontroversial reading of the calendar.

THE PRESIDENT: We will now proceed with the reading of the noncontroversial calendar.

THE SECRETARY: Calendar Number

121, substituted earlier by Member of the Assembly Lopez, Assembly Print Number 3526, an act to amend the Private Housing 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, 50.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 210, by Senator Leibell, Senate Print 5102A, 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, 50.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

302, by Member of the Assembly Rivera, Assembly Print Number 809A, 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 first day of the calendar month.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Farley, to explain your vote.

SENATOR FARLEY: To explain my vote.

Madam President, I'm voting against this bill. This is a bill that attempts to regulate credit card companies. The Supreme Court has ruled that credit card companies that are not located in New York State cannot be regulated if they're located in another state.

Believe it or not, there are no credit card companies left in New York State. They have all left. The last one, Chemical, left Nassau County, with several thousand

jobs, to Delaware in the mid-1990s.

Also, we cannot regulate federal chartered banks. And there is a mass flipping going on to the federal charter. This bill sends the wrong message, flip to a federal charter. J.P. Morgan Chase flipped to a federal charter just this last year, and the Banking Department lost one-third of its funding.

This piece of legislation, although maybe well-intended, not only sends the wrong message, it absolutely does nothing, because there's no more credit card companies left in this state. And we can't regulate any that are out of state.

I vote no.

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

Senator Balboni, to explain your vote.

SENATOR BALBONI: Madam President, I appreciate very much the leadership that Senator Farley has had on this financial institution for many, many years.

However, I must respectfully depart only in this certain instance.

Senator, I understand exactly what you're saying, that it is the wrong message. But this is also an act of protest. This is a situation that is untenable. And frankly, if any other institution conducted business this way, where in the middle of your credit card statement a tiny little statement says that they can rate raise your interest rates, that there's no control as to the maximum amount of interest rates -- and frankly, the entire perspective of how credit is issued to people who have absolutely no financial background checks when they issue the credit initially -- they would be considered scurrilous. But because of the size and the monopoly of these financial institutions in credit, we are left without recourse.

So I'm going to vote yes on this. Do you know why? It does send the wrong message, I agree with you, but it sends the right message of protest that hopefully Washington is going to see and change the way that it's done in this state, because it

creates difficulties for many, many New Yorkers.

I vote aye, Madam President. Thank you.

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

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 302 are Senators DeFrancisco, Farley, Little, Seward and Winner.

Ayes, 48. Nays, 5.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 849, substituted earlier by Member of the Assembly Destito, Assembly Print Number 2656B, an act to amend the Alcoholic Beverage Control 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, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 877, by Senator Young, Senate Print 6562B, an act to amend the Agriculture and Markets 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, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1011, by Senator Larkin, Senate Print 6847, an act to amend the Insurance Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first of January next succeeding.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1165, by Senator Seward, Senate Print 1405A, an act to amend the Insurance Law.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

SENATOR WRIGHT: Lay it aside for the day, please.

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

THE SECRETARY: Calendar Number 1180, by Senator Golden, Senate Print 7308, 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, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1245, by Senator Padavan, Senate Print 6577, 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, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1325, substituted earlier today by Member of the Assembly Markey, Assembly Print Number 196A, an act to amend the Agriculture and Markets Law and the State Finance Law.

SENATOR WRIGHT: Lay it aside for the day, please.

THE PRESIDENT: The bill is laid

aside for the day.

THE SECRETARY: Calendar Number 1344, substituted earlier today by Member of the Assembly Weisenberg, Assembly Print Number 5733C, an act to amend the Public Health Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1355, by Senator Fuschillo, Senate Print 7576, an act to amend the Public Health Law.

THE PRESIDENT: Read the last section.

SENATOR WRIGHT: Lay it aside for the day, please.

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

THE SECRETARY: Calendar Number 1369, by Senator Morahan, Senate Print 6273A,

an act to amend the Real Property Tax Law.

SENATOR LIZ KRUEGER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1414, by Senator Spano, Senate Print 7174A, an act to amend the Vehicle and Traffic Law.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1486, by Senator LaValle, Senate Print 4803, an act in relation to establishing.

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, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1518, by Senator Bonacic, Senate Print 7232, 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 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 1532, by Senator LaValle, Senate Print 7545A, 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, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1596, by Senator Skelos, Senate Print 4169A, an act to amend 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, 54. Nays, 2. Senators Duane and L. Krueger recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1670, substituted earlier today by Member of the Assembly Destito, Assembly Print Number 6529B, an act to amend the Not-For-Profit Corporation Law.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1670 are Senators Little, Meier and Nozzolio. Also Senators Seward and Winner.

Ayes, 51. Nays, 5.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1877, by Senator Flanagan, Senate Print 7782B, an act to amend the Tax 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 PRESIDENT: Senator Flanagan, to explain your vote.

SENATOR FLANAGAN: Thank you, Madam President, just briefly to explain my

vote.

This is a bill that we worked on with Assemblywoman Paulin in the Assembly, and I think it's a great bill. It's a tax credit, and it provides an incentive for taxing livery companies to add handicapped-accessible vehicles to their fleets.

It's a three-year sunset, and to the best of our knowledge I think this is the first program of its kind in the country. Very hopeful that the Governor will sign it. It's a good step forward, and it's going to help a lot of people.

Thank you.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1886, by Senator Spano, Senate Print 8295, an act to amend the Civil Service Law and the

State Finance Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 20. 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 1887, by Senator DeFrancisco, Senate Print 8296, an act relating to an impasse.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator DeFrancisco, to explain your vote.

SENATOR DeFRANCISCO: Yes, I'm going to vote aye.

And I just wanted to explain that these contracts were unusual contract

negotiations in that the impasse that was settled by this bill was an impasse for the contract period 1995 through 1999. When there's an impasse, the Legislature -- in this case, myself and Assemblywoman Weinstein -- chair the committee to break the impasse, almost like a trial.

Well, this year we called for a hearing. And after the hearing, hearing all sides of the issue, we suggested that they meet for another 60 days to see whether they could resolve their differences or we would end up making the decision.

Well, it's fortunate that they did resolve their differences. And I think the fact that the Legislature got involved made it happen.

So I'm very proud of this bill and happy that all parties are satisfied in resolving a dispute over a contract that existed some 10 years ago.

So I vote aye.

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

Senator Malcolm Smith, to explain your vote.

SENATOR MALCOLM SMITH: Thank you very much, Madam President. I rise to congratulate the chairman, Senator DeFrancisco.

Obviously this has been a situation that has gone on too long for too many of our distinguished members that are involved in the judicial system. And obviously it had an impact on their families, had an impact on how they wanted to actually take care of their families and how to deal with their lives out in the future.

And I would just say to the chairman that was very good work, Mr. Chairman. You resolved the matter, it took quite some time, and you should be credited with that.

Thank you.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1909, by Senator Skelos, Senate Print 7381B, an act to amend the Education Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 11. This act shall take effect on the first of July.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1986, by Senator Krueger, Senate Print 2522A, an act to authorize.

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

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.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1990, by Senator Little, Senate Print 8217, an act to amend the Real Property Tax 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 1998, substituted earlier today by Member of the Assembly Zebrowski, Assembly Print Number 11278A, an act to amend the Environmental Conservation Law.

SENATOR WRIGHT: Lay it aside for the day, please.

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

THE SECRETARY: Calendar Number

2002, by Senator Balboni, Senate Print 8280, 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 Balboni, to explain your vote.

SENATOR BALBONI: Madam President, every opportunity I get to highlight the great agencies we have and the wonderful service provided by our men and women of our first responders group, I will take.

This bill creates an urban search and rescue team for the first time in the state. Previous to this, it has been done through executive order, through the good offices of Governor George Pataki.

And this is such a crucial activity and capability once there is any type of calamity that involves either a building collapse or if you have to go into subway

systems. They're very specialized, trained individuals that give great service.

And on Long Island, the volunteer fire systems want to develop their own system for urban search and rescue. This bill will allow them to do that.

I vote aye.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 2004, by Senator Golden, Senate Print 8284, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 2005, by the Senate Committee on Rules, Senate Print Number 8286A, 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 2006, by Senator Maziarz, Senate Print 8289, 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 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 2007, by Senator Golden, Senate Print 8290, an act to amend the Penal 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 PRESIDENT: Senator Schneiderman, to explain your vote.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

I rise to support this bill, which imposes additional penalties for use of a gun in a crime. However, I'm very disappointed that we appear to be leaving, finishing session again without passing significant gun control legislation, which continues to pass the Assembly.

Notably, the Assembly has passed this year A9280, which would make it more

difficult for criminals to obtain guns, not just punish them more when they use them.

Our failure in this house to impose requirements on gun dealers -- as simple as requiring them to cooperate with law enforcement authorities, as simple as requiring them to train people and have employees who are at least 21 years of age so they can spot straw purchases -- confounds me.

I think that it's time for the Senate to wake up and realize, as the Mayor of New York has, and people across the country have, on both sides of the aisle, that we have to do more to prevent guns from getting into the hands of criminals.

No gun starts as an illegal gun. Guns all start as legal guns and are diverted from the legitimate market by unscrupulous dealers. It's time for us to do something about that.

I support this legislation, and I thank Senator Golden for sponsoring it. But there are bills that are once again passing the Assembly and dying here that would make all New Yorkers safer from the plague of

criminals with illegal guns.

I vote yes, Madam President, in the hope that we will do more on this critical issue in the future.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 2009, by Senator Skelos, Senate Print 8302, 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 2009 are Senators Bonacic, Larkin and Rath.

Ayes, 54. Nays, 3.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 2010, by Senator Bonacic, Senate Print 8305, an act relating to authorizing the reopening.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 2012, by Senator Marcellino, Senate Print 8328, 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 2013, by Senator Bruno, Senate Print 8333, an act proposing an amendment to Article VII of the Constitution.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The resolution is adopted.

THE SECRETARY: Calendar Number 2014, by Senator Bruno, Senate Print 8334, 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, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 2015, by Senator Saland, Senate Print 8338, an act to authorize.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 2017, by Senator Marchi, Senate Print 8348, an act to amend the Workers' Compensation Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

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

SENATOR WRIGHT: Thank you, Madam

President.

On behalf of Senator Skelos, I request reconsideration of Calendar Number 1909, Senate Print 7381B.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1909, by Senator Skelos, Senate Print 7381B, an act to amend the Education Law.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: Senator Wright.

SENATOR WRIGHT: Can we lay it aside for the day.

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

Senator Wright.

SENATOR WRIGHT: If we can proceeded with the controversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number

1369, by Senator Morahan, Senate Print 6273A, an act to amend the Real Property Tax Law.

SENATOR LIZ KRUEGER: Explanation.

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

SENATOR MORAHAN: Thank you, Madam President.

This is a bill that, if it's successfully passed and signed by the Governor, would allow people who are 75 years of age who have lived in their home for several years, I think it's over 30 years, and do not have any children enrolled in the school, the local municipality would have the ability, after public hearing, to exempt them from school property tax.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. If the sponsor would please yield.

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

SENATOR MORAHAN: Yes, I do.

THE PRESIDENT: You may proceed

with a question, Senator.

SENATOR LIZ KRUEGER: Thank you.

I know this is a modification of an earlier bill, I believe from another session. My concern, Senator -- and you may explain to me that I should not have this concern. But my concern when I read the bill is I understand your intent that for people over 75, who have income of less than $60,000 and who have lived in that district for at least 30 years, an exemption at local option from the property school taxes.

My concern is the way the bill is written, is it possible that a family that's multigenerational could do the following. Let's say I and my husband have three children in the school system, but we buy a house with our parents or parent who is over 75, has income under $60,000, does not have children in the school district, actually has grandchildren. And even though my family income might be $200,000, if the house is in, let's say, my elderly mother's name, that we could all avoid paying property school taxes because the house is in, quote, grandma's

name, but my family, my children, the grandchildren are in the school system.

SENATOR MORAHAN: Well, I think the intent of the legislation clearly states that the ownership of people age 75 who have no children in the school system -- I don't know too many people who are 75 who may still have children in the elementary school or what have you. But it's implied to me that there would be no children in the school district emanating from that residence.

SENATOR LIZ KRUEGER: Madam President, on the bill.

THE PRESIDENT: You may proceed on the bill.

SENATOR LIZ KRUEGER: Thank you, Madam President.

I appreciate the sponsor's answer. I think that the sponsor intends his bill to be specifically the example he gave. But the way the bill is written, where it says children, it doesn't talk about perhaps having grandchildren or a three-generation situation.

I am concerned that there is technical errors in the legislation that,

again, it's conceivable that a county or a municipality, recognizing that, wouldn't choose this option. And I'm not saying I don't think they should have the right to explore this option for themselves. And I respect the Senator's goal with this legislation.

But because of the way I read the language, I'm going to vote no at this point in time. Again, because I am concerned that the way the bill is drafted, you may find yourself in a situation where, not intended by you with this legislation, but a situation where there will be multiple-family scenarios, three-generation families sharing households -- which, again, there's all kinds of good reasons for, supportive, good reasons for the families, for the grandchildren, for the grandparents -- but that you might be opening up a situation where large numbers of people who really can afford their taxes would find this as a loophole to avoid paying their taxes which would be detrimental to the localities. Not that I think you intended that.

But based on my concerns about the way the bill is currently written, I'll vote no.

Thank you, Madam President.

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

Senator Savino -- Senator Sabini.

SENATOR SABINI: Thank you, Madam President. If the sponsor would yield for a question.

THE PRESIDENT: Senator Morahan, will you yield for a question?

SENATOR MORAHAN: Yes, if he can see me with the Senators standing before me, I'll be very happy to yield, Senator.

THE PRESIDENT: Senator Savino -- Senator Sabini, you may continue with a question.

SENATOR SABINI: We look alike, I know.

(Laughter.)

THE PRESIDENT: There's no excuse.

SENATOR SABINI: Through you, Madam President, if the sponsor can just

answer, how does this bill apply, if at all, to residents of New York City or Yonkers who pay income tax and don't have a school tax locally?

SENATOR MORAHAN: That would be up to the municipality. If they can't sort that out, then they may not adopt the law. It would be up to them to see if the law is workable.

SENATOR SABINI: Madam President, on the bill.

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

SENATOR SABINI: While I applaud the sponsor's intention and know of his benevolence towards his constituents and appreciate that, I think I have a better piece of legislation that would do the same thing -- we tried to bring it out on to the floor this year -- and that would be to let seniors of a certain income level defer their taxes, their property taxes at any level, New York City or anywhere in the state, until the two things that are certain in life, until death or sale of the estate, sale of the property, or until

they move. It's the death and taxes bill, as I call it.

That way seniors would be protected all over the state. I'm concerned that this is a little specific for certain areas of the state. I'd like to see my constituents have a better opportunity to participate in this, especially since real estate costs in areas like Queens are going through the roof, and people who kept neighborhoods good are now suffering the fact that their real estate values are going up and their taxes are going up and are being forced to move in some cases.

I'd like to see protections for us. I don't think this bill offers that. Or if it does, it would be a very complicated way of enabling it. Because I read it and I couldn't find it.

So I will be voting in the negative. Thank you.

THE PRESIDENT: The debate is closed.

The Secretary will ring the bell.

The members should return to their seats, please, so we can proceed with the

calendar.

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 Morahan, to explain your vote.

SENATOR MORAHAN: Yes, thank you. I'd like to explain my vote, Madam President.

A couple of issues were raised here regarding this bill. Number one, where they don't list the property tax in a bill, say in the City of New York -- which I believe is now in a conversion process where they are listing the school taxes on the property tax bill -- they could locally, in those communities that don't do that, arrange to do it to let people know what they are spending and what they're not spending on local education.

And I understand the City of New York is already moving that way and is starting to show the property tax on the bill.

This bill has been generated by an experience I had at a supermarket one day when

an aged lady came up to me -- and she was very benign, no belligerence, very sincere -- and she asked me about what we are doing about property tax. I tried to explain all that, and she said, "Senator, that's really not the issue. I was born in the house that I live in now in Rockland County, I lived here all of my life, I was never married, I have no children who ever went to the schools. My question is" -- and she was deadly sincere -- "where do you recommend that I could move to that I could live on the money that I have and that I've saved?"

This woman just wanted to know, in all sincerity, did I have any ideas where she had to move to so she could spent the rest of her days. She was never outside of Rockland County. I thought that was a heartbreaking story.

And I think this sort of bill that would allow communities, where they can, after public hearings, to exclude people 75 years of age, and if the other spouse is at least 65, from paying school tax as long as there's no children in the school district.

So I think it's a long overdue reform. I do have an Assembly sponsor. We're going to keep moving on this bill till we get it done. And it will benefit all seniors in those municipalities who are able, after a public hearing, to adopt this law.

I vote yes. Thank you, Madam President.

THE PRESIDENT: Senator Connor, to explain your vote.

SENATOR CONNOR: Thank you, Madam President.

You know, while I sympathize with the intent of this bill, and I certainly think seniors under the circumstances provided by this bill ought to get some relief, I have a problem with two premises. One, I have never accepted the premise, and I've heard this from constituents over the years: I don't have any kids in the school, why do I have to pay school taxes?

And we obviously can't, as a society, accept that. The whole foundation of the public education system is that everyone has a responsibility to contributing toward

educating our youth, whether they're your own children or not.

Secondly -- but that said, I sympathize with the people that Senator Morahan is attempting to provide relief to. What I object to is really there's no relief for seniors in New York City.

And we have carefully fashioned other forms of tax relief, like the STAR program that was eventually adopted, to put mechanisms in whereby New York City taxpayers would get some relief.

Until it does something for constituents in my district, I vote no, Madam President.

THE PRESIDENT: And you will be recorded as voting in the negative.

And Senator Morahan will be recorded as voting in the affirmative.

Senator Sabini, did you want to explain your vote?

SENATOR SABINI: To explain my vote, Madam President.

THE PRESIDENT: You may proceed.

SENATOR SABINI: I agree with the

compelling story that the sponsor told. I would just urge that -- I understand the way business is done here, that we can't get petitions to bills on the floor approved. But maybe someone in the Majority or even the sponsor would like to take Assemblyman Lafayette's bill, that would be more broad-based, and sponsor it.

I think that would solve a lot of problems here, because that bill allows the people to only pay the tax if they're a certain income level, upon their estate paying the tax if they pass away or if they sell the house. That way it's sort of clean and simple, doesn't involve municipalities, and gives a real tax break to people who need it.

I agree with the sponsor's sympathy and story. We've heard that in places like East Elmhurst. But I think that the bill that has Assemblyman Lafayette's name on it and my name on it, which you're free to take a look at, would be much more broad-based and easier implemented.

I vote no.

THE PRESIDENT: You will be

recorded, Senator Sabini, as voting in the negative.

Senator Diaz, to explain your vote.

SENATOR DIAZ: Thank you, Madam President, to explain my vote.

I agree in part with Senator Connor when he says that this bill does not help my constituents in New York City. But New York City doesn't have what we call school taxes.

And even though my responsibility is to protect and fight for my constituents in my district, I also know that when I got elected I got elected to make laws for the whole state of New York, not only for the people in my district.

And a senior citizen is a senior citizen anywhere. And wherever a senior citizen, they gave their life and worked hard and now some of them are retired and in need of help.

It is a good opportunity, and I congratulate Senator Morahan today by him pushing or placing this bill, because it shows that we care for senior citizens, that we have them in our mind. Even though, again, I say

the bill does not cover the City of New York because we don't have school taxes. But it helps seniors everywhere, anywhere else in New York State. And I'm here to help seniors wherever they are.

And I congratulate Senator Morahan, and I'm voting yes on this bill, Madam President.

THE PRESIDENT: Senator Diaz, how do you vote?

SENATOR DIAZ: Yes.

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

SENATOR DIAZ: Thank you, Madam President.

THE PRESIDENT: You're welcome, Senator.

SENATOR DIAZ: I love you, Madam President.

(Laughter.)

THE PRESIDENT: Was that off the record?

(Laughter.)

THE PRESIDENT: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1369 are Senators Connor, L. Krueger and Sabini.

Those Senators absent from voting: Senators Fuschillo, C. Kruger, Oppenheimer and Sampson.

Ayes, 54. Nays, 3.

THE PRESIDENT: The bill is passed.

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

SENATOR WRIGHT: Thank you, Madam President.

There will be an immediate meeting of the Rules Committee in the Majority Conference Room.

THE PRESIDENT: There will be an immediate meeting of the Rules Committee in the Majority Conference Room.

SENATOR WRIGHT: The Senate will be at ease awaiting the report of the Rules Committee.

THE PRESIDENT: The Senate stands at ease.

(Whereupon, the Senate stood at

ease at 12:15 p.m.)

(Whereupon, the Senate reconvened at 12:51 p.m.)

SENATOR SKELOS: Madam President.

ACTING PRESIDENT LITTLE: Senator Skelos.

SENATOR SKELOS: Madam President, if we could return to reports of standing committees, there's a report of the Rules Committee 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 2307, by Senator Little, an act to amend the Environmental Conservation Law;

5566A, by Senator Breslin, an act to amend the Real Property Tax Law;

5686, by Senator Young, an act to amend the Education Law;

7295C, by Senator Spano, an act to

amend the Not-For-Profit Corporation Law;

7516B, by Senator DeFrancisco, an act to amend the Social Services Law;

7856, by Senator Nozzolio, an act to amend the Agriculture and Markets Law;

8257, by Senator Balboni, an act to amend the Executive Law;

8267, by the Senate Committee on Rules, an act to amend the Retirement and Social Security Law;

8271, by Senator Little, an act to amend the Navigation Law;

8272, by Senator Farley, an act to amend the Real Property Law;

8273, by Senator Robach, an act to amend the Civil Service Law;

8287, by Senator DeFrancisco, an act to amend the Estates, Powers and Trusts Law;

8288, by Senator Padavan, an act to amend the Real Property Tax Law;

8292, by Senator Marcellino, an act to amend the Education Law;

8293, by Senator Hannon, an act to amend the Facilities Development Corporation

Act;

8309, by Senator Leibell, an act to amend the Labor Law;

8314, by Senator Maziarz, an act to amend the Economic Development Law;

8317, by Senator Flanagan, an act to amend the Election Law;

8318, by Senator Robach, an act to amend the Civil Service Law;

8324, by Senator Meier, an act to amend the Family Court Act and others;

8325, by Senator Meier, an act to amend the Social Services Law;

8330, by Senator Skelos, an act to amend the General Municipal Law;

8332, by Senator Bonacic, an act authorizing;

8441, by Senator Skelos, an act to amend the Criminal Procedure Law;

8445, by Senator Alesi, an act to amend the Penal Law;

8446, by Senator Skelos, an act to amend the Executive Law;

And Senate Print 8450, by Senator Skelos, an act to amend the Public Health Law.

All bills ordered direct to third reading.

ACTING PRESIDENT LITTLE: Senator Skelos.

SENATOR SKELOS: Madam President, I move to accept the report of the Rules Committee.

ACTING PRESIDENT LITTLE: All in fave of accepting the report of the Rules Committee signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: The report is accepted.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could go to Supplemental Calendar 60A, noncontroversial.

ACTING PRESIDENT LITTLE: Thank you.

The Secretary will read.

THE SECRETARY: In relation to Calendar Number 2023, Senator Little moves to

discharge, from the Committee on Rules, Assembly Bill Number 10342 and substitute it for the identical Senate Bill Number 2307, Third Reading Calendar 2023.

ACTING PRESIDENT LITTLE: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2023, by Member of the Assembly Aubertine, Assembly Print Number 10342, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 120th day.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2024, Senator Breslin moves to discharge, from the Committee on Rules, Assembly Bill Number 8664A and substitute it

for the identical Senate Bill Number 5566A, Third Reading Calendar 2024.

ACTING PRESIDENT LITTLE: The substitution is so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2024, by the Assembly Committee on Rules, Assembly Print Number 8664A, an act to amend the Real Property Tax Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of January next succeeding.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 2025, by Senator Young, Senate Print 5686, an act to amend the Education Law.

ACTING PRESIDENT LITTLE: 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: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 2027, by Senator DeFrancisco, Senate Print 7516B, an act to amend the Social Services Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect January 1, 2007.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2028, Senator Nozzolio moves to discharge, from the Committee on Rules,

Assembly Bill Number 11267 and substitute it for the identical Senate Bill Number 7856, Third Reading Calendar 2028.

ACTING PRESIDENT LITTLE: The substitution is so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2028, by Member of the Assembly Koon, Assembly Print Number 11267, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT LITTLE: 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: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 2029, by Senator Balboni, Senate Print 8257, an act to amend the Executive Law.

ACTING PRESIDENT LITTLE: 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.)

ACTING PRESIDENT LITTLE: Senator Balboni, to explain your vote.

SENATOR BALBONI: Yes, Madam President. This is an extension of what has become the first of its kind in the nation. We passed two years ago a Chemical Plant Security Act, which is now being reviewed by Congress as it considers a national Chemical Plant Security Act next week in Congress.

This bill would look at what what's considered to be a major loophole in that, and that's transportation: rail yards, and what they call in-transit storage of hazardous and dangerous chemicals.

Again, New York State is leading the way with this type of legislation. I vote aye.

Thank you.

ACTING PRESIDENT LITTLE: Thank you. Senator Balboni will be recorded in the

affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 2030, by the Senate Committee on Rules, Senate Print Number 8267, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT LITTLE: 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: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 2031, by Senator Little, Senate Print 8271, an act to amend the Navigation Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 2032, by Senator Farley, Senate Print 8272, an act to amend the Real Property Law.

ACTING PRESIDENT LITTLE: 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: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 2033, by Senator Robach, Senate Print --

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT LITTLE: The bill is laid aside temporarily.

THE SECRETARY: In relation to Calendar Number 2034, Senator DeFrancisco moves to discharge, from the Committee on Judiciary, Assembly Bill Number 10721 and substitute it for the identical Senate Bill Number 8287, Third Reading Calendar 2034.

ACTING PRESIDENT LITTLE: The substitution is so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2034, by Member of the Assembly Zebrowski, Assembly Print Number 10721, an act to amend the Estates, Powers and Trusts Law.

ACTING PRESIDENT LITTLE: 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: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 2035, by Senator Padavan, Senate Print 8288, an act to amend the Real Property Tax Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 2037, by Senator Hannon, Senate Print 8293, an act to amend the Facilities Development Corporation Act.

ACTING PRESIDENT LITTLE: Read the last section.

SENATOR HANNON: Lay it aside for the day, please.

ACTING PRESIDENT LITTLE: The bill is laid aside for the day.

THE SECRETARY: In relation to Calendar Number 2038, Senator Leibell moves to

discharge, from the Committee on Rules, Assembly Bill Number 11291 and substitute it for the identical Senate Bill Number 8309, Third Reading Calendar 2038.

ACTING PRESIDENT LITTLE: The substitution is so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2038, by Member of the Assembly Brodsky, Assembly Print Number 11291, an act to amend the Labor Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 2039, by Senator Maziarz, Senate Print 8314, an act to amend the Economic Development Law.

ACTING PRESIDENT LITTLE: 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: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2041, Senator Robach moves to discharge, from the Committee on Rules, Assembly Bill Number 11674 and substitute it for the identical Senate Bill Number 8318, Third Reading Calendar 2041.

ACTING PRESIDENT LITTLE: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2041, by Member of the Assembly Abbate, Assembly Print Number 11674, an act to amend the Civil Service Law.

SENATOR SKELOS: Lay it aside for the day, please.

ACTING PRESIDENT LITTLE: The

bill is laid aside for the day.

THE SECRETARY: Calendar Number 2042, by Senator Meier, Senate Print 8324, an act to amend the Family Court Act and others.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 17. This act shall take effect on the 90th day.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 2043, by Senator Meier, Senate Print 8325 --

SENATOR MEIER: Lay the bill aside for the day, please.

ACTING PRESIDENT LITTLE: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 2044, by Senator Skelos, Senate Print 8330, an act to amend the General Municipal Law.

SENATOR SKELOS: Lay it aside.

ACTING PRESIDENT LITTLE: The

bill is laid aside.

THE SECRETARY: Calendar Number 2045, by Senator Bonacic, Senate Print 8332, an act authorizing.

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

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Skelos, that completes the noncontroversial reading of Supplemental Calendar Number 60A.

Senator Skelos.

SENATOR SKELOS: Madam President, please recognize Senator Gonzalez.

ACTING PRESIDENT LITTLE: Senator Gonzalez.

SENATOR GONZALEZ: Yes, Madam President.

There will be an immediate meeting of the Minority conference in Room 315.

ACTING PRESIDENT LITTLE: Thank you. There is an immediate meeting of the Minority conference in room 315.

Senator Skelos.

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

And we'll stand at ease.

ACTING PRESIDENT LITTLE: There is an immediate meeting of the Majority conference in the Majority Conference Room.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 1:05 p.m.)

(Whereupon, the Senate reconvened at 2:29 p.m.)

SENATOR SKELOS: Madam President.

ACTING PRESIDENT LITTLE: Senator Skelos.

SENATOR SKELOS: If we could return to Senate Supplemental Calendar Number 60A, controversial.

ACTING PRESIDENT LITTLE: Thank

you.

The Secretary will read.

THE SECRETARY: Calendar Number 2033, by Senator Robach, Senate Print 8273, an act to amend the Civil Service Law.

SENATOR SKELOS: Lay it aside for the day.

ACTING PRESIDENT LITTLE: The bill is laid aside for the day.

SENATOR SKELOS: Madam President, if we could return to motions and resolutions, please recognize Senator Marcellino.

ACTING PRESIDENT LITTLE: Thank you.

Motions and resolutions.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Madam President.

I wish to call up Senator Little's bill, 3246A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 1524, by Senator Little, Senate Print 3246A,

an act to amend the Public Officers Law.

SENATOR MARCELLINO: I now move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT LITTLE: Call the roll on reconsideration of the vote.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

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

ACTING PRESIDENT LITTLE: The amendments are received.

SENATOR MARCELLINO: Madam President, on page number 10 I offer the following amendments to Calendar Number 318, Senate Print Number 2742, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR MARCELLINO: Thank you, Madam President.

ACTING PRESIDENT LITTLE: Senator Skelos.

SENATOR SKELOS: Are there any substitutions at the desk?

ACTING PRESIDENT LITTLE: No, there are not, Senator Skelos.

SENATOR SKELOS: Then if we could please take up Calendar Number 2044, controversial.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 2044, by Senator Skelos, Senate Print 8330, an act to amend the General Municipal Law.

SENATOR SABINI: Explanation.

SENATOR LIZ KRUEGER: Explanation.

ACTING PRESIDENT LITTLE: Thank you.

Senator Skelos, for an explanation.

SENATOR SKELOS: Thank you, Madam President.

This bill authorizes municipalities, upon approval of the local governing body, to establish a program to

provide a rebate to a project occupant for a portion of the real property taxes, to offset the costs of certain necessary infrastructure investments for an affordable housing or economic development project. This could include overhead, utilities, storm sewers, storm drainage, sanitary sewers, water lines, fiber optics, gas lines, you could go on and on.

And it's really intended to promote greater affordability in housing and economic development opportunities such as high-tech and biotech.

ACTING PRESIDENT LITTLE: Thank you.

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. If the sponsor would please yield.

ACTING PRESIDENT LITTLE: Thank you.

Senator Skelos, do you yield?

SENATOR SKELOS: Yes.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR LIZ KRUEGER: Thank you.

In this bill, how do you define affordable housing and economic development? I didn't see a definition.

SENATOR SKELOS: It would be based upon an understanding between the developer and the local municipality.

SENATOR LIZ KRUEGER: Madam President, if the sponsor would continue to yield.

ACTING PRESIDENT LITTLE: Thank you.

Senator Skelos, do you continue to yield?

SENATOR SKELOS: Yes, I do.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR LIZ KRUEGER: Thank you.

In the memo I believe you talk about economic development and infrastructure. This bill, I believe, is similar to a bill you had earlier that was Bill Number 4707A that was dated April 18. This bill seems to be similar to that bill, but you remove it from the structure of an IDA and make it just a

more open-ended through a local municipality.

Why the change in the bill, if I'm correct at reading the two bills?

SENATOR SKELOS: You obviously remember the bill better than I.

But this is appropriate, in my opinion, to expand affordable housing and certainly in high technology and biotechnology there are huge expenses in terms of the delivery of water and power, since they are really -- electric power, since they are high-utility-usage-type opportunities for job creation.

SENATOR LIZ KRUEGER: Madam President, if the sponsor would yield for an additional question.

ACTING PRESIDENT LITTLE: Thank you.

Senator Skelos, do you continue to yield?

He does. The Senator yields.

SENATOR LIZ KRUEGER: Thank you, Madam President.

So again, in the older bill of yours from April, you talk about it going

through the IDA. And while I personally have had some concerns with IDAs, there are actual sort of rules attached to PILOTS and tax rebates and exemptions through IDAs.

And in this bill, while it also would be tax rebates similar to PILOTs, payments in lieu of taxes, am I correct in understanding that this would be a relatively open-ended whatever the municipality chose to do for itself under its own definitions of how it defined affordable housing, how it defined an economic development opportunity?

So that to some degree, what this bill does is say if a locality wants to go into a deal on housing or economic development and do payments in lieu of taxes up to a hundred percent of cost, we're saying, the State of New York, that's okay, you can do that as an individual municipality?

SENATOR SKELOS: The answer is yes.

SENATOR LIZ KRUEGER: The answer is yes. Thank you for your answers.

Madam President, on the bill.

ACTING PRESIDENT LITTLE: Thank

you. Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

I appreciate very much the sponsor's answers to my questions.

And again, my final question to him was, I believe, this sort of says, okay, the state is going to get out of the business of having any rules on how a municipality chooses to go into economic development deals or housing deals or anything else, it's fairly open-ended, where they would be trading off their tax revenue in exchange for some deal. And again, a fairly broad and perhaps, one might argue, overly expansive definition of what those deals could be.

And part of me says, okay, if a municipality or a locality wants to go down that road for themselves, even if I think they might not be making a very good deal from the perspective of their community, why should I in the State Legislature say no, I think the state ought to oversee this? So part of me says, okay, I could accept the Senator's bill, allow localities to make all the rules themselves.

The problem I have is that even under the structures we already have in state law with IDAs and other economic development authorities or approvals, where we have built in some mandates for standards, some mandates for reporting back, and even some evaluative tools by the State Comptroller's office to look at these programs as they go forward and to have reports on them, what we have found over the last few years is that there's a lot of problems out there.

And while you could say, well, you create the program so you're stuck with the problem at the local level, when a problem occurs, when it wasn't a good deal for the community, when it saps tax revenue from the locality because of this kind of deal, it actually ends up being not just the people of that community but conceivably people in the entire region who may end up paying for that. It may be the State of New York who's asked to come in and solve that problem that may have happened.

And again, every time you make an arrangement where you tell some entity, okay,

you don't have to pay your taxes, we'll make a deal with you that you do something else instead paying your taxes, you are by definition -- thank you, Madam President. I appreciate that -- you are by definition losing tax revenue to that locality or that municipality.

And so I think that under the lessons we've been learning over the last few years in New York State around some of the audits that have taken place around IDAs and other economic development authorities -- PILOT deals, tax exemption deals -- that the lesson for me is New York State ought to be a little bit more careful with these arrangements, that we ought to have standards and rules in place, that we should recognize that even when a locality wishes to do something that they believe is in their best local interest in a PILOT arrangement or an economic development arrangement, that there's a good reason to have the state having some role for both oversight, for audit, and for setting some rules. Almost, if you might, think of it as technical assistance by state

government.

And so because of that, I will be voting against the bill. Because I respect Senator Skelos's desire to allow municipalities to make all of these decisions for themselves, but I worry about what the outcome might be if somebody's not holding some standards, some accountability, some oversight.

And again, I think the state can and should do a better job. I think that with a rational approach to evaluating how we handle economic development and IDA policy and PILOT policy and STIF financing policy, that we could assure that whatever projects Senator Skelos might have in mind when he was working on this bill, that we could accomplish those goals but have some protections built in.

So again, I will vote no. Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

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.)

ACTING PRESIDENT LITTLE: The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 2044, those recorded in the negative: Senator Krueger.

Those Senators absent from voting: Senators Connor, C. Kruger and Sampson.

Ayes, 57. Nays, 1.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, there will be a meeting of the Rules Committee in five minutes, and the Senate will stand at ease pending the report of the Rules Committee.

ACTING PRESIDENT LITTLE: There will be a meeting of the Rules Committee in

five minutes.

In the meantime, the Senate stands at ease.

(Whereupon, the Senate stood at ease at 2:46 p.m.)

(Whereupon, the Senate reconvened at 3:24 p.m.)

ACTING PRESIDENT LITTLE: Senator Skelos.

SENATOR SKELOS: Madam President, if we could return to reports of standing committees, I believe there's a Rules Committee report at the desk. If we could have it read at this time.

ACTING PRESIDENT LITTLE: Thank you.

Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills:

Senate Print 759, by Senator Hannon, an act to amend the Tax Law;

4319A, by Senator Seward, an act to amend the Insurance Law;

4547A, by Senator Leibell, an act to amend the Not-For-Profit Corporation Law;

4930A, by Senator Maziarz, an act to amend the Labor Law;

4950, by Senator Maziarz, an act to amend the Workers' Compensation Law;

5107C, by Senator Farley, an act to amend the Real Property Tax Law;

5136, by Senator Bonacic, an act to amend the General Municipal Law;

6775B, by Senator Morahan, an act to amend the Public Health Law;

6858, by Senator Leibell, an act to amend the Education Law;

7026, by Senator Coppola, an act to amend the Real Property Tax Law;

7616, by Senator Saland, an act to amend the Education Law;

7675C, by Senator LaValle, an act to amend the Education Law;

7730A, by Senator Volker, an act to amend the Correction Law;

7760, by Senator Young, an act to amend the General Municipal Law;

7827, by Senator Young, an act to

amend the Agriculture and Markets Law;

7857, by Senator Nozzolio, an act to amend the Town Law;

8220A, by Senator Hannon, an act to legalize;

8233A, by Senator Winner, an act to authorize;

8340, by Senator Saland, an act to amend the Education Law;

8351, by Senator Johnson, an act in relation to transportation;

8358, by Senator Seward, an act to amend the Insurance Law;

8367, by Senator Golden, an act to amend the Administrative Code of the City of New York;

8368, by Senator Nozzolio, an act to amend the Executive Law;

8372, by Senator Little, an act to amend the Town Law;

8380, by Senator Johnson, an act to amend the Environmental Conservation Law;

8388, by Senator LaValle, an act to amend the Education Law;

8391, by Senator Larkin, an act to

amend the Penal Law;

8392, by Senator Padavan, an act to amend the Tax Law;

8406, by Senator Spano, an act to authorize;

8410, by Senator Little, an act to establish;

8416, by Senator Leibell, an act to amend the Not-For-Profit Corporation Law;

And Senate Print 8424, by Senator Flanagan, an act to amend the Public Health Law.

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 report of the Rules Committee signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Those

opposed.

(No response.)

ACTING PRESIDENT LITTLE: The report is accepted.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could return to reports of standing committees, I believe there's a report of Judiciary Committee at the desk. If we could take it up at this time.

ACTING PRESIDENT LITTLE: Thank you.

The Secretary will read.

THE SECRETARY: Senator DeFrancisco, from the Committee on Judiciary, reports the following nominations.

As a judge of Court of Claims, Mark D. Cohen, of Stony Brook.

ACTING PRESIDENT LITTLE: Senator DeFrancisco.

SENATOR DeFRANCISCO: Madam President, I move the nomination of Mark D. Cohen, of Stony Brook, as a judge of the Court of Claims.

And to second the nomination, I'd

call on Senator Balboni.

ACTING PRESIDENT LITTLE: Senator Balboni.

SENATOR BALBONI: Madam President, this is the first of several judges that Governor Pataki has sent to us. And I have to tell you that I have been associated with the Senate Judiciary Committee now going on twenty years, and I can say that I have never seen a better qualified group of jurists and attorneys than what has come before the committee today. Not to disparage any other attorneys or judges who have been here before, but this group is exceptional. And that's a credit to Governor Pataki for sending this up.

This individual, Mark Cohen, is truly one of the unsung heroes of our response to terrorism. He is the chief counsel to the Office of Homeland Security for the State of New York. He has been instrumental in the drafting and development of litigation as it relates to all aspects of this. Whether it's the Chemical Plant Security Act, whether it is making sure that fertilizer is sold properly in the State of New York so it can't be used

as a bomb, chemical, biological weapons, this is the guy.

He also has a tremendous background when it comes to the law. He is an author, he is a teacher, he has worked in prosecutor's offices. But he also has this love of the law, love of the rule of law. And he's going to make an excellent, excellent addition to this bench.

Now, Madam President, I'm going to rise on a number of occasions this afternoon as we go through this list of jurists, because many of them I consider close friends. And Mark Cohen is no exception. I urge everyone to support this nomination and again congratulate Governor Pataki on his excellent appointments.

Thank you.

ACTING PRESIDENT LITTLE: Thank you.

Senator LaValle.

SENATOR LaVALLE: Madam President, I rise to second this nomination and congratulate Governor Pataki on the nomination of Mark Cohen.

I've known Mark for many, many years in different roles. And Senator Balboni delineated some of those roles: He was the assistant to the Suffolk County district attorney for many, many years; his role in Homeland Security, and Senator Balboni talked about that; and also an adjunct professor at the State University at Stony Brook.

And here you really have someone who has been involved in many different aspects of the law, mentoring students in terms of education. And I think he will be a wonderful jurist. And again, I commend the Governor on this appointment.

ACTING PRESIDENT LITTLE: Thank you.

Senator Flanagan.

SENATOR FLANAGAN: Thank you, Madam President.

To Mr. Cohen, one of my constituents, congratulations. Very nice to see you.

And his resume, absolutely phenomenal. Everybody is completely on target.

The thing that I have the most respect for -- tremendous experience -- you put up with Catterson for all these years. So that alone should get you a seat on the Court of Claims. But all the best and congratulations, Mark.

ACTING PRESIDENT LITTLE: Thank you.

The question is on the nomination of Judge Mark D. Cohen, of Stony Brook, as a judge of the Court of Claims. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: Judge Mark D. Cohen is hereby confirmed as a judge of the Court of Claims.

He is accompanied today by his wife, Jill, and his brother, Robert.

Congratulations, Judge Cohen.

(Applause.)

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: As a judge of the Court of Claims, Walter Brooks DeBow, of Saratoga Springs.

ACTING PRESIDENT LITTLE: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, Madam President.

Before we go on, I should state for the record, since there's so many judges that we're confirming -- I think 18 today -- that each of them, their backgrounds have been checked, their materials have been -- their submissions have been reviewed thoroughly by the Governor's office and also by the Senate, and also they all unanimously were approved by the Senate Judiciary Committee today and recommended to the full Senate for a vote.

I also want to apologize for everyone there. Things were a little bit confusing, as they always are the last couple of days in session. But hopefully the guests that you brought with you were at least treated to a good lunch at a nice restaurant.

But hopefully we'll make the rest of the proceedings a lot more enjoyable than

the wait over the last couple of hours.

I move the nomination of Walter Brooks DeBow, of Saratoga Springs, as a judge of the Court of Claims. And I call on Senator Farley to second the nomination.

ACTING PRESIDENT LITTLE: Thank you.

Senator Farley.

SENATOR FARLEY: Thank you very much, Senator DeFrancisco.

It's with pleasure that I second the nomination of Brooks DeBow, who has an outstanding resume as a deputy counsel to the Governor, who has worked very, very closely with this house.

I also notice that he's a graduate of the great State University of Albany, where I taught for a number of years. Lot of great people came out of there. And even more important, he's a cousin to Frank Morrone, who works with us so often and has recommended him most highly.

Even though Senator Bruno, we share the City of Saratoga Springs, I would bet that Brooks is probably in Senator Bruno's part of

the city. But let me just say that I know that the Senator would be here to offer your nomination.

But this is a young man who is eminently qualified and really has an outstanding resume, and we're very fortunate to have him on the judiciary.

And I wish you well, Brooks.

ACTING PRESIDENT LITTLE: Thank you.

The question is on the nomination of Walter Brooks DeBow, of Saratoga Springs, as a judge of the Court of Claims. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: Walter Brooks DeBow, of Saratoga Springs, is now hereby confirmed as a judge of the Court of Claims.

He is accompanied today by his fiancee, Andrea Kosier, and his parents, Tom and Rosalinda DeBow.

Congratulations, Judge DeBow.

(Applause.)

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: As a judge of the Court of Claims, James Hartford Ferreira, of Delmar.

ACTING PRESIDENT LITTLE: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, I'd move the nomination of James H. Ferreira, of Delmar, as a Court of Claims judge. And I request that you recognize Senator Breslin to second the nomination.

ACTING PRESIDENT LITTLE: Senator Breslin.

SENATOR BRESLIN: Thank you, Madam President.

This will be the first of the "Delmar Four." There will be four judges today that will come before this court. And James Ferreira has a background rich in private practice, rich in administrative practice at the highest levels of state government.

Again, as I said in the Judiciary Committee, it's a compliment to the Governor that each of these Delmar Four have such outstanding credentials. And I'm happy to second the nomination.

ACTING PRESIDENT LITTLE: Thank you.

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Madam President, on the nomination.

It's with mixed emotions that I rise to support this nomination, mixed emotions in the sense that the nominee, an excellent attorney, one who has been a great public servant, one who I've known for well over 20 years, is certainly the judiciary's gain, the environmental legal community's loss.

That Jim has been just a wonderful attorney through the years. I got to know him when he was laboring in the New York State Assembly. His connection to the Legislature is significant. Credentialed throughout. One of the preeminent environmental lawyers in the nation.

And that I'm certainly pleased with his success. And that I know my former colleagues in the Assembly, particularly Bill Paxon and Dick Wesley, are extremely happy with this nomination. That we look to see him be a star on the judiciary.

That I think it's an outstanding appointment, and I'm honored to support it. Sorry to see him leave the state's executive service, but I know he'll do well in this new capacity.

Madam President, I certainly support this great nomination.

ACTING PRESIDENT LITTLE: Thank you, Senator Nozzolio.

Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Thank you very much, Madam President.

I also rise to second the nomination. I had the opportunity to know Judge Ferreira -- I'm going to call him "Judge" now, because he deserves that distinction -- while he was at DEC. And I know Commissioner Sheehan will also bear out the fact that he had been a tremendous

attorney there. Senator Nozzolio talked about it as well the environmental community will miss him.

I'm sure he will be a tremendous addition to the bench. All that he has done has always been with quick dispatch, fairness, and he has a brilliant mind when it comes to analytic things that have to be addressed.

It gives me great pleasure, and I tell the Governor he has selected a tremendous individual in the person of James Ferreira. He is going to be an excellent Court of Claims judge, and I look forward to seeing him on that bench.

ACTING PRESIDENT LITTLE: Thank you.

Senator Hannon.

SENATOR HANNON: Yes, Madam President, I just want to offer my support also, and note that in addition to the branch of the infamous Assemblymen led by Senator Nozzolio that there were others in the Assembly who benefited by to-be-Judge Ferreira's legal counsel and have watched him over the years develop and become better and

better as a lawyer and know that he'll be a great judge.

So I add my congratulations to those expressed by Senator Nozzolio.

ACTING PRESIDENT LITTLE: Thank you.

The question is on the nomination of James Hartford Ferreira, of Delmar, as a judge of the Court of Claims. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: Judge James Hartford Ferreira is hereby confirmed as a judge of the Court of Claims.

He's accompanied today by his wife, Abbey; his children, Madeline and Kate; his sister and brother-in-law, Marti McHugh and Patrick McHugh; Commissioner Denise Sheehan, of the DEC; and Chairman Bill Flynn, of the Public Service Commission.

Congratulations, Judge Ferreira.

(Applause.)

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: As a judge of the Court of Claims, Christopher J. McCarthy, of Delmar.

ACTING PRESIDENT LITTLE: Senator DeFrancisco.

SENATOR DeFRANCISCO: Madam President, I move the nomination of Christopher J. McCarthy and request that you recognize Senator Farley to second the nomination.

ACTING PRESIDENT LITTLE: Senator Farley.

SENATOR FARLEY: Out of deference to Senator Breslin, who has four Delmar people, I've known Christopher McCarthy -- I know his mother and his late father. And he called me, and he's so thrilled -- his mother is so thrilled that he's finally making good.

Chris McCarthy has handled all the banking stuff for the Governor. And it's rather arcane and difficult, and he's done an outstanding job. He's a wonderful lawyer and somebody that really has the temperament to be

a great judge.

Christopher, we're very proud of you and we're very, very pleased to support you. I know that Senator Breslin is going to say something nice about you, and also Senator Seward is going to speak on your behalf.

So I wish you all the best, Chris.

ACTING PRESIDENT LITTLE: Senator Skelos.

SENATOR SKELOS: Madam President, I would yield to -- I believe he's your constituent, Senator Breslin. And then I would speak after Senator Breslin.

ACTING PRESIDENT LITTLE: Thank you.

Senator Breslin.

SENATOR BRESLIN: Thank you, Senator Skelos. And thank you, Madam President.

It's indeed a pleasure for me to stand here to second the nomination of Chris McCarthy. I've interacted with Chris for the last six or seven years on insurance issues. As many of you know, Chris is a magna cum laude graduate of Harvard and went on to get

his master's at Harvard and went on to Columbia Law School.

But more importantly, Chris has the skills, the temperament, the decency to be a judge, and he puts them all together. Each and every time that I have dealt with Chris McCarthy, he has not only been intellectually honest, he has that special quality to interact with others to reach a consensus.

And I'm proud to call him my friend, and I'm proud to second him for the Court of Claims.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Skelos.

SENATOR SKELOS: Madam President, I rise to support the nomination of Chris McCarthy. I said to him earlier today, during the Judiciary Committee meeting, that your dad would be very proud of you.

Those of us who have been around here a number of years may remember his dad, Tim McCarthy. And probably one of the most enjoyable times that we would have is, number one, listening to your dad's stories, because

he was a wealth of knowledge. I know how much he loved traveling to Ireland.

But also, for those of you who remember the 21 Club, we would sit there and Tim would entertain for us at the piano, singing these wonderful songs. And there was just a tremendous sense of camaraderie between both houses and people of both parties. And that's something that, quite frankly, I miss personally.

But again, as I said, it's not about the 21 Club, it's about saying you're qualified for this job, we're proud of you. And again, your dad is looking down and saying: Chris, I love you, and we're proud of you.

ACTING PRESIDENT LITTLE: Senator Seward.

SENATOR SEWARD: Yes, Madam President. I consider it a real honor and pleasure to stand to support the nomination of Chris McCarthy to be a judge of the Court of Claims.

As I believe Senator Breslin has pointed out, one of Chris McCarthy's areas of

responsibility on the second floor has been the area of insurance issues. And in that capacity, Chris and I have been together not only in meetings but in many public forums, we've been on panels together discussing insurance issues.

And I have always, in whatever the setting -- private, public, over the phone -- always found Chris McCarthy, number one, to be a person of great intellectual ability, command of the issues, and, secondly, a real gentleman. He certainly will bring to the bench a real judicial temperament and outstanding ability.

So, Madam President, I'm pleased to rise to support this nomination and in so doing to wish Chris McCarthy all the best as a judge of the Court of Claims. I know he will do his family proud and do this body proud, as well as the people of the State of New York.

ACTING PRESIDENT LITTLE: Thank you.

Senator Balboni.

SENATOR BALBONI: Madam President, I rise because I just want to point

something out that Chris McCarthy exemplifies but that is a trait and characteristic of all the nominees today.

Chris went to Garden City High School, which is the same place I went, but then he did a little bit better. He went to Harvard, he went to Columbia, he worked for Brown & Wood, a very prestigious firm in Manhattan, and then he became counsel to the Governor. And worked for -- and did all the banking stuff and worked for the banking superintendent.

This guy could make a ton of money doing something else, but he's decided that he wants to give to the public. And he believes in public service. And that's always an amazing thing to understand, that someone is not driven by money but rather by service to others.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Hannon.

SENATOR HANNON: I rise in support of Mr. McCarthy's nomination.

Representing his hometown, watching him grow up, watching him develop into a stellar lawyer has been quite enjoyable, and I know that he is going to make an exemplary judge.

Continue to give the wisdom to the matters before you that you have to the legislation and the matters you've had in the past, and we'll all be the better.

And thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

The question is on the nomination of Christopher J. McCarthy, of Delmar, as a judge of the Court of Claims. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: Christopher J. McCarthy, of Delmar, is hereby confirmed as a judge of the Court of Claims.

He is accompanied today by his wife, Katherine; his son, Cormac; and his

mother-in-law, Diane Leary.

Congratulations, Judge McCarthy.

(Applause.)

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: As a judge of the Court of Claims, Roger D. McDonough, of Delmar.

ACTING PRESIDENT LITTLE: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, I rise to move the nomination of Roger McDonough for the Court of Claims, and I'll request that you again call on Senator Breslin for a second.

ACTING PRESIDENT LITTLE: Senator Breslin.

SENATOR BRESLIN: Thank you, Madam President.

The third person of the Delmar Four, Roger McDonough, who's really been a career prosecutor and would hold himself out as a career prosecutor. You can tell the way he lit up when he was talking about cases he's tried.

And he mentioned to me yesterday

that I should check with my brother Tom, who's the County Court judge in Albany. And indeed I did. In fact, my brother Tom called me before I could call him. And he said, "This is the kind of person we need on the bench. This is the kind of person who knows the law in and out but has the ethics to apply it properly."

And I'm proud to second the nomination of Roger McDonough for the Court of Claims.

ACTING PRESIDENT LITTLE: Thank you.

Senator Balboni.

SENATOR BALBONI: Madam President, on this nominee I believe what we have is an example of the quality and the class of person that Governor Pataki surrounded himself when involving major issues like criminal justice.

I got a chance to negotiate hours and hours with this candidate. Roger is one of the most tenacious, most passionate people about criminal law, about homeland security issues we did together.

But he is most importantly, and firstly, a family man. He's got a gaggle of kids, and he loves them desperately. He's got this great view of life. And again, this is the type of person we want on our bench to make sure that just justice is done in the proper manner.

I support the nominee wholeheartedly.

ACTING PRESIDENT LITTLE: Thank you.

Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Yes, thank you, Madam President. I also rise to support the nominee.

And you heard his background, which was one of excellence. But as Senator Balboni said, unbeknownst to Judge McDonough I happened to be walking through the Capitol -- and as you know, to become a judge, there's a lot of moving parts. You've got a lot of cases you have to be able to handle, and you have to be able to do a lot at one time.

Well, I had the ability to witness him managing all of his children at the same

time in the Capitol. And anybody that can talk to one, hold another, hold one other, and continue to keep the other three in place deserves to be a judge, and clearly he can handle his business.

And I also want to thank the Governor for making such a fine recommendation in Roger McDonough.

ACTING PRESIDENT LITTLE: Thank you.

Senator Volker.

SENATOR VOLKER: Madam President, earlier today I saw Roger McDonough and I said the reason that he's leaving, I think, is because we finished a bunch of criminal justice things last night, and I figure he thinks there's nothing more for him to do.

And let me just say, Roger is one of the brightest and finest counsels that the Governor has had.

And although I didn't speak on Chris McCarthy, I knew his father, Tim, very, very well, and he's a great choice.

In fact, as I was looking at the numbers of people who the Governor -- his

counsels, it's pretty obvious to me he doesn't expect to get sued. Because if he does, he's going to have a problem because all his really great lawyers are going to the bench.

But in all seriousness, Roger will make a great Court of Claims judge, as will Chris McCarthy. And, let me also say, as Mark Cohen will also. Mark Cohen has worked closely with me, with Homeland Security, and with Mike.

I have to admit to you one thing. In all the years that I've been here, through, I think, five governors, I don't know if I've ever seen a better, brighter, more competent group of judges than we reviewed this morning.

And we really sort of can't give it justice, because there isn't the time, in a way, to speak as much as we probably should. But the Governor really should be commended for the group, and particularly -- and I don't want to diminish you, Roger, because you've been really important to the criminal justice system in this state. In my opinion, George Pataki has been without question the best criminal justice governor in my time. And

that time goes back to Governor Dewey, because my father was here 22 years before me.

So congratulations, Roger. Congratulations, Chris. And good luck to all of you.

ACTING PRESIDENT LITTLE: Thank you.

The question is on the nomination of Roger D. McDonough, of Delmar, as a judge of the Court of Claims.

All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: Roger D. McDonough, of Delmar, is hereby confirmed as a judge of the Court of Claims.

He's accompanied today by his wife, Florence, and his lovely family of six children: Fitzhugh, Mary Kate, Abigail, Frances, Dermot, and Edward.

Congratulations, Judge McDonough.

(Applause.)

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: As a judge of the Court of Claims, Frank P. Milano, of Delmar.

ACTING PRESIDENT LITTLE: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes. Before I move the nomination, I just want to make an announcement that the Governor's counsel office is accepting resumes from bright attorneys --

(Laughter.)

SENATOR DeFRANCISCO: -- in order to get through the end of the year.

I'd now like to move the nomination of Frank P. Milano, of Delmar, as a judge of the Court of Claims. And again, if you're not too tired, Senator Breslin, to second.

ACTING PRESIDENT LITTLE: Senator Breslin.

SENATOR BRESLIN: Thank you, Senator DeFrancisco. And thank you, Madam President.

This is the fourth of the Delmar Four. And I think, before I talk, to allay

any possible fears, I should state to the entire body that I continue to be a Democrat, I continue to support Democratic candidates. But there are exceptions to that, and the exceptions to that are quality. And the Delmar Four have exhibited that.

And with Frank Milano, we have someone who served as a counsel in the Assembly and served as a counsel in the Senate, went to the Secretary of State's office as counsel and became chief deputy. And added on to that, some five years ago, Frank, who's at my doorstep giving out Milano cookies, has served on the bench for five years.

And during that time, he's exhibited the kind of temperament, the kind of intelligence that we want as a judge. And I think with his entire background, that's easily translated into quality performance at the Court of Claims.

And I'm delighted to second my friend Frank Milano to the Court of Claims, completing this record crowd for the Delmar Four.

Congratulations, Frank.

ACTING PRESIDENT LITTLE: Senator Skelos.

SENATOR SKELOS: Madam President, I rise in support of the nomination of Frank Milano.

I rise because I've had the opportunity to know Frank for probably 20 years, a friend to my wife Gail and myself. And it's just nice to get up and look at a judicial nominee who is obviously qualified to be a judge but also just a nice guy. And this is just an example of how competent, nice guys can get ahead.

So, Frank, I salute you -- I don't see -- there you are. Congratulations, Frank.

ACTING PRESIDENT LITTLE: Thank you.

The question is on the nomination of Frank P. Milano, of Delmar, as a judge of the Court of Claims.

All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: Frank P. Milano, of Delmar, is hereby confirmed as a judge of the Court of Claims.

He is accompanied today by his wife, Ruth; his daughter, Caroline; his parents, Frank and Millie Milano; and his mother-in-law, Wilma Sheffer.

Congratulations, Judge Milano.

(Applause.)

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: As a judge of the Court of Claims, William Boller, of Elma.

ACTING PRESIDENT LITTLE: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, I rise to move the nomination of William Boller for the Court of Claims of the State of New York, and I request that you call on Senator Volker for a second.

ACTING PRESIDENT LITTLE: Senator Volker.

SENATOR VOLKER: Madam President, I've known Bill Boller since -- a long time,

since he was little, let's say. In fact, he said something at the Judiciary Committee that kind of shook me, because he claimed that I was one of the reasons he became a lawyer.

I find that really -- I feel proud of that if I had anything to do with him becoming a lawyer.

His family is one of the oldest and most important families in Western New York. He's from the town of Elma, which is one of my towns. But more than that, he has been an excellent, excellent lawyer, a good friend, and a person who you could rely on for advice.

He's been a justice of the peace; that is, a local J.P. And I happen to know that one of the regrets is that he will no longer be a J.P. in Elma, but that's the way it is. Because he's been one of the best. When people want advice as to what to do in justice court, they look to somebody like Bill Boller.

So my congratulations to Bill. He's of the highest caliber. His wife, Ann, is a wonderful person. And his mother, Edith, is here, and I know his father is here in

spirit also.

I just want to say that it's hard for me to think of a better person to be a judge of the Court of Claims than Bill Boller.

And my good friend Tom Reynolds, Congressman Tom Reynolds, also wanted to give to you his congratulations and good wishes.

ACTING PRESIDENT LITTLE: Thank you.

Senator Rath.

SENATOR RATH: Thank you, Madam President.

I rise to also second the nomination of Justice Boller today, congratulating the Governor, of course, for wisdom of his choices, so many wise and judicial men and women who are in our gallery today that are being confirmed.

And I would like to say about Bill Boller, we all started out many, many years ago. And I heard Senator Breslin clearly say that the exceptions to political lines, or probably even political comments, have to do with the quality of the person that's being nominated and being confirmed. And with Bill

Boller, we started out many, many years ago laboring in the vineyards of the Republican Party in Erie County.

Elected official, appointed positions, Bill has always been there, whether he has -- from those early, early days, on into his judicial career as a J.P., into the civic and community organizations, Bill was always there.

He will always be there for the people that he serves in the State of New York and in the County of Erie and in the judicial district.

So congratulations, Judge Boller.

ACTING PRESIDENT LITTLE: Senator Stachowski.

SENATOR STACHOWSKI: Yes, Madam President. I too rise to second the nomination of Bill Boller.

I represented Elma for ten years and managed never to have to appear before him for anything when I traveled in and out of the town, so I'm happy for that.

But my brother, who's a lawyer, always gives me the update on all the Western

New York people, and he couldn't say enough nice things about Bill Boller.

And I happen to know Bill not as a judge, but as a friend, and I'm very glad to have the opportunity to rise to second the nomination of somebody who brings his quality, his personality, and his judgment to the bench. And I think he'll be an outstanding judge.

Thank you.

ACTING PRESIDENT LITTLE: Thank you.

The question is on the nomination of William Boller, of Elma, as a judge of the Court of Claims. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: William Boller, of Elma, is hereby confirmed as a judge of the Court of Claims.

Judge Boller is accompanied today by his wife, Ann, and his mother, Edith.

Congratulations, Judge Boller.

(Applause.)

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: As a judge of the Court of Claims, John Michalski, of Williamsville.

ACTING PRESIDENT LITTLE: Senator DeFrancisco.

SENATOR DeFRANCISCO: I rise to move the nomination of John Michalski for a judgeship in the Court of Claims, and I request that you call on Senator Rath to second the nomination.

ACTING PRESIDENT LITTLE: Thank you.

Senator Rath.

SENATOR RATH: Thank you, Madam President.

This particular nominee is a little closer to home. He's one of my constituents, actually, the town of Amherst, and has been serving since 2000 as a prosecutor in the town of Amherst.

His "Who's Who" bio of community

organizations is something to be very proud of. And I know John Michalski as a person who is -- I can't say all things to all people, but I would say that John has been everything he could be to everyone that he worked with over the last number of years.

His work ethic is beyond belief, not to be ever questioned. And having been married to a judge for a number of years -- well, married for a lot of years, but he was a judge for 17 years -- I understand what judges look for in other judges as work ethic goes. And John Michalski will be there in a major category.

He's the kind of person who rolls up his sleeves, gets the job done, and is there until the bitter end, and is the kind of person that it was once said you can characterize someone that you want if you're going to be in a foxhole and you're going to have to shoot your way out, you want that person there with you.

I would be there with John Michalski in a foxhole, and he would shoot his way out. And the justice system in the State

of New York will have a judge who will be there, fighting for justice day in and day out, for a long time.

Congratulations, Judge Michalski.

ACTING PRESIDENT LITTLE: Thank you.

Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Madam President.

First, before I talk about John Michalski, I do want to congratulate Bill Boller. I was out of the chambers at a meeting when his nomination went through. And he's a great judge.

And I have to say, Madam President, that today, if I were an attorney, I think I'd want to live in Delmar. And I don't know even where Delmar is, but there must be something in the water there, because they're making a lot of judges from Delmar today.

But I rise, Madam President, to second the nomination of my friend John Michalski, of Williamsville. John, I've known him for a number of years in the legal community, and he, again, along with Bill

Boller, has done an excellent job for the people of Erie County, for the people of Western New York. They're going to be very good Court of Claims justices. They're going to be fair, and you can't ask for any more from a judge than that.

So, Madam President, I second this nomination.

Thank you.

ACTING PRESIDENT LITTLE: Thank you.

Senator Volker.

SENATOR VOLKER: Madam President, I first of all want to say that if I was going to be in a foxhole, I certainly would rather be there with Mary Lou Rath and John Michalski.

But anyways, John Michalski is an excellent lawyer. He was a tough prosecutor and a good guy. And all I can say is I know he's going to make an excellent Court of Claims judge.

And I wish him the very best, and to his wife and family also, and good luck.

ACTING PRESIDENT LITTLE: Senator

Stachowski.

SENATOR STACHOWSKI: Yes, Madam President, I too would like to second the nomination of John Michalski.

Again, relying on my legal expert, my brother, he also said wonderful things about John Michalski. I don't know if he just wants to get in everybody's good graces or if he actually meant these things.

But based on that and then other things I've heard about John, and seeing him active and about town, and also knowing that he's a big Bills fan, how could I not get up and support him.

I congratulate John and congratulate the Governor on another fine appointment.

ACTING PRESIDENT LITTLE: Thank you.

The question is on the nomination of John Michalski, of Williamsville, as a judge of the Court of Claims. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE:

Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: John Michalski, of Williamsville, is hereby confirmed as a judge of the Court of Claims.

He is accompanied today by his wife, Susan.

Congratulations, Judge Michalski.

(Applause.)

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: As a judge of the Court of Claims, Robert A. Neary, of Pound Ridge.

ACTING PRESIDENT LITTLE: Senator DeFrancisco.

SENATOR DeFRANCISCO: I move the nomination of Robert Neary for the Court of Claims.

I'd just like to mention one thing before I ask you to recognize someone for a second.

You know, of all the confirmations that I've seen in the 14 years in the Senate, I don't think there's anybody more qualified

for a criminal part of the Court of Claims than Robert Neary. And I'm pleased that the Governor was able to make this nomination to allow him to continue to serve as a judge of a criminal court in this state.

I'd request that you recognize Senator Leibell for a second.

ACTING PRESIDENT LITTLE: Thank you.

Senator Leibell.

SENATOR LEIBELL: Thank you, Madam President. And I think the chairman stole my comments.

I've known Bob Neary for over 30 years. And as was noted, he has a most incredible record. I knew Bob because he was in the Westchester DA's office at the same time I was there, and staying for a very illustrious career. He literally tried hundreds of the most serious cases in that large county.

So with that distinguished career, all his qualifications as were noted -- he has a wonderful family, he has been a tremendous public servant, not only to the people of

Westchester County but to all the people of the State of New York -- I think this is certainly a great and most deserved nomination, and I'm very pleased to rise in support.

ACTING PRESIDENT LITTLE: Senator Stachowski.

SENATOR STACHOWSKI: Madam President, I too rise to support the nomination of Bob Neary.

I know that some of you are wondering -- you might remember -- why would I get up about a guy from Westchester. But when I was at Holy Cross and I first started playing football, Bob Neary was the captain of the football team.

And his hard work and leadership qualities, they're something that once you were exposed to them, you always remember it.

I think Bob Neary will be just an unbelievably good judge of the Court of Claims. And through the times that he's been up here, Vinnie Leibell has told me the great job he did as a prosecutor in Westchester County. So I know that his legal background

is as strong if not better than his background that I know him from, the football fields at Holy Cross and all the places we had the opportunity to play.

So I would be remiss if I didn't get up to second the nomination of a long-time friend. And actually, I know him longer than Vinnie Leibell does, but I'm not going to say from what year.

And I'm just tickled to congratulate the Governor on his appointment and to congratulate Bob on becoming a judge of the Court of Claims.

ACTING PRESIDENT LITTLE: Thank you.

The question is on the confirmation of Robert A. Neary, of Pound Ridge, as a judge of the Court of Claims. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: Robert A. Neary, of Pound Ridge, is hereby confirmed

as a judge of the Court of Claims.

He's accompanied today by his wife, Keary, and son, Brendan.

Congratulations, Judge Neary.

(Applause.)

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: As a judge of the Court of Claims, Catherine Anne Cage Schaewe, of Vestal.

ACTING PRESIDENT LITTLE: Senator DeFrancisco.

SENATOR DeFRANCISCO: I move the nomination of Catherine Anne Schaewe for the position of judge of the Court of Claims, and I'd request that you call on Senator Libous to second the nomination.

ACTING PRESIDENT LITTLE: Senator Libous.

SENATOR LIBOUS: Thank you, Madam President. And thank you, Senator DeFrancisco.

I rise to second this nomination. And as my colleagues have said earlier, this is an outstanding group that the Governor has

put before us. And Catherine Schaewe is one of those outstanding members.

She certainly has a tremendous background, not only if you look at her work in the public sector, in working with the Binghamton City Council, zoning boards, housing and development, but also in the private sector. She's extremely well versed in understanding of a number of issues. She has served as well as an elections commissioner in Broome County, and I will miss her in that capacity.

But she brings to this position a great temperament, one of compassion, one of being very stern when she needs to be. And I think she has all of the great qualifications for this position.

But most of all, Madam President, what I'm going to miss is her personal counsel on a number of issues. And while Cathy and I are good personal friends and we spend time on a number of issues, I will miss those few times that she has looked me in the eye when I get somewhat emotional about issues and says to me: "Senator, I wouldn't advise that."

And I certainly will miss that.

And certainly the Governor has put before us a great nominee. She will serve us all well. And I am very pleased and honored to second this nomination.

ACTING PRESIDENT LITTLE: Thank you.

The question is on the nomination of Catherine Anne Cage Schaewe, of Vestal, as a judge of the Court of Claims. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: Catherine Anne Cage Schaewe, of Vestal, is hereby confirmed as a judge of the Court of Claims.

Congratulations, Judge Schaewe.

(Applause.)

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: As a judge of the Court of Claims, Denise L. Sher, of Hewlett

Harbor.

ACTING PRESIDENT LITTLE: Senator DeFrancisco.

SENATOR DeFRANCISCO: I move the nomination of Denise Sher for a position on the Court of Claims. And I would request that you would please recognize Senator Skelos to second the nomination.

ACTING PRESIDENT LITTLE: Senator Skelos.

SENATOR SKELOS: Thank you, Madam President.

Denise, we're there. And I know how good you feel. And I know your husband, Robert, who's here. You've earned this.

Denise has been a great attorney. The family, Robert and her, very generous to the community. There's not a civic organization that they're not involved with. Willing to contribute to charities and also lick envelopes for charities. And I think that's what makes Denise very, very special.

You know, obviously qualified as an attorney, presiding judge of the District Court in Nassau County, where she was elected.

But I think, with qualifications, I think it's very important with our judges that we look at personal qualities. And as Tom, Senator Libous mentioned, the temperament that's necessary, the patience that's necessary sometimes, and the fact that making those who have to appear before you feel that they have received justice, whether they win or lose.

And I'm very confident that Judge Sher will be that type of member of the Court of Claims, because certainly as presiding judge of the District Court and as a district court judge she's demonstrated that on a daily basis.

So, Denise, to you and to Robert I say congratulations. And I know that you are going to be a great judge of the Court of Claims.

ACTING PRESIDENT LITTLE: Thank you.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President. I just want to stand and echo the sentiments of Senator Skelos.

To know this woman is to love her.

You know, she is a true professional. She's a superb jurist. But I think what I like about her the best is her qualities of caring for individuals. I am proud to call her my friend, and she will do an outstanding job on the court representing the state.

I wish you the best. But I'll say what Senator Skelos says: You are here, you're finally here. Congratulations, and best of luck.

ACTING PRESIDENT LITTLE: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Madam President.

It's a pleasure to rise and second the nomination of Denise Sher. I've known Denise for a number of years, and I agree with my prior two colleagues who have already spoken. She's everything they say she is.

But probably the best thing I can say is that she is a darn fine person. And I am so pleased and so glad that she will be sitting on the bench, because I know quality justice will be served.

God bless, Denise.

ACTING PRESIDENT LITTLE: Senator Balboni.

SENATOR BALBONI: Madam President, I have had the opportunity to see this judge on the bench. And the one thing I can tell you is that she has respect for everybody, and that's one of the things that I hope all the judges will keep in mind as they go on with their careers.

You may disagree, you may have to rule against somebody, you may have to be stern with somebody. But respect is, really, the lowest common denominator that anybody who enters the courtroom can expect. And Denise Sher always provides that.

But don't let her demeanor fool anyone. She can be very tough when she needs to be. And that, again, is a crucial hallmark. But she's shown a real love of the law, a love of the administration and working through problems. Again, another wonderful nominee.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Hannon.

SENATOR HANNON: Madam President, I'd like to support the nomination of Judge Sher to the bench.

She has gained as an outstanding reputation in her prior service as judge. She has had an outstanding reputation among members of the bar for her talents as a lawyer. And I'm delighted that the nomination is before us today, and I know she will do an excellent job as judge.

Thank you.

ACTING PRESIDENT LITTLE: Thank you.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I just rise because if Senator Balboni appeared before you, I think the whole Senate would like a critique as to his performance. And that would be very helpful to us.

(Laughter.)

SENATOR DeFRANCISCO: Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

The question is on the confirmation of Denise L. Sher, of Hewlett Harbor, as a judge of the Court of Claims. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: Denise L. Sher, of Hewlett Harbor, is hereby confirmed as a judge of the Court of Claims.

She is accompanied today by her husband, Robert.

Congratulations, Judge Sher.

(Applause.)

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: As a judge of the Court of Claims, Faviola A. Soto, of New York City.

ACTING PRESIDENT LITTLE: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, I move the nomination of Faviola Soto for the position of judge of the Court of Claims, and

I'd request that you recognize Senator Schneiderman for a second.

ACTING PRESIDENT LITTLE: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

It is with great pride that I stand to second the nomination of Faviola Soto, an excellent lawyer, someone who has worked in private practice, worked in legal services representing the poorest among us and also representing some fairly fancy clients.

A fine judge, and serving as a Family Court examiner, administrative law judge, Civil Court, Supreme Court, and now on the Court of Claims.

And I would tell you that I realize that Delmar, for today, sort of has a corner on the market. But I predict that Washington Heights in the future will be producing many, many more extraordinary justices who will be making it to the Court of Claims and higher, and Faviola Soto is one of the great examples we have from our community.

Felicidades, bienvenidos a una

Dominicana muy intelligentsia y verdad luchadora.

Congratulations. Thank you very much, my colleagues, for nominating such a great judge -- or confirming such a great judge.

ACTING PRESIDENT LITTLE: Thank you.

Senator Diaz.

SENATOR DIAZ: Gracias. Thank you, Madam President.

I just want to say how proud I am of the nomination of Judge Soto. And we in the Hispanic community are very proud today. This is the only one of all the judges that Governor Pataki has nominated, she's the only one of the Hispanic community. And she makes us all proud.

And I appreciate Governor Pataki nominating this excellent, magnificent human being, member of the Dominican community and the Hispanic community in the City of New York, which I represent. And I am becoming a Dominican today to honor Judge Soto.

So on behalf of the Puerto Rican

community, which I represent, and the Hispanic community in the 32nd Senatorial District in the Bronx, I'm here acknowledging Governor Pataki's appointment and also congratulating Judge Soto.

Congratulations, Judge Soto. I will see you in the Puerto Rican and Dominican Parade in the Bronx on July 16th. And I'm doing also a Noche Merengue -- that's a Merengue Night -- in the Bronx on Friday, July 14th, to honor all those distinguished members of the Dominican community in the City of New York.

So, Senator Schneiderman, as a member of the Dominican community that you have in Upper Manhattan, you also will be invited.

Thank you, Madam President.

Congratulations, Judge Soto.

ACTING PRESIDENT LITTLE: Thank you.

The question is on the nomination of Faviola A. Soto, of New York City, as a judge of the Court of Claims. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: Faviola A. Soto, of New York City, is hereby confirmed as a judge of the Court of Claims.

Judge Soto is accompanied by Raolu Santiago today.

Congratulations, Judge Soto.

(Applause.)

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: As a judge of the Court of Claims, Charles F. Devlin, of Chappaqua.

ACTING PRESIDENT LITTLE: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, I move the nomination of Charles F. Devlin for the position of judge of the Westchester County Court. And if we can wait for one moment.

Well, we can ask Senator Oppenheimer, if you would, Madam President, to second the nomination. Thank you.

ACTING PRESIDENT LITTLE: Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you.

Actually, you both were right, but it is the Westchester County Court that will benefit from Charles Devlin's work, as it has for many years.

He really has devoted his life to our courts and to the serving of the courts. He has for many years served as a law clerk to some of our very finest Westchester County judges. And he has done extensive lecturing in the fields of elder law and mental health law and family law.

This is a man with a great deal of experience in the 25-odd years that he has been -- actually, more than that -- been in the business of serving the courts.

And I think this is an excellent appointment, and I congratulate the Governor. And I'm happy to say Charles Devlin lives in my Senate district in Chappaqua.

And I know he's here with his son, who is an organist. And that is something else that I couldn't applaud more.

So I'm very happy to be able to second the nomination.

ACTING PRESIDENT LITTLE: Thank you.

The question is on the nomination of Charles F. Devlin, of Chappaqua, as a judge of the Westchester County Court. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: Charles F. Devlin is hereby confirmed as a judge of the Westchester County Court.

And he is here today accompanied by his son, Tim.

Congratulations, Judge Devlin.

(Applause.)

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: As a judge of the Court of Claims [sic], Barbara Lynn Gionta, of Pearl River.

ACTING PRESIDENT LITTLE: Senator

DeFrancisco.

SENATOR DeFRANCISCO: I move the nomination of Barbara Lynn Gionta, for the position of judge of the Court of Claims. And I would call on Senator Morahan to second the nomination, if you would, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Morahan.

SENATOR MORAHAN: Thank you, Madam President.

I rise to second this nomination of Barbara Lynn Gionta, the native Rocklander from Pearl River, a lady who has served in the public defender's office, both as an ADA -- I'm sorry, in the district attorney's office, first as an ADA and then as a senior assistant district attorney. She's also served as a public defender for three years, four years, maybe six. And she's been in a law practice with her husband.

So she's had the experience of the public defender's office, the district attorney's office, and the private sector.

She will be a credit to the County

Court of Rockland, and I'm delighted to second her nomination.

Congratulations, Barbara.

ACTING PRESIDENT LITTLE: Thank you.

The question is on the nomination of Barbara Lynn Gionta, of Pearl River, as a judge of the Rockland County Court. All in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: Barbara Lynn Gionta, of Pearl River, is hereby confirmed as a judge of the Rockland County Court.

She is accompanied today by her husband, Ken DeStefano; son, Jake; parents, Marian and Peter G. Gionta; and her in-laws, Lee and Maureen Umphlet.

Congratulations, Judge Gionta.

(Applause.)

ACTING PRESIDENT LITTLE: The Secretary will read.

Senator DeFrancisco, I'm sorry.

SENATOR DeFRANCISCO: Knowing that we have a lot of judges in the room, and sometimes how the Court of Appeals decides, I want to modify my motion and move for her to the Rockland County Court as opposed to the Court of Claims. Just in case there's a technical defect there.

(Laughter.)

ACTING PRESIDENT LITTLE: Thank you. Motion is accepted.

THE SECRETARY: As a judge of the Ontario County Court, William F. Kocher, of Victor.

ACTING PRESIDENT LITTLE: Senator DeFrancisco.

SENATOR DeFRANCISCO: I'd move the nomination of William F. Kocher for a position at the Ontario County Court, and I'd request that you call on Senator Nozzolio to second.

ACTING PRESIDENT LITTLE: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Madam President.

I rise with great pleasure to endorse the candidacy of Bill Kocher to be the Ontario County judge.

Bill has made a career of helping people in Ontario County and the surrounding region. He has truly extended himself time and time again, has had a variety of experiences in the legal profession -- a private practitioner, with the Ontario County district attorney's office, himself as a jurist, as a town judge in one of the busiest courts in all of Western New York.

That Bill has been just an outstanding member of the greater Victor community. That I am extremely pleased that he is pursuing now to be a county judge, pursuing this with great distinction and background. That as all the candidates today have brought a variety of experiences to the bench, Bill has brought, I think, a culmination of many different types of experiences, but with a common thread of helping his community.

That I know he will be a wonderful jurist. We're looking forward to his tenure

as the Ontario County judge. And that I am extremely pleased that Governor Pataki made this nomination, and I certainly want to provide full endorsement from this house.

Madam President, I move the nomination.

ACTING PRESIDENT LITTLE: Thank you.

Senator Volker.

SENATOR VOLKER: Madam President, very quickly.

Although Bill Kocher lives just across the way in Senator Nozzolio's district, in Victor, I represent part of Ontario County. And Bill Kocher has an excellent reputation there. He's highly thought of by the bar people; that is, the attorneys in the county.

And there's no question that he'll make an excellent Ontario County judge, and I highly recommend him and wish him the very best.

ACTING PRESIDENT LITTLE: Thank you.

The question is on the nomination of William F. Kocher, of Victor, as a judge of

the Ontario County Court. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: William F. Kocher, of Victor, is hereby confirmed as a judge of the Ontario County Court.

Judge Kocher is accompanied today by his wife, Mary.

Congratulations, Judge Kocher.

(Applause.)

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: As a justice of the Supreme Court of the Sixth Judicial District, Caesar D. Cirigliano, of Waccabuc.

ACTING PRESIDENT LITTLE: Senator DeFrancisco.

SENATOR DeFRANCISCO: I move the nomination of Caesar Cirigliano to the position of justice of the Supreme Court of the Sixth Judicial District and request that you recognize Senator Meier to second the

nomination.

ACTING PRESIDENT LITTLE: Senator Meier.

SENATOR MEIER: Madam President, I'm pleased to second the nomination of Justice Cirigliano to fill a vacancy in the Sixth Judicial District.

He brings vast experience as a judge of the Court of Claims, and we know he'll serve with distinction.

ACTING PRESIDENT LITTLE: Thank you.

The question is on the nomination of Caesar D. Cirigliano, of Waccabuc, as a justice of the Supreme Court of the Sixth Judicial District. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: Caesar D. Cirigliano is hereby confirmed as a justice of the Supreme Court of the Sixth Judicial District.

Congratulations, Judge Cirigliano.

(Applause.)

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: As a justice of the Supreme Court of the Eighth Judicial District, Timothy J. Walker, of Eden.

ACTING PRESIDENT LITTLE: Senator DeFrancisco.

SENATOR DeFRANCISCO: I move the nomination of Timothy J. Walker to the position of justice of the Supreme Court of the Eighth Judicial District and would request that you call on Senator Volker to second the nomination.

ACTING PRESIDENT LITTLE: Senator Volker.

SENATOR VOLKER: Madam President, I just want to say that this is another great nominee.

I've known Tim Walker for a number of years. He's a highly respected attorney in Erie County. He actually lives in the town of Eden, that used to be mine and is now Bill Stachowski's.

But he has been a pillar of the legal community in Erie County. No question he'll make an excellent judge. And he's been highly recommended by people all over Western New York, and I wish him the very best.

ACTING PRESIDENT LITTLE: Thank you.

Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Madam President.

I too rise to second the nomination of Tim Walker. I got to know Tim last year. He's here with his family. I'm sure that they're very proud of him, as well they should be.

Tim is an excellent lawyer. He's going to be a great jurist on the Supreme Court in Western New York, including two counties that I represent, Niagara and Orleans.

And, Tim, I look forward to working with you, particularly later on this year as we campaign together. And I think you're going to do a great job. It was an excellent choice on behalf of the Governor.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

The question is on the nomination of Timothy J. Walker, of Eden, as a justice of the Supreme Court of the Eighth Judicial District. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: Timothy J. Walker is hereby confirmed as a justice of the Supreme Court of the Eighth Judicial District.

Judge Walker is accompanied today by his wife, DianaRae; his children, Joshua and Raelynn; his parents, Mr. and Mrs. Walker; his in-laws, Mr. and Mrs. Radtke; and Tim Rohe.

Congratulations, Judge Walker.

(Applause.)

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: As a judge of the

Oneida County Family Court, Brian Michael Miga, of Barneveld.

ACTING PRESIDENT LITTLE: Senator DeFrancisco.

SENATOR DeFRANCISCO: I move the nomination of Brian Michael Miga to the position of judge of the Oneida County Family Court, and I'd request that you call on Senator Meier for a second.

ACTING PRESIDENT LITTLE: Senator Meier.

SENATOR MEIER: Thank you, Madam President.

I'm very pleased and privileged to second the nomination of Brian Miga as a judge of the Family Court for Oneida County.

I've known Brian Miga as a fellow attorney and as a fellow public official now for probably more than 20 years. And Brian has been engaged for many years, as many of us who have practiced law have been, as a general practitioner.

And in many ways, general practice is the best preparation for a court like Family Court, because the lawyer in general

practice in a community the size of Utica, or some of the smaller communities that many of us practice in, puts you face-to-face every day with the problems that people confront in their everyday lives and as they encounter the legal system as they live their lives. And he has extensive Family Court experience.

Family Court is really many times where people turn when they have no place else to go, when something terribly has gone wrong in the life of their family, when they need to have their rights and their responsibilities adjudicated by someone who is fair. And there again, Brian has had the very best preparation for that.

And it's significant that he has not just made his living as a lawyer but that he sees the law as something that lawyers have an obligation to. And he served in the Bar Association as a member of the grievance community, served on the board of directors of the Mid-York Legal Aid Society. He's given back to his community with a particular interest in conservation and environmental causes.

So he is more than an experienced lawyer, he is someone that understands that you have to balance your life as a lawyer with service to the community and with giving back to the community that has been good to you.

And he's also continued that as an elected member of the Oneida County Board of Legislators, which is where I started my own elected political career.

Brian, you are going to be a great Family Court judge. The children and the families of Oneida County are going to be all the better for it. Congratulations, and we wish you well.

ACTING PRESIDENT LITTLE: Thank you.

The question is on the nomination of Brian Michael Miga, of Barneveld, as a judge of the Oneida Family Court. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: Brian

Michael Miga is hereby confirmed as a judge of the Oneida Family Court.

He is accompanied today by his daughters, Jessica and Libby.

Congratulations, Judge Miga.

(Applause.)

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: As a justice of the Supreme Court of the Eleventh Judicial District, Carolyn Geller, of New York City.

ACTING PRESIDENT LITTLE: Senator DeFrancisco.

SENATOR DeFRANCISCO: I'd move the nomination of Carolyn Geller for justice of the Supreme Court of the Eleventh Judicial District and request that you call on Senator Maltese to second.

ACTING PRESIDENT LITTLE: Thank you.

Senator Maltese.

SENATOR MALTESE: Yes, Madam President. I'm very pleased and proud to second the nomination of Carolyn Geller as a justice of Supreme Court for the Eleventh

Judicial District.

She has been well prepared in her education, with a B.A. from Queens College, an M.A. in history from Adelphi University, completed an intensive trial techniques program from the American Institute of Trial Lawyers. She received her J.D. from Hofstra University School of Law with honors and was an associate editor of the Hofstra Law Review, a moot court advisor, and a teaching fellow in contracts. Subsequently, she completed her Master's of Law in 1982.

On legal experience, she served as an associate court attorney for the Law Department of Queens Supreme Court and served in that capacity for some 18 years. She was, in addition, a special referee in the matrimonial part of Queens Supreme Court for some nine years, and presided at nonjury trials and actions for divorce and determined all issues including divorce and all relief related thereto.

And more important than this particular position, she has had the privilege and honor and obligation of serving as a

justice of the Supreme Court for two terms, appointed by Governor Pataki to those terms, and served with great distinction.

I want to again praise Governor Pataki for all his judicial appointments for today and yesterday and certainly tell him that the people of Queens County very much appreciate the appointment of Carolyn Geller as a justice of the Supreme Court. During her terms as an interim justice, she received the commendations and accolades of the bench and bar, and attorneys constantly and continually praised her demeanor and judicial temperament on the bench.

Madam President, I'm very pleased to second the nomination of Carolyn Geller as a justice of the Supreme Court.

ACTING PRESIDENT LITTLE: Thank you, Senator Maltese.

The question is on the nomination of Carolyn Geller as a justice of the Supreme Court of the Eleventh Judicial District. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE:

Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: Carolyn Geller is hereby confirmed as a justice of the Supreme Court of the Eleventh Judicial District.

Congratulations, Judge Geller.

(Applause.)

ACTING PRESIDENT LITTLE: Senator Larkin.

SENATOR LARKIN: Madam President, now we'll turn to Calendar 60B and start off with the noncontroversial reading.

ACTING PRESIDENT LITTLE: Thank you.

The Secretary will read.

THE SECRETARY: In relation to Calendar Number 2050, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 3072 and substitute it for the identical Senate Bill Number 759, Third Reading Calendar 2050.

ACTING PRESIDENT LITTLE: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2050, previously substituted by Member of the Assembly Hoyt, Assembly Print Number 3072, an act to amend the Tax Law.

ACTING PRESIDENT LITTLE: 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: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2052, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 6327B and substitute it for the identical Senate Bill Number 4547A, Third Reading Calendar 2052.

ACTING PRESIDENT LITTLE: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2052, by Member of the Assembly Brodsky,

Assembly Print Number 6327B, an act to amend the Not-For-Profit Corporation Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 7. This act shall take effect on the 60th day.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Senator Duane, to explain your vote.

SENATOR DUANE: Thank you, Madam President.

I'll be voting in favor of this bill, which has to do with not-for-profit corporations and the operation and duties of crematories and cemeteries.

As most people in this house know, because we didn't have a law called Timothy's Law, Timothy died. And even the people grieving because of his death may not have been able to get the mental health services that they needed as a result, including those people who may have started drinking or sunk into alcoholism or some other kind of

prescription drug abuse as a result of the death in their family.

And so I hope, Madam President, that we are not at a point today of grieving for a Timothy's Law that's inclusive and comprehensive not coming to the floor of this body before we leave.

I'll be voting yes, Madam President, still with the anticipation that promises will be kept and that a Timothy's Law will come to the floor of this body before we adjourn.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Senator Duane will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 60. Nays, 1. Senator Maltese recorded in the negative.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 2053, by Senator Maziarz --

SENATOR LARKIN: Lay it aside for the day.

ACTING PRESIDENT LITTLE: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 2054, by Senator Maziarz, Senate Print 4950, an act to amend the Workers' Compensation Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 2055, by Senator Farley, Senate Print 5107C, an act to amend the Real Property Tax Law.

ACTING PRESIDENT LITTLE: 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: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 2056, by Senator Bonacic, Senate Print 5136, an act to amend the General Municipal Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the same date and in the same manner as Part W of a chapter of the Laws of 2005.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 2057, by Senator Morahan, Senate Print 6775B, an act to amend the Public Health Law.

ACTING PRESIDENT LITTLE: 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: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2058, Senator Leibell moves to discharge, from the Committee on Education, Assembly Bill Number 347B and substitute it for the identical Senate Print Number 6858, Third Reading Calendar 2058.

ACTING PRESIDENT LITTLE: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2058, by Member of the Assembly Bradley, Assembly Print Number 347B, an act to amend the Education Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2059, Senator Coppola moves to discharge, from the Committee on Local Government, Assembly Bill Number 9155A and substitute it for the identical Senate Bill Number 7026, Third Reading Calendar 2059.

ACTING PRESIDENT LITTLE: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2059, by Member of the Assembly DelMonte, Assembly Print Number 9155A, an act to amend the Real Property Tax Law.

ACTING PRESIDENT LITTLE: 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: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 2060, by Senator Saland --

SENATOR LARKIN: Lay it aside for the day.

ACTING PRESIDENT LITTLE: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 2062, by Senator Volker, Senate Print 7730A, an act to amend the Correction Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 2063, by Senator Young --

SENATOR VALESKY: Lay it aside.

ACTING PRESIDENT LITTLE: The

bill is laid aside.

THE SECRETARY: In relation to Calendar Number 2064, Senator Young moves to discharge, from the Committee on Rules, Assembly Bill Number 11451 and substitute it for the identical Senate Bill Number 7827, Third Reading Calendar 2064.

ACTING PRESIDENT LITTLE: The substitution is so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2064, by Member of the Assembly Alessi, Assembly Print Number 11451, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT LITTLE: 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: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to

Calendar Number 2065, Senator Nozzolio moves to discharge, from the Committee on Rules, Assembly Bill Number 11102 and substitute it for the identical Senate Bill Number 7857, Third Reading Calendar 2065.

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

The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2065, by Member of the Assembly Oaks, Assembly Print Number 11102, an act to amend the Town Law.

ACTING PRESIDENT LITTLE: 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: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 2068, by Senator Saland, Senate Print 8340, an

act to amend the Education Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 2069, by Senator Johnson, Senate Print 8351, an act in relation to transportation contracts.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 2070, by Senator Seward, Senate Print 8358, an act to --

SENATOR VALESKY: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

That completes the reading of the noncontroversial calendar.

Senator Larkin.

SENATOR LARKIN: Madam President, would you ring the bell and remind our colleagues that this is now on the controversial calendar and there'll be a call.

We'll go to 2070, by Senator Seward.

ACTING PRESIDENT LITTLE: The Secretary will ring the bell, and the Secretary will read.

THE SECRETARY: Calendar Number 2070, by Senator Seward, Senate Print 8358, an act to amend the Insurance Law.

SENATOR LIZ KRUEGER: Explanation, please.

ACTING PRESIDENT LITTLE: Thank you.

Senator Seward, an explanation has been requested.

SENATOR SEWARD: Certainly, Madam President.

This bill contains a number of consumer-friendly initiatives designed to assist consumers residing in the coastal areas of our state to obtain and maintain insurance coverage, including a number of things: Placement of the Coastal Market Assistance Program, the so-called CMAP program, in statute; reauthorizing the temporary panel on homeowner's insurance; requirement that insurance carriers send notices annually regarding the availability of flood insurance. And finally, it directs the Insurance Department to implement a program to encourage carriers to write insurance in New York State.

ACTING PRESIDENT LITTLE: Thank you.

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. If the sponsor would yield, please.

ACTING PRESIDENT LITTLE: Thank

you.

Senator Seward, would you yield for a question?

SENATOR SEWARD: Certainly.

ACTING PRESIDENT LITTLE: Thank you.

The Senator yields.

SENATOR LIZ KRUEGER: Thank you.

So part of this bill deals with the NYPIUA insurance program. But does it make it permanent?

ACTING PRESIDENT LITTLE: Senator Seward.

SENATOR SEWARD: Well, Madam President, the future of NYPIUA, whether permanent or for a period of time, is not addressed in this particular legislation.

I can assure the Senator and other members of this body that certainly this house will not allow NYPIUA to lapse, but that's a matter that will -- still under discussion and will be determined later this week, in terms of a final resolution of the term of the length of time for the NYPIUA extender.

So this bill does not relate to

that question, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. If the sponsor would continue to yield.

ACTING PRESIDENT LITTLE: Thank you.

Senator Seward, do you continue to yield?

SENATOR SEWARD: Certainly. Certainly.

ACTING PRESIDENT LITTLE: Thank you.

The Senator yields.

SENATOR LIZ KRUEGER: Senator, I'm looking at another Senate bill, it's S7397. It was introduced by Senator LaValle and a number of your other colleagues. And it seems to have some overlapping sections with your bill, but then again it goes further and it includes issues like making permanent NYPIUA and establishing some rules around the percentage increases that insurance companies

can raise their rates within certain periods of time.

And I'm just wondering, is there a reason that your bill doesn't include as many things as Senator LaValle's bill, S7397?

SENATOR SEWARD: Well, Madam President, I must confess I don't have that particular bill in front of me. It's very difficult to discuss it with any specificity.

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

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

SENATOR LIZ KRUEGER: Thank you.

Well, I certainly am not opposed to a bill that ensures we continue the CMAP program, the Coastal Market Assistance Program. I am, though, again, for the record, frustrated that, as Senator Seward pointed out, perhaps within the last two days of the session of 2006 we are not addressing another critical insurance problem for homeowners, in particularly geographically the same areas as the issue of the Coastal Market Assistance Program, the CMAP program.

And that is the fact that it seems like every year that I've been here we literally get down to the wire for property owners who are concerned about their ability to continue to have insurance coverage under the NYPIUA program, that we establish rules for notifying them that their insurance might lapse, but then we're going to put it back.

And again, I'm very disturbed that while we're moving a piece of insurance law that is important here on Wednesday of the final week of session, that it is Wednesday of the final week of session and we have so many other important issues around insurance coverage that we have yet to address. And I worry that the clock is ticking.

And I respect that Senator Seward recognizes, I think, that we have this problem, and he said we'll deal with it later this week. But we're getting awfully close to the end of that last week.

So I will vote for the bill, but again, for the record, I'm very concerned that there are so many other parallel and equally important insurance issues for constituents

that have yet to be addressed.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Klein.

SENATOR KLEIN: Madam President, would the sponsor yield for a question.

ACTING PRESIDENT LITTLE: Thank you.

Senator Seward, do you yield?

SENATOR SEWARD: Yes.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR KLEIN: Through you, Madam President.

Senator Seward, the Coastal Market Assistance Program, if that was indeed in effect, how would it handle the situation that recently occurred where Allstate canceled over 28,000 homeowner insurance policies in coastal areas in New York City, Westchester, and Long Island?

SENATOR SEWARD: Well, Madam President, the CMAP program is in effect and has been for some time, a period of time. The

problem is that it is -- by regulation through the department, this bill would actually put the CMAP program into statute in the State of New York, formalize it.

But it does provide relief in this way. When homeowners in the coastal areas of our state are having difficulty in obtaining homeowner's insurance, they call NYPIUA, which is in fact the insurer of last resort.

The way the CMAP program works is that before a homeowner is placed in NYPIUA, the CMAP program, which is made up of the various insurance carriers in the region, writing in the region, and they are given an opportunity to place that particular insured in their company in the voluntary market. Which, in effect, allows that homeowner to receive coverage in a less expensive manner than through NYPIUA.

So it's to that property owner's advantage to be placed through the CMAP, rather than going to that insurer of last resort, NYPIUA. From a financial point of view.

So that's how it will provide

relief to those who may find themselves having difficulty in securing coverage because of being dropped by Allstate.

SENATOR KLEIN: Again, through you, Madam President, would the sponsor continue to yield.

ACTING PRESIDENT LITTLE: Thank you.

Senator Seward, do you continue to yield?

SENATOR SEWARD: Yes. Yes, I will.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR KLEIN: Senator Seward, the Coastal Market Assistance Program, would the program at least have the authority or be able to make recommendations to the State Insurance Department in lowering the threshold of how many -- what percentage insurance companies can actually eliminate or nonrenew their policies in the New York State? Presently the level is 4 percent per year.

SENATOR SEWARD: I didn't understand the question. Are you asking who

would have their --

SENATOR KLEIN: In other words, under this program, would they be able to make recommendations that would have any authority to be able to recommend to the State Insurance Department whether or not we can lower the threshold?

You see, the problem is presently an insurance company can cancel up to 4 percent of their policyholders. Again, going back to the example of Allstate, they've canceled to date 3.1. So they're clearly getting close to that 4 percent threshold.

I was curious whether or not this program would be able to make recommendations to the State Insurance Department on whether or not we should be lowering that threshold even further.

SENATOR SEWARD: Well, Madam President, that threshold is actually in statute. The department couldn't do it on their own.

However, in response to the Senator's question, I would point out that another piece of this bill is that we

reauthorize the temporary panel on homeowner's insurance, which has been dormant for a few years, but we reauthorize them and get them reupped so that they can begin once again to look at the particular problems in the coastal areas of our state.

And some adjustment to the nonrenewal number could very well be an issue that they will look at and make recommendations.

SENATOR KLEIN: Thank you very much, Mr. Seward.

On the bill, Madam President.

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

SENATOR KLEIN: I applaud Senator Seward's effort to do something about the coastal insurance policies, which became a very, very big issue this year.

As I said earlier, Allstate, one of the -- the largest writer of homeowner policies in New York State, just canceled about 28,000 of their policies. That's about 3.1 percent of their total policies in New York State. They specifically did it in

coastal communities in Westchester, Long Island, in my district in the Bronx.

And I think that what they've done has clearly been disingenuous. I've spoken to many of the homeowners that lost their policy in my district. And if they also had their automobile policy as well as their homeowner policy with Allstate, they didn't cancel them. But someone could be maybe much further from the water and if -- again, if they had their homeowner policy and their automobile policy, they kept their insurance.

So I think we really need to do a lot more. I attempted to pass an amendment in this house last month which would have lowered the threshold for the number of insurance policies an insurance company can cancel in one year. Presently, it's at 4 percent. Under my proposed amendment, it would go down to 2 percent.

Also, I think we need something as far as a law on the books in New York State that once and for all makes insurance companies, specifically insurance companies that write homeowner policies, to give a

specific reason, a reason why they're cancelling their policies.

What Allstate is doing presently is equating our coastal communities in New York to South Florida and New Orleans, which just isn't the case. Anybody you speak to, thank God we don't have the same likelihood of having a massive hurricane hitting our region, and we shouldn't be treated as such.

But even if we were, I think it's incumbent upon these insurance companies to really give us a reason, to tell us why they're cancelling our policies instead of just getting a letter.

And again, I think the last time I passed this amendment I didn't have the information that I have now, where now we're finding, in many cases -- and this is in consultation with the State Insurance Department, Commissioner Mills -- there are other insurance companies that are now willing to write these coastal policies.

So clearly Allstate, I think, was just setting us up to try to get a national policy, a catastrophic damage front that would

pick up the tab for any future emergencies, which I think is wrong.

So again, I applaud Senator Seward on his effort to do something about homeowner policies in coastal communities. I think we really need to do a lot more, so I vote no on this legislation.

ACTING PRESIDENT LITTLE: Thank you.

Senator LaValle.

SENATOR LaVALLE: Thank you, Madam President.

Certainly I appreciate Senator Seward's efforts to try and address a very, very difficult problem. But there is a disaster waiting to happen.

And I can only speak on Long Island. And I speak and have spoken to the insurance agents, independent agents, that deal with this issue on a day-to-day basis in my district. I think I probably represent the longest shoreline of any Senate district.

And this legislation falls far short of addressing the problem. As a matter of fact, this legislation is barely a Band-Aid

in addressing a problem that is so critical.

I discussed this this week, this legislation, with the agents. And I talked about the CMAP program, I talked about other provisions in this legislation. And I said, "You know, this bill provides some things in it that may be helpful." I did not have an agent who agreed. And they have indicated to me -- and I use them as the professionals in guiding myself on how I should vote on legislation. And they said, to a person: You should cast a negative vote. And I will cast a negative vote on this.

The CMAP program is a program that gets individuals involved in a voluntary mechanism. Now, I understand marketplace dynamics. And we try to accommodate the companies. But the companies have been unreasonable in what they are doing.

Senator Klein talked about Allstate Insurance. Allstate is but one, I am being told, one company that is pulling out of the marketplace. And those that might be coming in, our constituents will have a wake-up call when they get a policy where they're paying

$900 and someone will underwrite it for them for $3,000.

When you add the high property taxes and LIPA bills that we have, this is unreasonable. It has begun to effect the marketplace in people buying homes, because people are afraid that they will not be able to receive insurance.

This is very serious. With daily bulletins that Long Island is a prime candidate to be hit by a hurricane, people are really -- they don't know what to do. The brokers are frightened, because they are in a direct relationship with their clients. And they feel that they will not be able to either underwrite insurance or, if they do, it will be at triple or quadruple the present rates that people are paying.

This Legislature has to take this issue seriously. It has to put the companies' feet to the fire. We must do that. This legislation does not address that problem. It is, as I said, I don't believe even a Band-Aid.

So, Madam President, when you call

the roll, I will be casting my vote in the negative on this legislation.

ACTING PRESIDENT LITTLE: Thank you.

Is there any other Senator wishing to be heard?

The debate is closed, and the Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

Senator Seward, to explain his vote.

SENATOR SEWARD: Yes, Madam President, thank you. I rise to explain my vote.

I share the concern of some of my colleagues who have spoken on this issue, and I certainly -- I certainly share their concern and do not want to understate the problem in our coastal areas of our state.

This is an issue, however, where we

need to proceed in a way that continues to make New York State a good place to write insurance business. Because the real answer to the coverage problems in the coastal areas of our state is to have a number of carriers willing to write and competing for our business. That helps us both on the availability side and the affordability side of the equation.

And so this bill proceeds in a way which I think sets the stage for additional --

ACTING PRESIDENT LITTLE: Please. The speaker cannot be heard, there's so much noise in the chamber. Could we keep it down, please.

SENATOR SEWARD: This bill proceeds down the path of setting the stage for perhaps some additional measures that this Legislature can take, and does so in a way that does not make our state a less attractive place to write business, particularly in the coastal areas.

And I would point out, I'm certainly committed to the continuation of NYPIUA, and we're looking at the CMAP program

here in this particular bill. But I'd point out that that is hardly the answer to the problem, because NYPIUA would cost a property owner about 45 percent higher in premiums.

And so I think the real answer is to make sure that we have a voluntary market in the coastal areas and throughout our state, so that property owners will have a number of choices, both competing for their business and also from a price point of view.

So I vote aye on this legislation and in a way that will continue to make New York State an attractive place to write business. That, ultimately, is the answer to the problem.

ACTING PRESIDENT LITTLE: Thank you. Senator Seward will be recorded in the affirmative.

Senator LaValle, to explain his vote.

SENATOR LaVALLE: Thank you, Madam President.

I think many of us are frustrated on this issue. We're ending the session, and to have a bill that I believe is potentially a

one-house bill at this juncture really doesn't do what we need to do at this point in the session.

Our independent agents oppose this legislation. NYPIUA should be permanent; it's not in this legislation. And this legislation does not address the insurance companies pulling out of the marketplace, does not address that problem.

For those reasons, Madam President, I cast my vote in the negative.

ACTING PRESIDENT LITTLE: Senator LaValle will be recorded in the negative.

Senator Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: Yes, Madam President.

I very much appreciate the comments made by Senator Klein and Senator LaValle. I think that anyone who doesn't conclude, after this discussion, that we have a serious problem with our statewide regulation of the insurance industry is not listening carefully.

I'm going to join my colleagues in voting no on this. There is no reason that

the insurance industry should not, as the insurance industry has been required to do in California and other states, provide reasons before it engages in this sort of conduct. There's essentially no functional regulation in this state that prevents insurance companies from taking advantage of our consumers.

I hope that in the coming year we will be able to address more comprehensively this issue. In the meantime, I commend Senator Klein and Senator LaValle for their comments, and I'm going to join them in voting no.

ACTING PRESIDENT LITTLE: Thank you.

Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Thank you very much, Madam President.

I also want Senator Seward to know I appreciate the work and the effort he's done on this bill.

I myself have had a number of insurance agents who have been to my office. I've actually had meetings with Superintendent

Mills with regard to the disregard that some insurance companies have had in terms of leaving the State of New York. Obviously, when it comes to their ability to raise money and to make money, they do that and they do that very well. However, when it comes to, in particular, homeowners who are looking to acquire that American dream and then to come find out you have an insurance company who has just decided, without any preconditions or at least having the temerity to discuss it with members of the Legislature and/or the regulatory body, to just up and leave, we have a problem. And as a body we need to recognize that and do something about it.

So for those reasons and for all the agents, the independent agents that are underneath the sound of my voice throughout the state, that's going to hear this, I am proudly voting no on this and asking that of all of my colleagues on both sides of the aisle, as many agents will be approaching them after this bill comes off the floor today.

Thank you. I vote no.

ACTING PRESIDENT LITTLE: Thank

you. Senator Smith will be recorded in the negative.

Senator Krueger, to explain your vote.

SENATOR LIZ KRUEGER: Thank you, Madam President.

To clarify, when I was questioning Senator Seward on the bill, I raised Senator LaValle's bill as an alternative. But I said that despite the fact that I didn't think Senator Seward's bill went far enough or did enough, that I thought I could vote for it.

But in fact, after listening to Senator LaValle speak so articulately about the problem that his constituents are facing -- and I believe that when he spoke for his constituents, he's speaking for all constituents who are in a similar geographic situation for themselves, an insurance situation -- I find that I cannot support Senator Seward's bill, because we have a much better answer.

And again, I appreciate Senator LaValle's standing up to explain to us the seriousness of the problem, the failings of

the bill we are speaking of right now. And again, in closing, as I say that I am voting no, I believe there is still time for us to bring Senator LaValle's bill to the floor.

I believe there is still time this session to bring Senator LaValle's bill to the floor, I understand it has an Assembly same-as, and perhaps we could address this problem before we go home this week.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you. Senator Krueger will be recorded in the negative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 2070 are Senators Coppola, DeFrancisco, Diaz, Dilan, Duane, Klein, L. Krueger, LaValle, Marcellino, Montgomery, Morahan, Onorato, Parker, Paterson, Sabini, Savino, Schneiderman, Serrano, A. Smith, M. Smith, Stachowski and Stavisky.

Those Senators absent from voting: Senators Andrews, Connor, C. Kruger and

Sampson.

Ayes, 35. Nays, 22.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Larkin.

SENATOR LARKIN: May we now return to Calendar Number 2063, by Senator Young.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 2063, Senator Young moves to discharge, from the Committee on Local Government, Assembly Bill Number 11832 and substitute it for the identical Senate Bill Number 7760, Third Reading Calendar 2063.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT LITTLE: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2063, by the Assembly Committee on Rules, Assembly Print Number 11832, an act to amend the General Municipal Law and the Tax Law.

ACTING PRESIDENT LITTLE: Thank you.

Senator Young, an explanation has been requested.

SENATOR YOUNG: Thank you, Madam President. Through you.

This legislation allows for municipal clean energy research and development enterprises to be eligible for the qualified Empire Zone enterprise tax credit for real property taxes.

ACTING PRESIDENT LITTLE: Senator Parker.

SENATOR PARKER: On the bill, Madam President.

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

SENATOR PARKER: We have talked a great deal this year about energy and particularly the rising costs of energy around our state and around our country. And I know that particularly upstate has had some difficulty trying to produce energy and making sure there's enough energy for everyone.

However, I think that when we have

legislation, Madam President, that in fact flies counter to what we've doing as both a body and a Legislature, as well as a government, through the Governor, with the raising of the renewable portfolio standard, we're now -- we're looking at ways in which we can add more solar and biomass, biogas, wind energy, hydroelectric energy into the mix so that we both have a safe, reliable, but also cleaner energy supply for the State of New York.

This legislation, it appears to me, would not only encourage dirty, coal-fired power plants if enacted, but also would be using our state dollars, our tax dollars to in fact fund more dirty coal-burning plants. Clearly not, I think, the right direction that we want to go into at this time.

Particularly, you know, as we look at the Department of Health, who warned women and children not to east most of the fish caught in the Adirondacks and the Catskills. And they also issued advisories for 87 different specific water bodies because of fish populations that are unsafe to eat

because of mercury contamination.

And instead of us going forwards and trying to resolve some of this, we are in fact going backwards with this legislation.

Soot from power plants causes 1200 premature deaths in New York annually. And clearly, you know, we all know about global warming, which is raising tides, you know, raising water, destroying forests all over the country.

I think that instead of passing this legislation and putting more money behind dirty sources of energy production, that we ought to be looking another alternative energies.

David Paterson, with his leadership, has created a task force on alternative energy futures which he's asked me to chair. We have been holding hearings and having some significant conversations about the future of energy around the state. I would love to come to Jamestown and cohost one with Senator Young, so we could look at some alternatives to coal-fired power plants and look at really where the future is in solar,

biomass, wind energy and other alternatives.

And so I'm hoping that today my colleagues won't vote yes on this bill and, instead, we will look at the alternatives that are available to us in order to both produce the low-cost, affordable energy that we all need in our districts but also to keep our air, our waterways and the lungs of our children clean.

Thank you.

ACTING PRESIDENT LITTLE: Thank you.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thanks, Madam President. I join Senator Parker in opposition to this bill.

What this bill does technically is to amend the General Municipal Law and the Tax Law to make something that is defined as a municipal clean energy research and development enterprise eligible for Empire Zone enterprise tax credits.

The problem is there's a certain thing of a 1984 quality to what qualifies as a clean energy research and development

enterprise. And it is clear, as Senator Parker has indicated, that what we're talking about in the case of Jamestown is a coal-fired power plant -- which the Sierra Club has stated, in opposition to this bill, as "the most environmentally destructive fuel and technology that is currently on the market."

So I'm very sympathetic to Senator Young's efforts to obtain tax benefits for a municipal project. But if we're talking about something that's called clean energy research and development, let's make sure it is clean energy. Coal-fired power plants are not. It's the dirtiest energy available right now. And I would urge my colleagues we shouldn't be amending the Municipal Law to provide for this.

It's not that we're picking on this particular community. This is a precedent that could be followed in other parts of the state, and we understand there are other programs in the pipeline where people would attempt to obtain tax benefits, under the rubric of clean energy, for coal-fired power plants.

So I would urge all my colleagues to vote no on this legislation. Thank you.

ACTING PRESIDENT LITTLE: Thank you.

Senator Serrano.

SENATOR SERRANO: Thank you, Madam President.

Anyone can just look to the 28th Senate District to get an idea of what pollution can do to a community. The South Bronx and East Harlem have some of the highest asthma rates in the nation. And there's no mystery as to why that is.

But the pollution and overindustrialization and the emissions that we've had to endure in the poor sections of the South Bronx and East Harlem have had a detrimental effect on the youth in the communities of the state of New York.

And that's obviously happening in other parts of the state. And that's why I oppose this legislation, because I feel that we will be using much-needed state resources to continue that process of dirty fuel, of dirty energy.

And we should be focusing our energies entirely on clean energy, on new ways to solve the problems of the demand for energy without damaging the lungs of our children.

So I will oppose this legislation, and I ask my colleagues to do the same.

Thank you.

ACTING PRESIDENT LITTLE: Thank you.

Is there any other Senator wishing to be heard?

The debate is closed, and 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.)

ACTING PRESIDENT LITTLE: Senator Young, to explain her vote.

SENATOR YOUNG: Thank you, Madam President, to explain my vote.

I want to remind my colleagues that this is not a one-house bill, that this also

is passing the Assembly. And the reason why is because it promotes good policy in New York State.

I'd like to draw my colleagues' attention to the fact that it talks about clean energy research and development. And the key word in this is "clean." For a project to qualify, it has to be certified as clean energy by the EPA.

And so what we need to do is make sure that this bill is passed, because one of the things that we need to do more of in New York State is to develop more power sources. That's something that is lacking. We failed to get Article X through the Legislature, Article VII through the Legislature, but our power needs are growing.

And we need to have cheaper power. Recently a report came out about upstate New York and the loss of population. And one of the reasons for the loss of population is the fact that it costs too much to live in upstate New York. We need to cut our taxes, we need to have cheaper power so that we can develop more jobs so that our young people can

stay here and they can have career paths. And by developing more power sources, this does that.

So I want to thank my colleagues for your support on this bill, and I will be voting yes.

ACTING PRESIDENT LITTLE: Thank you. Senator Young will be recorded in the affirmative.

Senator Wright, to explain his vote.

SENATOR WRIGHT: Thank you, Madam President, to explain my vote.

I'm always amazed at the knee-jerk reaction that coal energy is always automatically dirty energy. In fact, what is being advanced by Senator Young, and I commend her efforts, is the reality that there are new technologies relative to coal and those new technologies are being implemented and enable other areas, other states to be competitive.

New York consistently complains about its high cost of energy. One of the reasons for that high cost of energy is the fact that this state has become too dependent

on natural gas. And as a result, we're not using a diversity of fuel sources that we should, that other regions of the nation do, and as a result they achieve competitive prices that we are not achieving.

There is and exists new technology being used in states like Maryland that are achieving the same particulate emission levels as the natural gas combustion facilities. So I want to commend Senator Young for her initiative. It truly is a step in the right direction, and it's an important part of New York State's energy future.

I'll be voting in the affirmative, Madam President.

ACTING PRESIDENT LITTLE: Thank you. Senator Wright will be recorded in the affirmative.

Senator Oppenheimer, to explain your vote.

SENATOR OPPENHEIMER: I'll be voting in the negative.

And this really isn't knee jerk. We all know that in New York State we are trying to diminish the reliance that we have

on fossil fuel, and for very good reason. We have a lot of illness coming from fossil fuel. We have a lot of dead lakes coming from fossil fuel. We have any number of major problems. And we have to start to think differently.

The research -- there may be research down the pike which will show us a way to develop coal-burning furnaces that are not going to pollute. We don't have that yet. And there are ways that we can act right now to start to meet our energy needs. One of them is conservation.

If we all took it seriously -- and I commend a movie to you, "An Inconvenient Truth," which talks about environmental warming. If we took conservation seriously, we would not have to build plants at this juncture.

But if we do build plants -- and I'm not against building plants, but they have to be plants that aren't going to make our environment worse than it is now. It has to be improved, this environment. The air we breathe, the water we drink. And I think efficiency is another avenue that is open to

every one of us. And we can have more efficient usage in our homes, in our factories, with just different types of lighting -- there are any number of things that can be done.

So conservation and efficiency is the way to go. And maybe coal down the road somewhere, when we have more scientific evidence that can make it into a clean-burning fuel.

I'll be voting no.

ACTING PRESIDENT LITTLE: Senator Oppenheimer will be recorded in the negative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 2063 are Senators Breslin, Connor, Coppola, Diaz, Dilan, Duane, Gonzalez, Klein, L. Krueger, LaValle, Montgomery, Morahan, Onorato, Oppenheimer, Padavan, Parker, Paterson, Sabini, Savino, Schneiderman, Serrano, A. Smith, M. Smith, Stachowski and Stavisky.

Absent from voting: Senators Andrews, C. Kruger and Sampson.

Ayes, 33. Nays, 25.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Larkin.

SENATOR LARKIN: Madam President, let's turn now to Calendar 2073, by Senator Little.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 2073, Senator Little moves to discharge, from the Committee on Rules, Assembly Bill Number 11924 and substitute it for the identical Senate Bill Number 8372, Third Reading Calendar 2073.

ACTING PRESIDENT LITTLE: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2073, by the Assembly Committee on Rules, Assembly Print Number 11924, an act to amend the Tax Law.

ACTING PRESIDENT LITTLE: 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: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Larkin.

SENATOR LARKIN: Madam President, can we now return to motions and resolutions.

ACTING PRESIDENT LITTLE: Thank you. Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, I wish to call up Senate Print Number 8019, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 1652, by Senator Fuschillo, Senate Print 8019, an act to authorize.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT LITTLE: The

Secretary will call the roll on reconsideration of the vote.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

SENATOR FUSCHILLO: I now offer the following amendments.

ACTING PRESIDENT LITTLE: The amendments are received.

SENATOR FUSCHILLO: On behalf of Senator Wright, I wish to call up Senate Print 8100, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 1767, by Senator Wright, Senate Print 8100, an act to authorize.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT LITTLE: The Secretary will call the roll on reconsideration of the vote.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

SENATOR FUSCHILLO: I now offer the following amendments.

ACTING PRESIDENT LITTLE: The amendments are received.

SENATOR FUSCHILLO: Thank you.

ACTING PRESIDENT LITTLE: Senator Larkin.

SENATOR LARKIN: Madam President, could we ask the members to stay relaxed for few minutes, not to stray too far away, because in another few minutes we will have some more bills.

I'd also like to ask the members not to get spread out so far that it takes us 25 or 30 minutes to get a vote. You're supposed to be here when we have a vote, so please abide by the rules.

ACTING PRESIDENT LITTLE: Thank you. The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 5:43 p.m.)

(Whereupon, the Senate reconvened at 5:59 p.m.)

SENATOR BALBONI: Madam President.

ACTING PRESIDENT LITTLE: Senator Balboni.

SENATOR BALBONI: We'd like to take up the supplemental active list.

ACTING PRESIDENT LITTLE: Thank you.

I'd like to call the members' attention to the supplemental active list of Wednesday, June 21st. It begins with Calendar Number 247 at the top of the list.

And the Secretary will read.

THE SECRETARY: Calendar Number 247, by Senator Maltese, Senate Print 3034A, an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT LITTLE: 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 LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LITTLE: The

bill is passed.

THE SECRETARY: Calendar Number 708, by Senator Young, Senate Print 7053A, an act to amend the Soil and Water Conservation Districts Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 722, by Senator Meier, Senate Print 5526B, an act to legalize, validate, ratify and confirm.

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

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 848, by Senator LaValle, Senate Print 5604A, an act to amend the Education Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1019, by Senator Young, Senate Print 7213A, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT LITTLE: Read the last section.

SENATOR YOUNG: Lay it aside for the day.

ACTING PRESIDENT LITTLE: The

bill is laid aside for the day.

THE SECRETARY: Calendar Number 1081, by Senator Padavan, Senate Print 7830, an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT LITTLE: 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 LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1331, by --

SENATOR BALBONI: Lay it aside for the day, please.

ACTING PRESIDENT LITTLE: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 1335, by Senator Montgomery, Senate Print 3265A, an act authorizing the City of New York

to reconvey its interest.

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

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1476, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 9891B and substitute it for the identical Senate Bill Number 6812B, Third Reading Calendar 1476.

ACTING PRESIDENT LITTLE: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1476, by Member of the Assembly Thiele, Assembly Print Number 9891B, an act relating to permitting.

ACTING PRESIDENT LITTLE: 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: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1939, by Senator Bruno, Senate Print 8246, an act authorizing the County of Saratoga.

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

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number

2011, by Senator Larkin, Senate Print 8311, an act authorizing the City of Newburgh.

ACTING PRESIDENT LITTLE: 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 LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LITTLE: The bill is passed.

That completes the reading of the noncontroversial bills on the supplemental calendar.

Senator Balboni.

SENATOR BALBONI: Madam President, could we stand at ease for a couple of minutes, please.

ACTING PRESIDENT LITTLE: The Senate stands at ease.

(Whereupon, the Senate stood at ease at 6:06 p.m.)

(Whereupon, the Senate reconvened

at 6:21 p.m.)

SENATOR BALBONI: Madam President.

ACTING PRESIDENT LITTLE: Senator Balboni.

SENATOR BALBONI: May we return to reports of standing committees and the report of the Finance Committee, please.

ACTING PRESIDENT LITTLE: Thank you.

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 State Liquor Authority, Noreen Healey, of Brooklyn.

ACTING PRESIDENT LITTLE: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT LITTLE: Thank you.

The question is on the nomination of Noreen Healey, of Brooklyn, as a member of

the State Liquor Authority. All in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: Noreen Healey is hereby confirmed as a member of the State Liquor Authority.

She is accompanied today by family members: her sister, Nancy Lewis; niece, Kate; nephew, Thomas; and another niece, Mikala.

Congratulations, Noreen Healey.

(Applause.)

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: As a member of the State Board of Parole, Gerald J. Greenan, III, Esquire, of West Seneca.

ACTING PRESIDENT LITTLE: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT LITTLE: Thank

you.

Senator Volker.

SENATOR VOLKER: Madam President, if I might just say quickly -- and it's unfortunate we were not able to do it earlier, but Jerry Greenan is a very close friend of mine.

The only problem is -- Bill Stachowski and I talked about it; a lot of people in Western New York are talking about it -- we think he'll be a great parole commissioner, but we're going to really miss him in the SLA. Because with the tremendous decline in the numbers of people in the SLA, and all the problems, he's been the guy who really was the go-to guy in Western New York.

Extremely competent. He'll make a great parole commissioner. I wish him the very best of luck.

ACTING PRESIDENT LITTLE: Thank you.

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Madam President. On the nomination.

ACTING PRESIDENT LITTLE: On the

nomination.

SENATOR NOZZOLIO: I rise to add my support to this nomination and to certainly echo Senator Volker's comments that we in Western New York have been very much appreciative of the work that Jerry has done in the past.

And that the Crime Victims, Crime and Corrections Committee is very pleased with his qualifications to serve in this new capacity as parole commissioner.

I also wish to thank Congressman Tom Reynolds, who was very supportive of this excellent nomination.

Madam President, it's a fine public servant that we have before us, and I look forward to his continued stewardship in this very important new capacity.

ACTING PRESIDENT LITTLE: Thank you.

Senator Stachowski.

SENATOR STACHOWSKI: Yes, Madam President. I too am happy to rise and second the nomination of Jerry Greenan.

Mr. Greenan lives in my district.

His family is very involved in the community, also in public service. As Senator Volker said, he did an outstanding job with the State Liquor Authority.

And I know that all people that have to deal with the State Liquor Authority wish him well, but they're all concerned whether they're going to get somebody to take his place that will be as open and quick to give a decision and fair as Mr. Greenan has been.

And we think because of the great job that he did there, and that he's done in his other positions, that he'll be truly an outstanding addition to the Parole Board, and we think that -- we'd just like to congratulate the Governor on such a fine selection and congratulate Mr. Greenan and his family on his new position.

ACTING PRESIDENT LITTLE: Thank you.

Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Madam President.

I too want to rise and join with my

colleagues in seconding the nomination of Jerry Greenan. It's, I think, extraordinary that all of the seconders here on the floor are saying the same thing, Jerry, that they're congratulating you on your new position but they're going to miss you at the SLA.

Because as all of us in this room know, in our districts there are always issue with the SLA. And nobody, nobody handled those issues in Western New York and Buffalo and in Rochester with more professionalism and particularly with more speed than Jerry Greenan did. When a constituent called with an issue, we could always call up Jerry direct and he would take care of the problem for the elected officials at all levels of government.

This is an excellent appointment to the Board of Parole. Jerry Greenan is fair, he's honest, and I'm certain that he will carry the same level of professionalism and expertise in his new position as he did in his old position.

Jerry, congratulations to you, congratulations to your family. I know this is a great day for you, and it's a great day

really for the citizens of New York State.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

The question is on the nomination of Gerald J. Greenan, III, of West Seneca, for a term as a member of the State Board of Parole. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Those opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: Gerald J. Greenan, III, is hereby confirmed as a member of the State Board of Parole.

He's accompanied today by his family members: his wife, Thalia; son, Gerod; and daughter, Natasha.

Congratulations, Jerry.

(Applause.)

SENATOR BALBONI: Madam President.

ACTING PRESIDENT LITTLE: Senator Balboni.

SENATOR BALBONI: Yes, before we

go to the next nomination, would you please recognize Senator Connor.

ACTING PRESIDENT LITTLE: Thank you.

Senator Connor.

SENATOR CONNOR: Thank you, Madam President. And thank you, Senator Balboni.

I'm sorry, my colleagues, I was on the phone and the first one up was the Governor's wonderful appointment to the State Liquor Authority, Noreen Healey, who is a constituent of mine, a neighbor of mine, a fellow parishioner, and is an excellent candidate for this position.

She served for five years in the appeals bureau of the Brooklyn district attorney, five years in the Queens district attorney's appeals bureau, three years in the Nassau appeals bureau, career prosecutor. She is now the principal law clerk to a Supreme Court justice in Brooklyn.

She satisfies something that many of my colleagues in New York City and I asked the Governor, in writing, community boards in my district asked, we asked for the last

appointee and didn't get it. We asked again, and we got someone from New York City appointed to the State Liquor Authority. And I'm doubly thrilled that it's someone from my district.

As I've addressed on this floor before, the East Village, the Lower East Side, Soho, there's been problem with enforcement of the 500-foot rule, with -- I went through it before, you can find a three-or-four-block stretch with something like 73 licensed premises on it in the East Village. It's created havoc for the residents.

We now have someone who's familiar with the texture of New York City, the way people live intermixed, these businesses intermixed with residents. We have someone who has the skills, brains and background to address these issues.

I am just delighted. I congratulate and thank the Governor for this wonderful appointment. We will all be well served by Noreen's service on the State Liquor Authority.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Connor. We all join you again in congratulating Noreen Healey on this appointment. Thank you.

(Applause.)

The Secretary will read.

THE SECRETARY: As a member of the State Board of Parole, G. Kevin Ludlow, Esquire, of Clayville.

ACTING PRESIDENT LITTLE: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT LITTLE: Senator Meier.

SENATOR MEIER: Thank you, Madam President.

I'm pleased to rise to second the nomination of G. Kevin Ludlow as a member of the State Board of Parole. I have known Kevin Ludlow and been proud to call him my friend for more than 20 years. And he is no stranger to this chamber, having served admirably on the staffs of two of my predecessors, Senator James Donovan and Senator William Sears.

Kevin has been a practicing attorney in his community for many years, where he's used his skill at the law not just to make a living but to serve the community. And I know his friends and mine at the Willowvale Fire Department are especially grateful for the way he gives so freely of his time and his talent.

Kevin has had some previous experience on the Parole Board. He went from there over to the Commission on Investigations, where I know he played a particularly important role in that body's very important work with regard to investigating the plague of methamphetamine use and production, particularly in our rural areas.

He is a person of great character and ability and someone for whom public service is extremely important and a part of what he views as among the most important things we can all do in life.

He goes back now to the Parole Board, where I know he will serve the people of this state well. I'm proud to second his

nomination.

And, Kevin, we wish you well. Congratulations.

ACTING PRESIDENT LITTLE: Thank you.

Senator Seward.

SENATOR SEWARD: Yes, thank you, Madam President. I am very pleased to rise to support the nomination of Kevin Ludlow to return to the State Board of Parole.

I have known Kevin, as he pointed out in the Finance meeting earlier today, for about 32 years -- 1974, when we were both here as Senate staffers.

And there's no question, as Senator Meier has pointed out, that he has an outstanding record both as a public servant, as a practicing attorney. And he has been in a variety of positions, as a Senate staffer, the Investigations Commission, a previous stint on the Parole Board, and now going back to the Parole Board.

He's an outstanding public servant, he's a great person of high character and ability, just the right combination that we

need on the Parole Board to make those important decisions.

So I'm very pleased, both personally and professionally, to stand to support the nomination of Kevin Ludlow. And I congratulate the Governor on making this nomination, and I congratulate Kevin on this new assignment.

ACTING PRESIDENT LITTLE: Thank you.

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Madam President. I rise to support this nomination and echo the comments of Senators Meier and Seward.

I've only known Kevin Ludlow for 24 years, so I feel just a newcomer to this acquaintance.

However, I know Kevin Ludlow has been no stranger to the Crime Victims, Crime and Corrections Committee, that he has been before the committee on a number of occasions in capacities regarding his first confirmation for Parole and has been very well suited in his -- as Senator Meier indicated, in his

capacities on the State Investigations Commission. And that we are very, very pleased that Kevin is coming back to Parole to serve in that capacity.

That he is, as already noted, grounded in the Legislature. And it's important to have the connection between the Executive and the Legislature, and I know Kevin will help us in the future in order to move the Parole Board ahead and make its operations as efficient and effective as possible.

It's an outstanding nomination, and I'm proud to rise to support it.

ACTING PRESIDENT LITTLE: Thank you.

The question is on the nomination of G. Kevin Ludlow, Esquire, of Clayville, for a term as a member of the State Board of Parole. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Those opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: G.

Kevin Ludlow is hereby confirmed as a member of the State Board of Parole.

Congratulations.

(Applause.)

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: As a member of the Crime Victims Board, Joan A. Cusack, of Staten Island.

ACTING PRESIDENT LITTLE: Senator Johnson.

SENATOR JOHNSON: I'd like to move the nomination. And I'd call upon Senator Marchi, if you'd recognize him for a second. Thank you.

ACTING PRESIDENT LITTLE: Thank you.

Senator Marchi.

SENATOR MARCHI: Madam President, we have a terrific, terrific candidate for this. Because, you know, in the notes that we have, there are new appointments, so there's a lot of elasticity in enumerating their excellent qualities.

But I come better prepared than

that. This candidate has already served a term. And we believe that one good term deserves another.

(Laughter.)

SENATOR MARCHI: So I'm not going to, you know, indulge in a lot of verbiage, because that makes it all obvious. But I will yield -- you know, this is the voice of the people speaking. Senator Maltese will -- he joined me, you know, he worked with me in getting her nominated in the first place.

SENATOR MALTESE: Thank you, Senator Marchi, Senator John Marchi. I guess he leaves the excess verbiage to me.

(Laughter.)

SENATOR MALTESE: Senator Marchi is a man of few words and immense knowledge and experience.

Madam President, on the nomination of Joan Cusack as chairman of the Crime Victims Board.

Joan, of course, has served in that capacity, and has served not only as a member but as chairman. And in that capacity, considering the fact that it was during that

hectic, terrible period of 9/11, she came to the fore and was on duty with the members of the Crime Victims Board.

On 9/12, she was in action, and in that capacity not only served to give aid and succor to the victims and their families but was constantly there, available with her staff, through a period of extreme sorrow. Represented the Governor at funerals, memorial services. And when people needed help and assistance, she was there.

In the period that she has been there, we can look at what has happened to the Crime Victims Board, when we realize that under her tutelage -- and in 1990, they gave $9 million in awards. And in the most recent year, they now have given $60 million to crime victims.

Joan Cusack, of course, is admirably qualified through the years, not only as a board member but as an assistant to the Staten Island borough president, Guy Molinari, working as a personal assistant to the New York State Court, the Appellate Division, working as an assistant to

Congressman Guy Molinari, and in many, many community service and Crime Victims Board.

She has brought a new perspective to the Crime Victims Board. In that capacity, she has gone out, she literally goes through daily newspapers and brings to the attention of the crime victims the services of the Crime Victims Board. In the true sense of the word, she is a public servant, not only a public servant but somebody with a sympathetic shoulder, immediately accessible.

And, as I've indicated, not only as chairman, but she has imparted this same spirit, this same activism, this same dedication to the members of the board. They are instantly available, not only to the crime victims but to legislators that turn to them for advice and counsel.

I commend the Governor, I join my good colleague Senator John Marchi on commending the Governor on this excellent appointment and congratulating Joan Cusack on her future confirmation by this body as chairman of the Crime Victims Board.

ACTING PRESIDENT LITTLE: Thank

you, Senator.

Senator Marchi.

SENATOR MARCHI: Madam President, I just wanted to point out that when they come from Staten Island -- we don't have very many appointments to anything. But when we have something, see, we -- we're not very demure about it. So that we took the liberty, and he did it so beautifully and wonderfully that I'm really very happy about it.

And it's also bipartisan. We're not partisan when it comes to Staten Islanders. Diane Savino over here, Senator Savino is also enthusiastic and wants to be a -- join us in placing this name in nomination from the people of Staten Island.

SENATOR SAVINO: That's right.

ACTING PRESIDENT LITTLE: Thank you.

Senator Savino.

SENATOR SAVINO: Thank you, Madam President.

How do you follow Senator Marchi after something like that?

I want to rise to commend the

Governor on this appointment, this reappointment, and I want to echo the sentiments of Senator Maltese and of course Senator Marchi, who spoke so enthusiastically about Joan Cusack, who has served with distinction at the Crime Victims Board since 1995, when this body confirmed her and then reappointed her in 1999.

But I want to say a bit about the woman Joan Cusack. She is an example of what public service is about. This is a woman who took personal, painful experience and turned it into a positive influence for thousands of people around the state, offering that sympathetic shoulder that Senator Maltese talks about, being a member of the community, one of the finest that Staten Island represents.

And I am so proud to stand here today and join Senator Marchi and the rest of the Senate and say congratulations to Joan Cusack on your reappointment.

Oh, and by the way, she is a neighbor of mine, and she's a very good friend of another close neighbor, the borough

president, James Molinaro, who's seated up there in the gallery.

So welcome to you, Mr. Borough President, and congratulations to you, Joan.

ACTING PRESIDENT LITTLE: Thank you.

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Madam President. On the nomination.

ACTING PRESIDENT LITTLE: I'm sorry.

Senator Marchi.

SENATOR MARCHI: Staten Island is doing this in style. And we have the borough president, as she pointed out. I would have done it, but I'm glad that you arrived there firstest with the mostest.

So we're very happy to offer this to the people of the State of New York.

ACTING PRESIDENT LITTLE: Thank you.

Senator Nozzolio.

SENATOR NOZZOLIO: Madam President, I rise to support the nomination, humbly so, following the venerable Senator

Marchi, an honor to do so in any capacity, an honor that we certainly will be missing in the weeks ahead.

And it is a great day to be conominating or coendorsing your candidate, Senator Marchi.

Joan Cusack has been an outstanding member of the Crime Victims Board and that, as was stated so well by Senator Maltese, but I think bears repeating, that Joan Cusack entered this capacity as one who rolled up her sleeves and worked very hard to ensure that justice would be provided to crime victims in some small way for their compensation.

Justice delayed is justice denied, and that is exactly what was happening for those who made claims before the Crime Victims Board.

Time and time again, Joan advised us of what type of steps she was taking and the board was taking to pursue aggressive remuneration for those crime victims and to eliminate the backlog and to provide access to those claims and attention to those claims absolutely as soon as possible.

Again, it is a pleasure that I have, and one of the very nice things about the Senate that we have the connection, through this confirmation process, to provide feedback and to work with the members of the executive and particularly boards like the Crime Victims Compensation Board, to be able to interface and to work together to ensure justice is not delayed.

Again, Senator Marchi, thank you for your stewardship on this and many, many other matters.

But Joan Cusack is a tremendous nominee, a tremendous public servant, and one that I know the Crime Victims, Crime and Corrections Committee is very pleased to endorse again for renomination.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Maziarz.

SENATOR MAZIARZ: Thank you. Very briefly, Madam President.

Joan, if you have the endorsement of Senator Marchi in this chamber, you don't

need anything else. That's really all you need here. And you've had it several times tonight, I might add.

I just want to say that on behalf of constituents, I've interacted with the Crime Victims Board under your leadership, and it has always been in a professional, caring manner for crime victims, those people who through no fault of their own have suffered traumatic experiences.

And I just want to rise to second this nomination. It's an excellent nomination. You do a great job and will continue to do a great job.

ACTING PRESIDENT LITTLE: Thank you.

Senator Golden.

SENATOR GOLDEN: Thank you, Madam President.

It's a privilege to rise for Joan Cusack and her reappointment as a member of the Crime Victims Board.

I'm sure justice has been done to her by many of my members here today on the floor. She's done a great job and she's been

a great lady, and the Governor has made a great appointment.

And of course she comes well staffed here, with the borough president of Staten Island, Jim Molinaro.

And thank you, sir, for joining us in these chambers today.

But Joan is a little special. She grew up in my community, her mom grew up in my community. And not because it's in my community, but this lady would come out to victims, to their homes, and talk to them and come to my office and other offices in the city of New York to assist those that were victims and to make sure that we in government at the city and state level moved, to make sure that we took care of those issues.

Joan, you're a win for us. Thank you. And the Governor made a great choice. Congratulations.

ACTING PRESIDENT LITTLE: Thank you.

The question is on the nomination of Joan A. Cusack, of Staten Island, for a term as a member of the Crime Victims Board.

All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Those opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: Joan A. Cusack is hereby confirmed as a member of the Crime Victims Board.

And she's accompanied here tonight by her son, Robert, and by the borough president, James Molinaro.

Congratulations, Joan.

(Applause.)

ACTING PRESIDENT LITTLE: Obviously a very proud son.

The Secretary will read.

THE SECRETARY: As a member of the Metropolitan Transportation Authority, Jeffrey A. Kay, of Bayside.

ACTING PRESIDENT LITTLE: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT LITTLE: Senator Stavisky.

SENATOR STAVISKY: Madam President, very briefly.

Mr. Kay is the appointee of the Mayor to the MTA board. He is not a newcomer to Albany; he served in the Mayor's legislative office, and he serves currently as the director of the Mayor's office of operations.

And I know everybody here wants to congratulate Mr. Kay on his appointment. Thank you.

ACTING PRESIDENT LITTLE: Thank you.

Senator Golden.

SENATOR GOLDEN: Jeffrey Kay is another great appointment here by our Governor, and by the Mayor of the City of New York, as a member of the Metropolitan Transportation Authority.

Jeffrey did work here in the state for the Mayor of the City of New York, as his chief of staff, and today is working for the Mayor in City Hall. And he's been able to try and bring across what the Mayor needs to be done for the City of New York, and has done a

great job.

What we've seen Jeffrey do here at the state level for the city, and what he will be able to do for the MTA, he'll be able to move that MTA where I believe it has to go. We congratulate Jeffrey, and we thank the Mayor for this great nomination.

Jeffrey, congratulations, and thank you for being part of the MTA and driving it in the right direction.

ACTING PRESIDENT LITTLE: Thank you.

The question is on the nomination of Jeffrey A. Kay, of Bayside, for a term as a member of the Metropolitan Transportation Authority. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: Jeffrey A. Kay is hereby confirmed as a member of the Metropolitan Transportation Authority.

Congratulations, Jeffrey.

(Applause.)

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: As a member of the Board of Trustees of the City University of New York, Philip A. Berry, of New York City.

ACTING PRESIDENT LITTLE: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT LITTLE: Thank you.

Senator Ada Smith.

SENATOR ADA SMITH: Thank you, Madam President. I rise to second the nomination of the Philip Berry as a member of the Board of Trustees of the City University of New York.

As a graduate of City University several times, I know the importance of having knowledge someone that has knowledge of the institution, and Philip certainly has that. He has been involved in many aspects of the community, in the city, and he brings that

knowledge as well as his knowledge of being in the corporate world to this position.

And I know that he will do well, and I commend the Governor for this appointment.

ACTING PRESIDENT LITTLE: Thank you.

The question is on the nomination of Philip A. Berry, of New York City, for a term as a member of the Board of Trustees of the City University of New York. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: Philip A. Berry, of New York City, is hereby confirmed as a member of the Board of Trustees of the City University of New York.

Congratulations.

(Applause.)

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: As a member of

the Board of Trustees of the City University of New York, Frieda Foster-Tolbert, of New York City.

ACTING PRESIDENT LITTLE: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT LITTLE: Senator Paterson.

SENATOR PATERSON: Madam President, Senator Johnson is so accurate and swift, I didn't want the moment to go by without Senator Johnson recognizing that Frieda Foster-Tolbert is from his alma mater and mine, of Hofstra University.

She received her B.A. there in 1992, has gone on to get an M.W.S. from the University of Wisconsin, and has gone on to the Governor's office as an assistant in the area of African-American affairs and also now serves as the deputy director for communications for the Governor's office. Served very well in all of those capacities.

And we are delighted, all of us, Senator Ada Smith and myself and people who

watched her throughout her entire career, we are very proud of her. And we are elated that the Governor would put her name in nomination at this time, someone who is steadfast, disciplined, and tends to her deliberations with the greatest of exuberance and energy.

And we think that she'll bring that to the field of education on the board of the City University of New York and will take that knowledge in a way that will benefit all of the young people who will matriculate in that system, giving back to those who made it possible for her to be as successful as she's been.

So I'm very happy to second this nomination. And I know that when this is over, that an alumni like Senator Johnson is going to go up there and congratulate her personally.

Thank you.

ACTING PRESIDENT LITTLE: Thank you.

Senator Ada Smith.

SENATOR ADA SMITH: Thank you, Madam President.

I rise to second the nomination of Frieda Tolbert. And I say that with love, even though I think the one mistake she made was in getting married to Terrance. And she has never made another mistake. And that's said lovingly and jokingly.

Frieda will be a wonderful addition to the board of trustees of City University. She has been involved in activities of City University. She understands the problems of the young people because she too is young.

She understands how they can sometimes not be able to afford the minimal tuition of the City University. She understands the problems of those who are working and attempting to get an education.

And I know that she will take all of this into consideration while deliberating as a member of the board of trustees.

ACTING PRESIDENT LITTLE: Thank you, Senator.

The question is on the nomination of Frieda Foster-Tolbert, of New York City, for a member of the Board of Trustees of the City University of New York. All in favor

signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: Frieda Foster-Tolbert is hereby confirmed as a member of the Board of Trustees of the City University of New York.

She is accompanied tonight by her husband, Terrance.

And congratulations.

(Applause.)

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: As a member of the Board of Trustees of the New York State Higher Education Services Corporation, Richard Saunders, of Glens Falls.

ACTING PRESIDENT LITTLE: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT LITTLE: Thank you.

And if I may, I would like to speak about Richard Saunders, who is joining us here tonight.

He is certainly the youngest appointee that we have with us. He is a student at Adirondack Community College, a member of the student council, has been active at Glens Falls High School, where he graduated as president of the student council, and comes from a long family of public service.

His grandmother, Kay Saunders, served on the city council in Glens Falls for 16 years and was active in many other committees, as was his grandfather. His father was on the county board of supervisors.

So it's no surprise that Richard Saunders is willing to take a position and work in public service. He is an Eagle Scout and very proud of that. And I know he will do a fine job as he finishes his education at Adirondack Community College and then continues to get a four-year degree here in New York State.

Therefore, I am very pleased to second the nomination of Richard Saunders for

this position.

The question is on the nomination of Richard Saunders as a member of the Higher Education Services Corporation Board of Trustees. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: Richard Saunders is hereby confirmed as a member of the Higher Education Services Corporation Board of Trustees.

Congratulations, Richard.

(Applause.)

ACTING PRESIDENT LITTLE: Senator Skelos.

SENATOR SKELOS: Madam President, if we could go to Supplemental Calendar Number 60A and take up Calendar Number 2046 on the controversial calendar.

ACTING PRESIDENT LITTLE: Thank you.

The Secretary will read.

THE SECRETARY: Calendar Number

2046, by Senator Skelos, Senate Print 8441, an act to amend the Criminal Procedure Law and the Civil Practice Law and Rules.

ACTING PRESIDENT LITTLE: Senator Skelos.

SENATOR SKELOS: Madam President, is there a message of necessity at the desk?

ACTING PRESIDENT LITTLE: Yes, there is, Senator.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT LITTLE: Thank you.

All those in favor of accepting the message of necessity please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: The message is accepted.

Read the last section.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT LITTLE: The

bill is laid aside.

SENATOR SKELOS: Madam President, can we call up Calendar 2048.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 2048, by Senator Skelos, Senate Print 8446, an act to amend the Executive Law.

ACTING PRESIDENT LITTLE: Senator Skelos.

SENATOR SKELOS: Is there a message of necessity at the desk?

ACTING PRESIDENT LITTLE: Yes, there is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT LITTLE: Thank you. All those in favor of accepting the message of necessity please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: The message is accepted.

Read the last section.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

SENATOR SKELOS: Madam President, can we call up Calendar Number 2049.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 2049, by Senator Skelos, Senate Print 8450, an act to amend the Public Health Law.

ACTING PRESIDENT LITTLE: Senator Skelos.

SENATOR SKELOS: Is there a message of necessity at the desk?

ACTING PRESIDENT LITTLE: Yes, there is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT LITTLE: Thank you.

All those in favor of accepting the message of necessity please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Those opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: The message is accepted.

Read the last section.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could ring the bills to notify the members that we're going to the controversial calendar.

ACTING PRESIDENT LITTLE: Thank you.

The Secretary will ring the bell.

Senator Skelos.

SENATOR SKELOS: Please call up Calendar Number 2046.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 2046, by Senator Skelos, Senate Print 8441, an

act to amend the Criminal Procedure Law and the Civil Practice Law and Rules.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT LITTLE: Thank you.

Senator Skelos, for an explanation.

SENATOR SKELOS: Thank you, Madam President.

I want to explain this legislation two ways. The first is really the legalese clinical explanation.

And basically, it would eliminate the criminal statute of limitations for Class B sex offenses, rape, and provide for five-year statute of limitations on civil actions based upon the same offense, measured either from the date of the incident or from the date of termination of a criminal proceeding.

The civil cause of action in cases based upon the termination of criminal proceedings can only be brought against the perpetrator or an accomplice.

This is very similar to

legislation, although not exactly the same, which I've sponsored for the past 10 years.

Now, really what it means, it's about this Legislature doing the right thing. It's about bringing the opportunity of justice for women who have been raped, which is probably the most degrading, heinous thing that can happen to an individual.

For too long in the state of New York women have not been able to receive justice because of a ridiculous, insensitive and really obscene five-year statute of limitations. So basically, if that time passed and the perpetrator is found, there is no justice for that woman.

I'd like to give one example, if I can find it here -- well, I don't think it's necessary to give the example. It's basically that, as I said, many times we have individuals that have committed multiple rapes, other crimes, and because of the statute of limitations and also -- and that's the next bill we will bring up -- the inability of law enforcement to take certain DNA samples, these people have gone

unpunished.

The example I wanted to give occurred in Rochester. Late in the fall of 1995, three girls, aged 12, 13, and 17, were sexually assaulted in separate incidents. Police linked them together through DNA. In 1996, Keith Laster, who was subsequently found to be the perpetrator of these crimes, was convicted of a misdemeanor drug possession that did not require offenders to submit a DNA sample. In 1997, another 13-year-old girl was raped. DNA linked this crime to the previous rapes. Five years later, prosecutors filed a John Doe indictment.

Finally, in 2004, Laster was arrested for another rape in Alabama and his DNA was taken. His DNA sample matched those collected from the 1995 and '97 rapes as well as an additional Rochester rape in 1993. The 1993 rape could not be prosecuted because the statute of limitations had expired.

This is what this legislation is about. With the progress that we've had in technology and DNA, there is absolutely no reason why this statute of limitations of five

years should remain on the books.

I want to thank my colleagues on both sides of the aisle and certainly in the Assembly, and Assemblywoman Paulin, who is my cosponsor in the Assembly, for this opportunity to pass legislation and to point out that if the statute of limitations has not expired in rape cases, that will be unlimited now, rather than five years.

Unfortunately, for those where the statute of limitations has expired, there will not be justice. But certainly for so many women who have suffered this injustice, they, I hope, will be more understanding that today we are doing the right thing and other women will not have to suffer the injustice that they have.

ACTING PRESIDENT LITTLE: Thank you.

Senator Volker.

SENATOR VOLKER: Thank you, Madam President.

My congratulations to you, Senator Skelos. And of course obviously we have to thank Senator Bruno, who has persisted in this

matter, along with this house.

The sad part of this -- and I think maybe tomorrow I'll call former Assemblywoman Melinda Katz, who I think is -- isn't she in the City Council now? I believe. Years ago, Assemblywoman Melinda Katz and I sponsored a bill which essentially would virtually -- it wouldn't entirely eliminate the statute but give a lot of latitude to prosecute these cases. And the reason we didn't recommend eliminating the statute, we knew the Assembly wouldn't accept it.

The tragedy of it was -- and we held hearings across the state, in New York City. In fact I think David Paterson asked us to go to Harlem, which we did. I think we went to Suffolk County, Buffalo, we did hearings here.

Unfortunately, in the end, the Assembly wouldn't pass the criminal statute of limitations change, they only wanted to do the civil. And they were more than willing to allow civil prosecution of people who were accused in old rape cases.

Personally, I thought that was

pretty outrageous, because if you're going to do that you should certainly have the ability to deal with somebody criminally. The American system is not to punish by money, something we sometimes forget; the American system is to punish people criminally for acts. Not to punish them by some sort of way of saying, well, how much is a life worth, how much is anything worth.

The truth is -- and as somebody who investigated hundreds of rape cases, I once was -- I oversaw a rape investigation when I was a police officer. I can tell you, the worst part of the whole investigation was the result of what happened to the people who were raped. I came here in part because we couldn't get convictions for rape first virtually anyplace in the state. We couldn't in Erie County, I know that.

We changed the law several years after I was here to eliminate the corroboration issue. We have changed dramatically so that now women can get convictions a great deal of the time.

But more than that, now, Senator

Skelos with this bill has set up a situation where the protection for people who are attacked, sometimes by people that have absolutely no conscience, we'll be able to prosecute them.

So my congratulations, Senator Skelos. Thank you for persisting. It's a shame that we couldn't have done this many years ago, because the Assembly was reluctant to do it. Because had we done it, the situation might be a lot different today.

But there's no sense in looking back. We're going to look forward. And this bill will have a major effect, I believe, on the criminal justice system.

ACTING PRESIDENT LITTLE: Thank you.

Senator Klein.

SENATOR KLEIN: On the bill, Madam President.

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

SENATOR KLEIN: I want to thank Senator Skelos.

But I think probably more

importantly, I want to thank the advocates. I think the group that put in a tremendous amount of effort and time on this issue is the National Organization of Women. They have made this, over the last year, their number-one priority.

I may not have as long on this bill as Senator Skelos or Senator Volker. I introduced this identical bill when I was an Assembly member back in 2002. I think the time then was to pass this, as it is now. I think we lost a lot of time. And I think it's worth repeating some of the statistics.

In 2005, just in New York City alone, over 802 cases went beyond the five-year statute. This year, just in 2006, even though it's not ended yet, another 687 cases. That's over 1400 cases in New York City, those cases will never be prosecuted. The number is close to 2400 in the State of New York.

So while I'm very, very happy that we're finally doing this legislation -- and I think it goes to show you that when you apply some pressure and you're very, very vocal on

an issue, it really does matter. The right thing, the best thing will ultimately happen, and that's certainly the example here.

I held a hearing on this issue earlier in the year where many of my colleagues attended that hearing. And at that time -- I think it's worth repeating a story about another very, very brave woman by the name of Kathleen Hamm. Many of you may have read her story in the newspapers, seen it on TV. She was raped over 30 years ago. And what happened at the time was, believe it or not, at that time our rape laws were so archaic that you had to actually prove resistance. A woman actually had to prove that she had bruises and that she resisted her attacker.

Needless to say, there was a hung jury in the case. While that case was going on, this man -- this sexual predator, I should say -- raped somebody else. During that trial he fled and he jumped bail, never to be seen again.

Well, he turned up about 25 years later in Atlanta trying to buy a gun. They

did a background check, they found the outstanding warrant on the two cases where he fled. And because of the fine work of a New York City detective, they found some evidence and had a positive DNA match.

This individual not only committed the rape against Kathleen Hamm and others in New York City but was also responsible for 25 rapes in Maryland. We now know that he was known as the Silver Spring rapist, someone who they compared to Jack the Ripper and the Boston Strangler.

The only reason why Kathleen Hamm was able to get justice is because her case stopped because it was being prosecuted. So we were able to actually prosecute him under New York law, because the statute was stopped. Unfortunately, the three others aren't so lucky. But at the same time, Kathleen Hamm I think has been very, very brave in advocating to make sure that we get rid of the five-year statute.

I think while we had this law on the books we were sending a very disturbing message to women all over New York State. We

were telling them that the crime of rape is not as serious as the crime of murder, the crime of kidnapping, the crime of arson and certain drug crimes, all crimes that have no statutory limitation.

So I'm proud to say that I think my colleagues -- myself, Senator Savino -- have worked very, very hard I think in a bipartisan fashion. And as I said earlier, every once in a while we really do do the right thing.

And I think the women of the State of New York are much safer and at the same time I think by passing this legislation today we stop giving a get-out-of-jail-free card to rapists and we finally recognize the crime of rape for the heinous crime it is.

I want to again thank Senator Skelos for sponsoring this bill. And of course, Madam President, I'm proud to vote yes.

ACTING PRESIDENT LITTLE: Thank you.

Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Thank you very much, Madam President. I rise to speak

on the bill.

ACTING PRESIDENT LITTLE: On the bill.

SENATOR MALCOLM SMITH: And I do want to acknowledge Senator Skelos's hard work on this particular measure.

Since I have been in this body, every year I've had advocates come and lobby myself around this particular issue. And I will tell you, there is nothing more painful to have someone come before you and explain the event that happened to them; however, given the laws that we had on the books, they were not allowed to come forward and press charges on that individual.

One such story was a young lady who -- and you understand some of the tradition of family in the past. What would happen is in a situation where there was a rape, the family themselves would be so embarrassed and ashamed they would not want anyone in that particular neighborhood or community or even their family to know about it. So it would not go reported. However, the psychological impact that would have on

that individual was long-lasting.

And there are a number of cases of individuals in the district that I have been allowed to represent out in the Rockaways, the Daughters of Victory, who have come forward and said, please, please allow us to be able to come back and file charges against these individuals to get them off the street.

This is a bill which the time has come, there's no question about it. I know Senator Savino and obviously Senator Klein have done some work on it; they should be proud of it as well.

Senator Skelos, who has been diligent on this matter -- it is not an easy bill. It is not one that we like to talk about, because it's not the type of bill that one wants to bring up situations that are very heart-wrenching.

But obviously, with his tenacity, with support of on both sides of the aisle, this is a day that we can at least go home -- and I know the other day the papers reported us, talked about how we did a lot of things on the floor of the Senate and one of the things

we did was do a bill about beer. And while that might have been interesting for some, it might have been embarrassing for others.

Well, I'm proud to be able to go home this week and talk about how we did a responsible bill, one that deals with the elimination of the statute of limitations in situations where there was rape.

And, Senator Skelos, again, to you, Senator Klein, Senator Savino, for your diligence and your forthrightness. This is a great day for the women of this state. It's a great day for us as individuals to be proud about doing something that's right for the people of this state. And I vote aye.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator LaValle.

SENATOR LaVALLE: Thank you, Madam President.

I certainly rise to compliment Senator Skelos on his work, persistence, and focus.

And I just wanted to briefly talk about the hearing that Senator Volker had

many, many years ago in the County of Suffolk on this very, very issue. I remember, after a three-to-four-hour hearing on this matter, listening to people testify who, when they were very, very young, were attacked sexually and for some reason put it in the recess of their mind and literally squashed it until one day there was some -- something that happened that made the incident come vividly to life.

And in this bill, in the civil part it talks very specifically about recovering for not only physical but psychological damage. And many children have been damaged psychologically and live day to day not knowing what happened to them until something triggers that incident that happened to them.

So I think this legislation is well overdue. And it's great to see, as we are talking about this, that so many people in so many ways contributed to this bill coming to the floor and this bill passing in the Assembly. I think it will be very, very helpful not only to people who are grown up who have been raped but for children who have been abused by serial individuals committing

these heinous crimes against humanity.

So, Senator Skelos, congratulations on this day. It will have a great impact in our society and be helpful to the children of our state.

ACTING PRESIDENT LITTLE: Thank you.

Senator Nozzolio.

SENATOR NOZZOLIO: Madam President, on the bill.

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

SENATOR NOZZOLIO: I rise to add my voice to the chorus that has joined in support of this legislation.

I particularly wish to thank Senator Skelos as we have established a zero tolerance for violence in this house in this state. We have, over the past few years, sent a message through the criminal laws of our state that we will no longer tolerate violence in our society.

Senator Skelos last year worked very hard, along with a number of members in this Senate chamber, to update, codify changes

in Megan's Law, to protect children. The bottom line is to protect children.

This measure sends a very clear signal to those who have perpetrated the crime of rape: You can run, but you can't hide. That this legislation that we're enacting today, brought to us through tough negotiations, our Senate, led by Dean Skelos, that we send the message to rapists that if you commit the crime, sooner or later you will do the time. That you will no longer have the opportunity to hide and hope that your cold case will never be resuscitated and that you can relieve yourself of the responsibilities that this type of heinous behavior entails, and will be judged.

I only wish that we had seen this before victims occurred that never found the perpetrator or that found the perpetrator but couldn't convict them. This will prevent that from occurring in the future. And also with a measure that hopefully will be decided very shortly, expanding the DNA database, that this will, taken together, be the one-two punch necessary to protect more innocents in our

society.

Again, thank you, Senator Skelos. I thank my colleagues for supporting this measure. Madam President, it is certainly an outstanding addition to our criminal law.

ACTING PRESIDENT LITTLE: Thank you.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Madam President.

I also want to rise to thank my colleague and good friend Dean Skelos for his stick-to-it-iveness, his caring for the people of this state.

In spite of everything -- in spite of delays, in spite of, in some cases, nonsupport in the other chamber -- Dean has been there for the women of this state and stood up and said although this crime is a difficult one at best to prove, never easy, we're not going to give these rapists the opportunity to avoid the law and evade the law.

By passing this bill, as Senator Nozzolio rightly just said, the word goes out:

There is no place you can hide, there is no time frame in which can you avoid punishment. With new technology, we're going to get you, we're going to prove your guilt, and we're going to put you away to the fullest extent of the law and punish you.

If this was the only piece of legislation that ever come out of this chamber this year, I would consider this an extremely good year. This is a positive, positive piece long overdue. Long overdue.

And again, I want to thank Senator Skelos, Senator Bruno, and the members of this house, both sides. This bill is a must. This bill is truly a significant piece of legislation. And I will proudly vote aye for this bill.

ACTING PRESIDENT LITTLE: Thank you.

Senator Savino.

SENATOR SAVINO: Thank you, Madam President. I rise to enthusiastically support this bill.

And I want to thank Senator Skelos for his leadership, Senator Volker, Senator

Klein, the advocates, the district attorneys around the state, and everybody who participated in making this moment possible.

When I first got elected -- just two years ago, now -- you try and identify some of the issues that you'd like to work on, things that you think are important, the impact that you'd like to have on public policy. This was an issue that for me I felt was critically important.

And I was very happy to see that there were other people already in this chamber who had been working on it for a very long time, coming up against roadblocks, though, meeting opposition -- and meeting opposition sometimes from some of the strangest places.

I've had some incredibly difficult arguments with people who have said to me that they don't think it makes sense to lift the statute of limitations on rape, that women shouldn't be allowed to pursue justice after so many years. And not one of those people has been able to explain to me why I could pursue justice if you burn down my house but

not if I was the victim of a violent sexual assault.

Rape is a woman's greatest fear. It is the one time we are rendered completely unable to protect ourselves. And if, God forbid, it happens to you -- and I can say thank heavens I have never experienced that. But if it did, I would like to know that I had the opportunity to seek justice, whether it was one year, five years, 10 years, or 50 years.

So I want to say that right now I am proud of this Legislature. I'm not always proud of us. Sometimes we are dysfunctional. But we aren't right now. We have rectified a grievous wrong, and we have given women the opportunity to have justice and stop being victimized twice by the criminal justice system. So today we can very proud of what we have done.

And I want to thank everybody for their part in this. And I am happy to say that I took some small part in this. But thank you to Senator Skelos, to Senator Klein, to Senator Volker, to the advocates, the

district attorneys, and every member of this chamber. Thank you. I'm voting for this bill.

ACTING PRESIDENT LITTLE: Thank you.

Senator Duane.

SENATOR DUANE: Thank you, Madam President.

While this bill is excellent and needed, today's passage of this legislation is also bittersweet. Even though victims can get redress in civil court for five years from the termination of the criminal proceeding on the crime, there is no one year from the enactment of the legislation, like California has, for civil redress for victims who were victimized in the past.

Now, this bill works really well if the perpetrators are alive. But we don't try dead people. And so for those victims of people who are now dead, the civil redress, unfortunately, is five years from never. And hundreds or maybe thousands of sex abuse victims will not get their day in civil court, and, unfortunately, many institutions and

organizations will not have to pay.

And I agree that the criminal justice system in America, that the American system of criminal justice, it's about criminals and getting criminals, absolutely. And we want to get the bad guy, and we should get the bad guy.

However, the American justice system is also about civil justice. It really is. And New York is one of the worst in the nation on that, because so many sexual predators who, you know, were in a situation where no one did anything to stop their predatory behavior aren't going to feel any pain because of this. And that's wrong.

Senator Saland and Assembly Member Markey have bills which will provide for a year for people after their bill became law to come forward to find civil redress for past acts of people who did terrible things to them who may not be around or who we don't really know -- they weren't able to come forward.

And, you know, I have legislation pending dealing with this as well, and I had hearings on it dealing with a part of this,

which is those victims of clergy abuse who, like all other victims, or many other victims, it took them -- you know, for many of them it took them a really long time to come forward and speak about it. And some still can't even speak about it, still are not able to talk about the terrible things that happened to them.

And we have to fix that. Our work isn't done. We really do need to provide for civil justice for those victims, and particularly for those where the perpetrators are dead. Because we don't try dead people. And we have to make sure that we send a message to any institutions and groups that allow this to go on that they must never let that happen.

When we talked to victims, they said the only reason they came forward, the only reason they ever talked about the civil side as well as the criminal side was because they never wanted to have happen to other people what happened to them and they wanted acknowledgment of what had happened to them. That's very important for victims.

So -- but I want to say again what we're doing today is great. And it's really important. And it's very important that we get the living perpetrators. But our job is not done until we get closure in every part of our criminal and civil justice system for victims so that they get their day in court. We have to make sure that there's a day in court for criminal justice and for civil justice.

We've done a good job on the criminal justice part today. We have more to do on the civil justice part of it. I'm going to vote yes. But let's not stop, let's finish the job. Thank you.

ACTING PRESIDENT LITTLE: Thank you.

Senator Krueger.

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

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

SENATOR LIZ KRUEGER: Thank you.

A lot of us have cellphones, and they probably allow for text messaging. For

the last three days I've been getting text messaging from a friend and constituent in my district, a survivor of sexual assault. And her notes keep saying "Make sure you pass this bill before you come home." So I text-messaged back just a few minutes ago that we are passing this bill.

But to follow up on something Senator Duane said, this is a beginning, not an end. Because if you know about the realities of sexual assaults in this state, you know that every day women are still being assaulted -- and sometimes men are being sexually assaulted. Let's not make this just about women.

And in some parts of the state, if they come into an emergency room, they're going to have trained rape counselors and they're going to talk to police officers who have been trained in how to get the information, how to do the right kind of forensic evaluation and how to be sensitive to the fact that they are suffering from literally posttraumatic stress disorder at that moment. But in other parts of the state,

none of those services are available.

And so today, with this bill, we address one serious issue for survivors of sexual assault. But we should not go home imagining that we've in fact addressed the problems of tomorrow's survivor of sexual assault. We have so much more to do to try to prevent these attacks from ever taking place and from ensuring that if you or someone you know ends up being a victim of sexual assault, a survivor of sexual assault, that every service that can be made available to you, both to help you pull back your life together, address your health needs and ensure that the police department and the district attorney's office have everything available to go after, catch and prosecute whoever attacked you -- that that is still the assignment before us.

So I'm very proud to vote yes on this bill, but I don't want us to go home thinking now we're done with this topic.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Young.

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

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

SENATOR YOUNG: In this Legislature we work on so many important issues, issues like tax relief and jobs, healthcare and education. But I can't think of a more important issue than to protect the people of New York State, and this bill does that.

I've had the privilege of serving in the Senate now for one year, and prior to that I served in the Assembly for six years. And ever since I began in state government, this has been a priority, because there was a glaring problem in the law where rape cases could not be prosecuted after five years. There was a statute of limitations.

And that was wrong. And the reason that it was wrong is because of technology advances that we've had over the years. We now have DNA evidence. We now can go back and determine whether a criminal committed a rape.

Previous to this passage of this

legislation, women in our state who were rape victims were being victimized twice. Twice. And the reason was is that, number one, of course the criminal act that was permitted against them through the rape. But secondly, if it went beyond that five-year period and they had the evidence, the rapist could not be tried and convicted. That is a huge, huge injustice.

And so I want to commend this Legislature, this Senate for correcting that injustice today. I especially want to thank my colleague Senator Dean Skelos for his leadership in this very issue, because it took persistence to make sure that this made it all the way through the process. And we had great negotiators, with Senator Dale Volker. And of course Senator Bruno has been a staunch advocate to make sure that this bill made it through the process.

So I congratulate everyone who worked so very hard to make this happen. Today we are correcting an injustice, and from now on, in these cases, justice will be served.

I will be voting yes. Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Paterson.

SENATOR PATERSON: Thank you, Madam President.

I think that the spirit of the debate was enriched by a lot of poignant remarks that my colleagues have made this afternoon, not the least of which was the assertion by Senator Marcellino that if we did nothing else this year that we could go home proud of the legislation that we've just passed.

I think that that's right. In that respect, I congratulate Senator Skelos and also Assemblywoman Paulin, who is carrying this bill in the Assembly, whose heroism and dedication to this issue compelled her to put herself in a position personally to perhaps let people all around the state know that you're never in a position where you cannot be victimized by this type of a crime.

And so in spite of the fact that I

would have, frankly, written this bill differently, I want to congratulate all of those who have worked on this bill and concur that this probably is the most effective piece of legislation that the New York State Legislature will pass this particular year.

In 1991, when this was an issue that was on my mind, I went to the office of Senator Volker to talk about statutes of limitations for rape, the issues of child sexual abuse, and tolling the statute of limitations, if we weren't going to get rid of it completely, because of the difficulties of prosecuting those types of cases.

And as he pointed out earlier in the discussion, Senator Volker held hearings in five parts of the state: in Suffolk County, in Harlem, the district that I represent, in Syracuse, in Albany, and also in his home area of Erie County. We heard testimony from individuals all around the state, and we heard testimony that is the basis for a record I would like to make on this issue relating to the issue of civil lawsuits arising from these types of crimes.

I feel that this legislation focuses on the inevitability of conviction when we're able to acquire DNA evidence. And DNA evidence, five, 10, 20, 30 years after a crime as heinous as this can be very effective in those prosecutions. It can almost assure them.

But where there isn't any DNA evidence, there isn't going to be the possibility of securing the criminal conviction which would reignite the civil lawsuit. And without the civil lawsuit, there are many victims who will be rendered without any source of complaint or vindication against their perpetrators.

This is important because many victims, particularly child victims of sexual abuse, have an amnesic reaction to the situation. Though it dictates and pervades many of their actions throughout their lives, they often don't even become aware of what actually happened to them for 15, 20, or 25 years later. Absent any DNA evidence, they have no recourse. And because the statute of limitations has run, they have no resource.

And what I am suggesting to my colleagues in the future is that we consider opening the statute of limitations for civil liability as we have done for criminal liability, because otherwise these victims are unfortunately unable to seek any kind of retribution against those who they later are aware have caused them lifelong pain and lifelong suffering.

I submit that to the body for future consideration while again commending the fact that the action we've taken today certainly places us, I think, very much in the hearts and in the thoughts of people around the state who have either been victimized, knew people who were victimized, or, sadly, came in contact with it through the work that they performed.

This is certainly a laudable piece of legislation. But I end only by asking the body that when we come back next year that we might even further enhance and enlighten ourselves on this issue.

And so that we don't pause in harmonious celebration to distinguish out

which of us figured out the problems that women in this state have when they've been victimized in this way, which of us figured it out 210 years after our founding Declaration of Independence or 220 years later, I don't think that we really need to nitpick as to who came to the legislation first.

I think what we can do is to see if there aren't some future measures that we can take that will provide for restoration of the souls and of the feelings of those who have suffered in silence for a number of years.

ACTING PRESIDENT LITTLE: Thank you, Senator.

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 5. This act shall take effect immediately.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Senator

Duane, to explain his vote.

SENATOR DUANE: Thank you, Madam President. I want to just say one final thing.

Dogged on this issue, that's what Senators Skelos and Klein, Savino and Volker and Saland and Assembly Member Markey have been on this issue. And I like to think I've been too.

And the glass is definitely half full, and probably a little bit more. But, you know, with me, it's never enough. So I think we should be celebrating today and get back to work tomorrow. But congratulations to all of us today.

I'll vote yes, Madam President.

ACTING PRESIDENT LITTLE: Thank you. Senator Duane will be recorded in the affirmative.

Senator Fuschillo, to explain his vote.

SENATOR FUSCHILLO: Madam President, briefly. I just rise to compliment my colleague Senator Skelos.

Senator, you never gave up, year

after year, when all the doors were closed on this issue. You corrected a grave injustice in the State of New York. My compliments to you on your perseverance with this issue.

Madam President, I'll be voting in the affirmative.

ACTING PRESIDENT LITTLE: Senator Fuschillo is recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 2046, those Senators absent from voting: Senators Andrews, C. Kruger and Sampson.

Ayes, 58. Nays, 0.

ACTING PRESIDENT LITTLE: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 2048, by Senator Skelos, Senate Print 8446, an act to amend the Executive Law.

ACTING PRESIDENT LITTLE: Senator Duane.

SENATOR DUANE: Thank you, Madam President. If the sponsor would yield.

ACTING PRESIDENT LITTLE: Senator Skelos, would you yield?

SENATOR SKELOS: Madam President, can I give a brief explanation of the bill.

This bill will require DNA to be submitted for all felonies and 18 specific misdemeanors.

As you know, it has been the Senate's position, and the Governor's, that samples should be taken from any individual convicted of a crime, felony or misdemeanors. This act shall take effect immediately and shall apply to designated offenses committed on and after the effective date as well as to designated offenses committed prior to the effective date; for example, people in prison, on probation or parole.

This bill is similar to bills that we passed in other years. Assemblyman Lentol is the cosponsor.

And I want to thank Joe Messina, who's sitting right next to me, for his good work on this legislation and the statute of limitations legislation and really putting these two bills together, the one we just

passed, the DNA expansion, and certainly the work we did earlier in session concerning reforming Megan's Law so that over 3,000 convicted sex offenders would not be released.

Quite frankly, with those three bills, I'm not a gambling man, but that's a trifecta to me. It's a trifecta in terms of probably the best year that I have seen here in terms of criminal justice.

So I'm asking for your support on this legislation. And basically it adds all felonies, 18 misdemeanors, and there are no other changes to the law.

ACTING PRESIDENT LITTLE: Senator Duane.

SENATOR DUANE: Thank you, Madam President.

And I just want to point out what a nice guy I am. Even though I had the floor, I welcomed the explanation. It was an excellent explanation, and I hope it was enlightening.

But I do have some questions in addition.

ACTING PRESIDENT LITTLE: Thank you.

Senator Skelos, do you yield?

SENATOR SKELOS: Yes.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR DUANE: Thank you, Madam President.

I'm just wondering if this bill is in any way addressing the problem of local or what I would call rogue DNA databases, the DNA databases that are kept by localities who are storing their own samples, et cetera.

SENATOR SKELOS: Senator Duane, basically it's what I said in my explanation. And I know of your concerns.

It makes it all felonies now and 18 specific misdemeanors. That's what the legislation does.

SENATOR DUANE: Thank you, Madam President. If the sponsor would continue to yield.

ACTING PRESIDENT LITTLE: Senator Skelos, do you continue to yield?

SENATOR SKELOS: Yes.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR DUANE: And under current law, who's responsible for addressing the backlog of DNA that's been collected?

SENATOR SKELOS: The statewide database.

SENATOR DUANE: Through you, Madam President. DCJS?

SENATOR SKELOS: DCJS, yeah.

SENATOR DUANE: Thank you. And, Madam President, if the sponsor would continue to yield.

SENATOR SKELOS: Yes, Madam President.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR DUANE: I have been concerned about whether or not we have enough trained specialists in DNA technology in New York State and whether that is something that will -- a problem which may exist now and which may be made worse by the passage of this legislation.

SENATOR SKELOS: There are sufficient resources and personnel.

SENATOR DUANE: And through you,

Madam President, if the sponsor will continue to yield.

SENATOR SKELOS: Yes, Madam President.

ACTING PRESIDENT LITTLE: Senator Skelos continues to yield.

SENATOR DUANE: Does the legislation address in any way the proper storing of DNA samples?

SENATOR SKELOS: The legislation makes all felonies and 18 misdemeanors, individuals required to submit their DNA.

And if I can just put that in perspective, felonies, prior to the bill, 62 percent of those individuals would be required to submit DNA. Now it's 100 percent. Misdemeanors, prior to the bill, approximately 1 percent. After the bill, 34 percent. And with total convictions, 14 percent; now, approximately 50 percent.

And the biggest improvement to the Assembly's legislation is that we add petit larceny. So that it brings the total amount from 34 percent up to approximately 50 percent.

Of course, this side of the aisle and many on the other side would have preferred if it was all felonies and misdemeanors.

SENATOR DUANE: And through you, Madam President, if the sponsor would continue to yield.

ACTING PRESIDENT LITTLE: Would you continue to yield, Senator Skelos?

SENATOR SKELOS: Yes, Madam President.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR DUANE: And in an effort not to keep the sponsor up too long, I'm just going to look for one final question that I wanted to ask.

And that has to do with when the first DNA database bill was passed, there were a lot of cold hits. Then when we expanded it, there were still hits, but not the same volume and percentage that we saw the first time. And then it even diminished the next time.

And I'm just wondering if there's been any study or if there's any information

available to what the projected number of sort of cold hits would be with this expansion.

SENATOR SKELOS: None that I'm aware of.

But again, I just want to point out that this is an expansion of those who would be required to submit their DNA to the database. And I just want to, you know, just bring up the -- there were 2435 hits; thus far, 581 convictions.

But, you know, I also want to point out in today's New York Post there is an article about a Katy Vicchitto, who mentioned that rapists who had already been convicted of a lesser crime would be able to be identified and arrested before he could attack another woman. That's her statement, a woman who had been raped. And unfortunately, the individual that raped her, when there was a lesser crime, was not required to submit their DNA.

I should point out that as I mentioned, in the case of Keith Laster, he was convicted of a misdemeanor drug possession. We would have preferred if that were included. However, the Assembly refused to include any

misdemeanors that involve drug possession charges.

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

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

SENATOR DUANE: Thank you, Madam President.

I am very concerned that this bill and nothing that's happening in the state right now is happening or being done to address the issue of local or what I would call rogue databases. We don't have any control of what happens with these databases on a state level. There isn't oversight. District attorneys, well-intentioned though they may be, are basically doing whatever they want with their own databases. And I think that that is very, very problematic and something that we really need to address.

You know, this is a problem on a state level also, but I'm not even sure where the sample collection devices are being kept. So if there's a DNA swab that's taken, you know, from inside my mouth, you know, where is

that being stored in some of these counties?

As I understand it, it's a -- you know, it's a tremendous problem in New York City, where the storage of the actual physical DNA collection instruments are being kept. And how is that being maintained, and how do we know that they aren't getting mixed up or mislabeled? What are the safeguards in place?

These are very, very important issues when we move to expand what already is a problematic DNA collection system and DNA storage system in the state, and particularly for those jurisdictions where there are these rogue databases and storage facilities.

Under the current situation, I am skeptical that at this time we have enough people trained in the handling of DNA and the examination of DNA to not only work with the amount of DNA samples that we have now collected, but also when we add on to that in such a dramatic way with this legislation.

It's not just a New York problem. It's a New York problem because this is a New York State bill. It's a national problem. But we're dealing with the state, and we

just -- I don't think that we have the capability to -- I think that even after all of this DNA is being collected, we're still not going to have the tools to do the kind of research that will achieve the goals that are, you know, so -- that we want.

And that's laudable. The goals are laudable. But the getting there I think is still -- we're not there yet. And we have to make a much bigger investment to get there. And maybe New York State could be the leader nationally in DNA technology, but that's not the way it is now. And with this expansion, it's where we should be and of course where we have to be.

You know, there's human error involved with DNA. And people make mistakes, well-intentioned people. I'm not even -- I mean, there could be malevolent people. And I hope they're won't be, but unfortunately there probably are some malevolent people who might do some bad things with DNA that's collected and shared in the wrong way and with people that they shouldn't be.

And there's really nothing -- you

know, we can't legislate that not happening. But we can put in safeguards and training and other safeguards even in how we hire and train personnel to make sure that we are protecting ourselves as much as possible for that.

You know, a Q-tip swab for me could get fixed up with a Q-tip swab from you, and we really -- we won't always know that that has not happened. We have to be really vigilant to make sure that we carefully handle this, not just at the point of taking the collection of the DNA but also where we store it, what we do with it, how it's handled there, if it's moved from one place to another, how it's labeled, how names are spelled. Some names are similar. Some people may have the same name. It's a very complicated process.

I think we're up to the challenge, but I don't think that we're there at this point.

We put about $20 million in this year's budget to expand the database. I know it sounds like a lot of money. We probably can't spend it all in one year. But it's

probably not going to be enough money for the expansion that we have on the table today.

I also think that this expansion is going to create a backlog. And if our goal is to get more bad guys, and that is what the goal is, there's already a backlog. People in the criminal justice system are already complaining they can't get answers fast enough. And the way you solve a crime, the best way to solve a crime is to get the information as quickly as possible before a trail goes cold. And we're overburdening the system now. People are having trouble getting access to the information they need. And that will only become more problematic as we expand the database.

There is -- I'm also -- I mean, we can do the best job, I guess, with the information we have to try to figure out what the estimated number of samples that will be collected under this legislation, but we don't really know. We don't know for sure. And so if -- and I'm concerned about overburdening it so we get more bad guys. It may become more difficult to get them, because we're just --

we don't have the personnel to actually deal with this.

And DAs, frankly, publicly as well as privately have said that it is a problem for them, that they're waiting on a long line to get the information they need. Other law enforcement are waiting on a long line to get their answers to questions based on the DNA database the way it is now. And I think it will only get worse. There will be more of a traffic jam, if you will, for people trying to get information so that they can solve crimes and prosecute crimes so that more people are being protected.

I don't think it would be -- it should not be that difficult for us to make sure that regulations and procedures are in place for the handling and the storing of DNA. It's really important that we do that. Not just for the state database, but since we're continuing to permit local databases to exist, they have no controls at all. They're doing their own thing. And that's dangerous. We should not allow that to happen. It's dangerous from a law enforcement personnel and

of course it's dangerous from a privacy personnel. We can't let that -- we got to get to a work on that. There's a big hole in the bill because that's not being addressed.

I also -- and the reason I asked about this is, yeah, when we first did the DNA database we got a lot of cold hits. Right? We got a lot of bad guys. And probably a few bad women. Then we expanded it again, and the percentage of cold hits went way down. Well, the second time, not way down. It went down. But the third time, way down.

So this time we don't really know what's going to happen. Maybe, maybe what we're doing today and the areas that we're including that are going to be kept in the database will be helpful. I've spoken, for instance, with Senator Volker about his concerns about petit larceny and that that may be a very good tool.

And that may very well be true. In fact, on the merits, it sounds like it is true. But we don't know for sure. Because what also seems to be true is the more DNA collected, the more hits we would get. But

that's not true. So a lot of what's happening with DNA technology is a little bit counterintuitive. You know, it is easy to say, you know, we caught this bad guy and we caught this bad guy. And that's great. But it may also be that by expanding the DNA database we're not going to catch as many bad guys because we're going to be overburdening the system and we're not going to be able to access it as quickly as we need to to get the bad guys as quickly as we need to.

So you would think, wow, the more DNA you collect the more people you're going to get. But that hasn't been what's happened in New York State. The percentage of people -- bad guys you get has actually gone down dramatically, especially from the last time, as we've expanded the database.

You know, generally DNA is, you know, like so many things. It's a blessing and a curse. Right? Used right, it's a miracle, in a whole host of ways. Criminal justice, in many ways it's a miracle. And used the wrong way, it is a nightmare.

And I think it behooves us to be as

careful as we possibly can so that the expansion doesn't turn into a DNA nightmare.

You know, I would very much have preferred -- and I know that this bill is very important to a lot of people. It's important for a whole host of reasons, not least of which politically, and there's nothing wrong with that. That's important. But I do think it would have been better to have more extensive hearings on the DNA database.

You know, you would also think -- and I'm going to talk about another counterintuitive thing. You would think that the people involved with the issue of getting the -- I was going to say getting the bad guys off. Getting guys that we thought were bad guys but turned out not to be bad guys, to allow them to go free.

So the people who work on that issue -- it's a very important issue and, by the way, something that New York State is a leader in -- would say, yeah, collect more DNA, we'll find out more errors and convictions, we'll prove that more people are innocent. But that's not what they're saying,

because the same as DAs and law enforcement people, they're saying it's going to make our job harder.

So from both sides of the criminal justice system, right, the ones trying to prove innocence and the ones trying to prove guilt, we're going to make it more difficult potentially for them to do their job.

We would know better if we heard from people who actually have spent a lot of time working with it. Because, again, things that, you know, just seem -- you know, sometimes when you read in the paper it all seems so simple and, you know, why is it that way and it's bad for politicians to say it's more complicated than that. But you know what? It's more complicated. And a lot of what happens is counterintuitive on the issue of DNA.

So the other thing is that -- you know, I haven't -- you know, I base a lot of what I've said about the questions that I'm raising about this expansion, much of it is based on our own DCJS data, which is available for the public to see. And a lot of it is

based on studies that have been done by people in academia who have looked at both the good things that have happened with the collecting of DNA as well as the bad things that have happened.

I hope many of you know that bad things happened in Houston on the DNA issue. And yet we all know of good things that have happened and bad guys that have been found and innocent people being freed by it.

And so this is another one of those issues that, yeah, a chunk of work may very well be accomplished by passing this bill, although a whole lot of complication may arise because we pass this bill. So beware.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Young.

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

ACTING PRESIDENT LITTLE: On the bill, Senator Young.

SENATOR YOUNG: Thank you.

Sometimes in New York State we have

to change the law to catch up with technological advances. And this is one of those instances, where we have this great advancement in technology with DNA evidence but we haven't included all felonies in the database and some of the misdemeanors. And so of course this is a great day, because we are finally making that change.

And actually, using technology to solve crimes in New York State is a legacy of someone else who served in the Assembly and also as governor of New York State, and that was Teddy Roosevelt, who we know served in our state government before he became President of the United States.

And during his time in the early 1900s he was a great promoter of using technology to solve crimes, most notably fingerprinting, because it was the first time that people had technology to link a suspect with a crime scene by using physical evidence. And so we're carrying that on today by expanding the DNA database.

I remember back in 1999 when we were trying to get the Assembly to expand the

DNA database then to include more felonies. Because prior to then, only 11 percent of all felons were included in a DNA database. And we fought very, very hard to get it expanded, but we couldn't get there to get all felonies included.

And one story that really stands out in my mind during that debate was the case of Isaac Jones, who was a rapist in New York State who victimized 50 women before he was caught. Police had DNA evidence that showed it was the same rapist. And when he finally was apprehended, it was learned that Isaac Jones had been convicted of felony robbery a few years before.

If he had been in the DNA database after the first woman was victimized, the police would have known who the rapist was and, potentially, 49 women victimized would have been saved. So that's why this is so very important.

Again, I want to congratulate my colleague Dean Skelos for his leadership on this issue. But I know this has been something that's been important to many

Senators here. And I thank you for your being so committed to the people of New York State, and I will very proudly support this legislation.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Senator Volker.

SENATOR VOLKER: Madam President, I will try to be very brief.

Tom, I hate to say that I don't exactly know what you're talking about, but I only mean that -- and I mean it in the best way -- I think you got your information from a group called the Innocence Project. They're a bunch of people that will basically say anything against prosecutors because they're so intent on getting people out of jail.

We are the leading state in the union on DNA testing. As far as I know, we're ahead of just about everybody. The only thing I would kind of disagree with Dean about is we do probably need more capability as we are increasing our testing and so forth.

We have probably the most secure tests in the nation. This business of local

rogues, who cares? The problem is going to be, as we were talking about here, they're going to have a devil of a time proving anything because it's really in the state where the proper DNA is.

Now, using that would be fine, except then I'm going to have to go in and probably do more testing and so forth. Any defense attorney worth his salt is going to probably get some of those tests thrown out.

You want to see bad stuff, go to Illinois. It's no secret that -- the rumor around is that there was bad prosecutions for death penalty -- bad DNA, also. There's a lot of questions about the people who were let out. They now believe half the people let out were guilty.

One guy who got supposedly exonerated because of DNA, they grabbed him -- they just gave him to another state because he had murdered another guy. And in their -- in what they said in the description of his transfer, they said he murdered the guy in the state next door and then he murdered the guy in Illinois, the guy he was supposed to have

been exonerated from.

The point I'm trying to make is, I created -- I was in the Legislature, I think it was 1989, with a fellow named Assemblyman Zaleski. We were very, very careful in how we did that DNA legislation. Zaleski then became, I think, the mayor of Yonkers. A really nice guy. He was a chemist. He wasn't exactly, I mean -- but anyways, we did the legislation, it was fascinating.

Last year we passed a huge increase in the use of DNA. Can I tell you what I think this bill does? This bill, in my opinion, is the most important piece of legislation this year in criminal justice. Now, certainly the bill before was big and important and all that. But you know why this is so important? I happen to know that Governor George Pataki and his -- Parker, his head of Criminal Justice, before this year started, we said getting all felonies in and as much as the misdemeanors as we could.

And the reason petit larceny is so important, it's been shown nationwide that petit larceny is one of the best areas to

obtain DNA from because you deal with burglars, rapists, robbers, just about any guys, because they start out with petit larceny.

Now, we have been very careful in this state. George Pataki, to his credit, put money where his mouth was. We've suggested to him that now we got to put some more money up just in case that there is some intention by defense people and so forth to try to slow this down. This is the bane of defense attorneys, we understand that. They're the ones that are objecting and saying, oh, this may be wrong, this may -- it's -- the problem is it is not wrong. It is the prosecution of the future, in my opinion.

And I think Senator Skelos has done a super job here. Senator Bruno. If you said to me -- and I may leave here before too long, I don't know -- what was the best thing you did in criminal justice, it's DNA. Because we will find not just criminals, we will be able to locate missing people, all sorts of things that in my opinion is extremely important.

This bill probably will cause the

prosecution of 5,000 to 10,000 people easily. And whoever told you that the numbers of hits has gone down is absolutely wrong. What they mean is the initial hits were huge. Sure, they've gone down some, because we got a lot of the people who at the time were useful with the hits.

But with petit larceny, I'll tell you right now, that one alone, that one alone down the road will get you a lot of burglars and rapists and so forth. You just mark my words, it will happen. And it will happen, those, because they're arrested on other things, and then they'll track them.

So, Senator Skelos, congratulations. And this is a huge bill, in my opinion.

ACTING PRESIDENT LITTLE: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Madam President.

I rise to once again thank my colleague Senator Skelos. This legislation is very forward-thinking. It moves us into a new frontier in criminal justice investigations.

Like fingerprints, DNA probably will prove as many people innocent as it does guilty. And I think that's something we have to look at. It's a two-edged sword, and it cuts both ways. And that's important, that when we convict somebody we know that we're convicting the right person.

I understand Senator Duane's concerns. We should be aware. We should be careful. But we shouldn't be afraid to go forward. And that's what this bill does, it moves us forward. And I vote aye.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Schneiderman.

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

ACTING PRESIDENT LITTLE: On the bill.

SENATOR SCHNEIDERMAN: I just want to note that my friend Senator Volker I think has actually reinforced some of the arguments that Senator Duane raised earlier

this evening.

And I think that the most important thing in my mind to remember about this is that DNA evidence is not just about getting bad guys, it's also about exonerating innocent people. And we have a tremendous responsibility with evidence that is treated with such deference by juries, by judges, to exercise the greatest care with it.

It is absolutely clear to anyone who deals with district attorney's offices, with DCJS, that we have a significant backlog in the processing of DNA. And this massive expansion, which may very well be a tremendous -- have tremendous potential to do good, is going to require more resources. We need more resources than are presently being provided.

More significantly than that, I'm very sorry that we did not include in our bill what was one provision of the Assembly's proposal, which was to have an innocence project. And I respectfully disagree with Senator Volker that the Innocence Project, which I've known lawyers who have worked

there, they are fine attorneys, they're not a bunch of anti-defense loons.

The Assembly proposal was for something called the Innocence Research Project, to echo the work of the Innocence Project that Barry Scheck and others have had great success with. And it simply stated that we should in this state review and study cases in which there appears to be a reasonable possibility that a person charged with or convicted of a crime in this state may be innocent of the crime or crimes charged. How could we not do that?

So I believe that this bill is a good bill, I will support it, I commend Senator Skelos and the others involved. But it is an incomplete bill, in my view. And I do think that we need more resources, we need an innocence project, and we need to be cognizant of our responsibility when we have evidence that is so revered that we have to be tremendously careful that we do not make mistakes with it.

Because that is the one thing that as written by the founders when they put

together our Constitution -- Senator Volker, which does reinforce a civil justice system as well as a criminal justice system -- the one thing they were most concerned about, because of their experience with the British Crown, was innocent people going to jail.

Maybe sometimes you feel we err on the side of protecting defendants. It's because that's what the founders were concerned about, and rightly so. I think so.

I commend Senator Skelos for his persistence. But without resources, without an innocence project, I'm afraid we're still incomplete. As I believe the statute of limitations on rape legislation is incomplete without extending the civil statute of limitations further.

However, these are both significant accomplishments. And in the hope that we are going to fill in the gaps, I will be supporting this legislation.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Morahan.

SENATOR MORAHAN: Thank you, Madam President.

I rise also to commend Senator Skelos and all of those in both houses who worked so well and so hard together to make this a great day for the Senate and the State of New York.

We have before us two bills today that we've been doing. The one we're discussing now, Madam President, on the DNA, you know, I think we're moving into the 21st century. My colleagues have said so much about it.

Also, the statute of limitations on rape has been lifted. I think that's another great move for this state. It's a great protection for the general public; in particular, the women on the rape issue.

So I'm very happy to support these bills. I think it's a good day for us. Yes, there may be something we have to improve or tweak as we move forward. Yes, we may have to consider these things in next year's budget. But if we don't do these things now in agreement with the Assembly, then nothing will

move. And I think this movement is just great.

Thank you, Senator Skelos. Thank you, my colleagues. Thank you, Madam President. I vote yes.

ACTING PRESIDENT LITTLE: Thank you.

Is there any other Senator wishing to be heard?

Senator Duane.

SENATOR DUANE: Thank you, Madam President.

You know, no one admires the Innocence Project or the New York Civil Liberties Union or Legal Aid criminal side or criminal defenders organizations more than I do. That is true. But the same holds true for my admiration for district attorneys and ADAs and people in law enforcement, police officers, that are if not the only -- probably the only civil servants that put their lives on the line every day. And I do, I admire the people in law enforcement tremendously. And they know that. Ask them. Ask them.

But my statistics are based on DCJS

statistics. And the information that I have garnered is from looking at national studies and studies done by scientists and I think those who Senator Volker and I would agree would be put into the pro-law enforcement camp. That's where I got my statistics. That's where my questions have arisen from.

And again, Senator Volker and I could look at the data from DCJS or from any of the other places that I've gotten data, and we would see different things. There probably is no 100 percent correct way to look at the data. The answers we get from the data, it's a subjective thing. The data may be firm, but the knowledge we glean from that is subjective. We find that all the time here. We look at the same data, we come to different conclusions.

So in this case, we need Senator Volker to step on the gas, but you need me to put on the brakes.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Connor.

SENATOR CONNOR: Thank you, Madam President.

You know, over the years that I've been here I've taken this floor many times to oppose proposed changes in evidentiary rules, in procedural rules, in the criminal justice area. And I've always said that our system has always run the risk that some guilty may go free in order to protect the truly innocent.

But I can say with respect to this bill -- and I do share the concerns about our ability to deal with this data and deal with it properly. But the goal of this doesn't strike or offend my civil liberties bent whatsoever. Because the goal in all of our procedural -- criminal-law procedural safeguards, the goal wasn't to let the guilty go free, the goal was always to risk guilty going free to protect the innocent.

We are now in the area of DNA. Properly done, scientifically maintained, its integrity maintained, we are in an area where we can clearly say the goal is to capture and prosecute the guilty. And that should always

be the goal.

And when we can do that with little or no risk, if it's done properly, to the innocent, I say it is a great day in criminal justice in New York State.

Thank you. I'm voting for it, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Skelos, to close the debate.

SENATOR SKELOS: Thank you, Madam President. I will be quick.

I want to first thank Senator Bruno for his leadership, and also Governor Pataki, who certainly has been out front and center in terms of expanding the DNA database, quite frankly, to include all misdemeanors and felonies.

I should point out to Senator Schneiderman that earlier this year we did pass a Governor's program bill that did have an innocence project in it. We have not heard from the Assembly about that.

What I know -- and there have been

many concerns raised by Senator Duane -- is that when we deal with crimes and we deal with sometimes a minor offense such as petit larceny, this often leads to more progressively horrendous crimes.

And what I know is that in 1999 Raymond McGill was convicted of a misdemeanor petit larceny and not required to submit DNA. Over the next four years, he murdered two people and raped an 85-year-old woman. In 2005, having been sentenced to prison for a robbery conviction, his DNA was taken and then identified.

So yes, with DNA progress I believe that people will also be found innocent, which is a proper use of DNA. But I also know the overriding proper purpose of DNA is to make sure that a Raymond McGill does not rape an 85-year-old woman, that a Katy Vicchitto does not have to go through the horrors that she went through, and also that a Keith Laster -- and I mentioned this earlier -- does not have the opportunity to rape girls ages 12, 13, and 17.

So, Madam President, I urge all of

my colleagues to join me in supporting this legislation. And in conjunction with eliminating the statute of limitations on rape, we can go home with a proud package of criminal justice reform and be very proud to talk about what we have accomplished to our constituents in this legislative session.

ACTING PRESIDENT LITTLE: Thank you, Senator Skelos.

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.)

ACTING PRESIDENT LITTLE: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 2048 are Senators Duane and Parker.

Those Senators absent from voting: Senators Andrews, C. Kruger and Sampson.

Ayes, 56. Nays, 2.

ACTING PRESIDENT LITTLE: The

bill is passed.

THE SECRETARY: Calendar Number 2049, by Senator Skelos, Senate Print 8450, an act to amend the Public Health Law.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT LITTLE: Thank you.

Senator Skelos, for an explanation.

SENATOR SKELOS: Thank you, Madam President.

This legislation will establish within the State of New York an independent Medicaid inspector general.

I first want to start off -- as you know, this is the result of a meeting of the joint conference committee. And I want to thank the Senate representatives, Senator Hannon, Senator Meier, Senator Volker and Senator Sampson, for their good work on this.

I also want to thank Tom Dunham, who is sitting next to me, who works with me and has put many months of work into this project, Caron Crummey, Ken Riddett, and also Jane Preston from Senator Hannon's office.

I believe this legislation is probably the toughest and most comprehensive plan to combat Medicaid fraud in the United States. As we all know, and we've discussed this legislation on numerous occasions here, Medicaid fraud steals from everyone in New York State and, quite frankly, it drives up our income taxes and drives up our property taxes on the local level.

Several months ago Congressman Sweeney and myself contacted by letter the federal Department of Health and Human Services for Medicare and Medicaid Services. And they released a report last month following a comprehensive review of New York's anti-Medicaid fraud program.

The report concluded that New York's overall commitment to program integrity lack lagged behind the growth. And as you know, we have an over $46 billion program in New York State, far larger than any state; in fact, larger than probably a number of states combined.

The report also pointed out that the single most important measure of program

integrity, actual audit collections, has dropped, both in overall collections and the average value of each audit. They recommended that enforcement should be the primary goal of this program.

The Office of Medicaid Inspector General will consolidate the administration's Medicaid program integrity responsibilities and over 600 staff from each of the six executive-level state agencies into this new office. The inspector general will meet stringent requirements, stringent qualifications, and will serve at the pleasure of the Governor, with the consent of the Senate.

To help focus the office's efforts and promote the necessary organizational culture, the Legislature requires the office staff to be colocated, except for regional office personnel.

The Senate bill authorizes and directs the Department of Health to contract with vendors -- and this is extremely important -- for upgraded information technology necessary to detect Medicaid fraud

and to prevent those checks from going out the door. And certainly the upgrade will improve accountability.

We also have a partnership with local governments, and local governments will be able to share in certain Medicaid recoveries. And certainly when you couple that with the cap on Medicaid for our counties and you throw in an additional local share through their efforts, that will go a long way in helping our local property taxpayers.

There is reporting requirements, there is a very positive corporate compliance program similar to a Sarbanes-Oxley type of corporate compliance for many of our large providers. And there's also been money included in the budget, $500,000, for the New York Prosecutors Training Institute. And, at the request of Senator Winner, there's a local Medicaid fraud demonstration project in Chemung County.

So, Madam President, I believe that this legislation, as we've experienced in other states, will dramatically increase the recovery, the recoupment -- and actually

prevent money going out the door, but recoupment of hundreds of millions of dollars for the taxpayers of the State of New York. And in fact, as you know, our budget has anticipated that by establishing this office we will be recouping at least $325 million this year.

I have to point out that there will be one chapter amendment. And both Assemblyman Gottfried and I will be making the same statement, that -- and this is basically: Unfortunately, Section 6 of this legislation contains a bill drafting error that may produce confusion in its interpretation. If a previously issued advisory opinion -- and that would be a provider can go and ask the Health Department as to how it would bill a certain item, if the opinion is found by the Commissioner of Health to be in error, a modification by the commissioner of that advisory opinion operates prospectively. This means that modifications to a previously issued advisory opinion should not result in retroactive recovery of overpayments mae as a result of a provider's proper and good faith

reliance on that opinion.

So that will be a chapter amendment that's coming.

This is the good work -- and again, you know, people like to talk about dysfunction in Albany. My experience with the creation of this legislation is that when people of good intention work together -- and certainly we've seen this in the joint conference committee -- we can get a positive result, through compromise and working together we can get a positive result, as we have, to protect the taxpayers of the State of New York.

ACTING PRESIDENT LITTLE: Thank you.

Senator Schneiderman.

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

ACTING PRESIDENT LITTLE: On the bill.

SENATOR SCHNEIDERMAN: As we complete this evening's Skelos trifecta, I once again commend him.

And I have acknowledged before here

that I am someone who changed my view of the need for an inspector general when I participated in hearings that I and Senator Hannon and Senator Meier were involved with earlier this year and last year.

Unfortunately, I do feel that this bill is an incomplete bill, as were the previous two. I am very disappointed that some of the provisions that were advanced, in response to our colloquies and our questioning at these hearings, I have to say -- the hearings, as many of my colleagues point out and Senator Duane pointed out earlier, hearings do produce good results, and these hearings I think were tremendously informative.

But at the hearings the New York State Attorney General's office agreed to provide additional criminal sanctions in the form of a Martin Act for healthcare fraud to us. They did provide that. Unfortunately, most of the provisions of that proposed legislation did not make it into the final version of this bill.

I am disappointed that the ability

to conduct examinations under oath without convening a grand jury, to require providers of healthcare to answer written questions under oath, they're not in this.

I'm extremely disappointed that this broad amnesty defense, which was in the earlier version of the bill, remains in the final version of the bill.

And I would note again that the head of the District Attorneys Association of the State of New York on June 12th wrote us a letter stating that this provision, which provides that a person who knowingly and intentionally defrauds New York State -- of millions of dollars, in some cases -- is immune from prosecution as long as they weren't personally benefiting and were following orders.

That is a provision that is unique in our penal law. I'm sorry it's in this bill.

And, finally, it's tremendously disappointing that there's no False Claims Act provision here. Once again -- we've been over this before, we've introduced amendments on

it -- the United States Congress, House and Senate, the White House, all held by people, all ruled by people from the other side of the aisle, have urged all the states to provide False Claims Acts, have provided an incentive of an additional 10 percent of the recoveries received for states that enact False Claims Acts. We are leaving money on the table.

And again, that we had the Texas inspector general up for one of the hearings that we held. The head of the Civil Medicaid Fraud Section in Texas has told -- it was printed in The New York Times, which some of us consider fairly reliable -- "Probably 98 percent of the Medicaid fraud claims in the Texas office come via whistle-blower suits."

So those are major flaws, I believe, major omissions. I do not honestly see how this legislation changes the substantive law enough to produce the projected savings.

It is, however, a step forward. I'm glad we're centralizing the functions that were up until now split up in many difference agencies. Having an inspector general gives

us an opportunity. I hope that next year we will be able to add additional criminal enforcement provisions and a False Claims Act, to complete this process.

But once again, I have had close -- have had a chance to observe the process with a close-range view, and it has been -- this was not something that I necessarily would have predicted at the beginning of our hearings we would have been able to do this year. I did not think the support was there to pass an inspector general bill. And once again, "dogged" is certainly a word that has been used in a complimentary way, Senator Skelos, many times tonight on this issue. He was absolutely dogged.

And I am pleased to support this legislation, in the hopes that we can expand it as time goes on.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Is there any other Senator wishing to be heard?

Senator Hannon.

SENATOR HANNON: Thank you, Madam President.

We have come a long way and a number of serious steps. This began in the budget process of the year 2005, over 12 months ago, when, in a dispute between the Legislature and the Executive as to how much might be available through recoupment of healthcare fraud, we were reviewing it and Senator Skelos, in the internal processes, seized upon the fact that there was this much available and it was that much of a difference -- it was probably on the order of $75 million to $125 million -- and began to pinpoint and direct to us say, Wait a minute. How much could there be more? Why is it that that gap exists? What's the matter with the processes? We're supposed to have a tenacious Attorney General, we're supposed to have a diligent Health Department. What is all going on?

And we went round and round and did resolve somewhat for the budget last year, but left open and started to have hearings this year.

And at the hearings, the usual cast of participants in healthcare fraud came and said, you know, everything is pretty good. And we couldn't believe our ears. Because you went back and looked at all of those participants -- Executive and Attorney General -- and they themselves had estimated huge percentages of fraud in the whole system and did not go and apply those percentages against the expenditures.

Because if they had applied those percentages, that 10 to 15 to 20 percent held they would have come up with huge amounts of recoveries, far greater than we were actually showing.

So we had more hearings. We had more investigations. Senator Meier and myself went through a large number of witnesses that were potential. We wanted to see what the case would be. Senator Skelos and Tom Dunham had extensive conversations with the Texas attorney general.

We had a great hearing, and we really laid out a whole case, a case of what Texas could do with a reorganization of its

Medicaid fraud units in Texas, people who were well versed in computer technology as applied to Medicaid fraud and abuse index, and right here from this state, DAs and people in the federal DEA units who found extensive fraud in rural counties. Not your usual places that you would suspect fraud would exist.

We drafted legislation, we tried to get it done in the budget. As Senator Skelos made mention, there's a $325 million savings due to the increased detection of Medicaid fraud in this year's fiscal plan.

We kept on working after the budget was -- and we did not reach agreement. We passed a one-house bill last week -- and we passed a one-house bill on Monday. It seems like last week. Went to conference committees. We still -- our expectations were there was huge gaps separating. There was the Senate insistence in regard to term of office, qualifications, the Assembly's insistence that we have qui tam.

You know what? We compromised. We had four or five meetings. We were able to reach agreement. We were able to say that

there were huge advances. And it was -- frankly, I think Senator Meier summed it up last night using a good analogy. He said Senator Skelos had this in his teeth like a dog has a bone in its teeth and wouldn't let go.

And we got testy, we got conciliatory, we got compromising, and we now have a bill. And notwithstanding some of the nitpicking things that Senator Schneiderman has pointed out in the bill --

SENATOR SCHNEIDERMAN: What about the other things?

(Laughter.)

SENATOR HANNON: -- I think that this creation of an independent office, creation of a system, creation of healthcare fraud statutes in the Penal Law -- which everybody pointed out were huge omissions. They had to do something called larceny by false pretenses in order to bring healthcare fraud under the criminal justice system. We have cured that. There is a set of provisions in there.

We are now going to pass this and I

think embark, embark on what may take many years. Because we're in essence creating not only a new unit of government, but a new unit of law enforcement.

And we know that for all of the talented people in each of those branches in our state, they also get a little bit possessive of what they do, don't want to share. And yet we know that in order to make this effective, we're going to have to make people be cooperative, to be sharing, to move forward in one direction.

So this is a very positive, substantial advancement as to what we're going to do. Not only -- and as I said when we passed the bill on Monday, we also have to apply this coherence, this logic, this unification to the Medicaid system itself so we can transform it, so we can transform it to deliver value to the taxpayers of this state and, more importantly, deliver quality and value to the patients of this state.

So this is a major advance tonight. And I thank you, Madam President, and I urge everybody to support this legislation.

ACTING PRESIDENT LITTLE: Thank you.

Senator Rath.

SENATOR RATH: Thank you, Madam President.

Many years ago when many of us started into government I think we would remember that the phrase that was so operative in this area was welfare and Medicaid reform. The federal government addressed welfare concerns -- not that there are still not welfare concerns there, but you just don't hear it that way anymore. And then it became Medicaid reform.

And working together last year, the year before, the year before, with Senator Meier and Senator Hannon, both Majority and Minority members and staff put together a report. One of the most dominant parts of the report, Senator Skelos took up the need for fraud, enforcement on fraud issues and reform with a fraud inspector general.

I commend you for your tenacity. I think, as Senator Hannon has laid out very clearly, we have a template in front of us now

for how we can go forward with some of the other very, very thorny issues that presented themselves, things that we would sit down and talk about in a collegial way and say, yes, we need to get at it, but when you come down to the brass tacks of absolutely doing a piece of legislation, it is difficult. There is no substitute for the hard work.

So I congratulate everyone who worked on the conference committee -- Senator Skelos -- and I look forward to working with all of you down the line in the future as we approach other of the thorny issues, to help make New York State a better place for all of us and all of our constituents.

Thank you.

ACTING PRESIDENT LITTLE: Thank you.

Senator Meier.

SENATOR MEIER: Just very briefly, Madam President.

This, I think, is going to prove to be one of the best things we have done during the course of this session of the Legislature. And I'll repeat what I said last night, that

Senator Skelos certainly dug in on this one, and we have some great results today.

I'm very hopeful, though, that in the years to come that we can build on this. All too often what we do is we look at Medicaid as merely a budget problem and we talk about, when we do the budget, what the number ought to be.

And if we only look at it in that way, then Medicaid in this state will continue to grow astronomically and will continue in many respects, as it grows astronomically, to deliver somewhat mediocre healthcare to people who are really in need.

Wringing the fraud out of the system will be an enormous step. It can yield enormous savings. And we can debate all day whether it's 10 percent or 5 percent, but good Lord, even if it's only 1 percent, you're talking about $470 million. We have all seen the entire budget of this state hung up over less money than that.

And I've said before what a great thing it would be if, instead of taking the approach that the way to control Medicaid

costs is to take eyeglasses and dental care away from children, that we could wring the fraud out of the system. We could then also go beyond the fraud and take a look at analyzing the data to see what kind of care we're providing and to whom, and to plan that care better and to deliver it earlier and to put more consumer choice into the system, to do a better job of providing more alternatives to care, to institutional care, to deliver long-term care in a better and more intelligent way. And if we do all that, we can transform this system and rein in the costs.

This is a great step tonight. And the fundamental building block of this step tonight is to establish a single place where accountability will reside, so that you don't have the spectacle of one department pointing to another or the Executive branch pointing to the Attorney General or the Attorney General pointing back. Accountability will reside in this office.

And that's where good government starts, when there is a place that you can go

where someone has to accept responsibility and either the blame or the praise.

This is a good thing that we have done tonight, and we've done it by reaching across the aisle in this house, by reaching across the aisle in the other house. That's the way good laws get made.

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 14. This act shall take effect immediately.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Senator Marcellino, to explain his vote.

SENATOR MARCELLINO: Yes, Madam President, I rise to explain my vote and once again to thank my colleague Senator Skelos for his great work and great efforts.

As has been stated before, this bill again is forward-thinking, forward-looking, and will resolve a major problem that we have in this state, and that is eliminating fraud in our Medicaid and healthcare system.

To get rid of fraud will save the taxpayers a tremendous amount of money. The more we do of that, the better we are. This bill goes a long way towards achieving that goal.

And I thank my colleague Senator Skelos for his work and great efforts and thank the staffs, thank Senator Bruno for his efforts in this, and thank my colleagues.

This bill is truly a great piece of work. I proudly vote aye.

ACTING PRESIDENT LITTLE: Thank you. Senator Marcellino is recorded in the affirmative.

Could we keep the noise down while several of our members wish to explain their vote. We're really near the end.

Senator Winner, to explain his vote.

SENATOR WINNER: Thank you, Madam President.

I also want to congratulate Senator Skelos. You know, the Medicaid program has been such a monster in New York State, consuming such a tremendous amount of our available resources at the local level as well as the state level while providing important services. But there is no excuse for dollars going to places it shouldn't go. And while many people will call it fraud and we all use the word "fraud," just the hundreds of millions of dollars, if not billions of dollars of money that we're expending in overpayments and just administrative inefficiency, this legislation will go a long way to bringing down those levels of expenditures and are long overdue.

The recent revelations with regard to the overexpenditures in Medicaid are just so alarming, and the tremendous waste of money is such a burden on our real property taxpayers. And the extent that this legislation will go to root out that problem and restore some confidence to the people of

the State of New York in the Medicaid program is so extraordinarily important.

So I commend those that are involved in this program, in establishing this Medicaid inspector general. I know it's going to do a lot to restore integrity, confidence in the Medicaid system, and will also result in providing better care for those that are dependent upon the Medicaid program for their healthcare in this state.

I vote aye.

ACTING PRESIDENT LITTLE: Senator Winner is recorded in affirmative.

Senator Balboni, to explain his vote.

SENATOR BALBONI: Madam President, I have to avoid a problem for myself. If I didn't stand up after all of my colleagues praised Senator Skelos for all the work he did today and I did not, it would be a bad ride home.

He had a heck of a day. And I have to tell you, he's going to be great to live with. Because if he didn't get these bills, he would have been a handful.

But, you know what, all this work is so well deserved, not only on behalf of Senator Skelos but on behalf of the staff and, frankly, on behalf of all the people of the great State of New York.

I vote in favor.

(Applause.)

ACTING PRESIDENT LITTLE: Senator Balboni is recorded in the affirmative.

Senator Nozzolio, to explain his vote.

SENATOR NOZZOLIO: Thank you, Madam President.

I too wish to thank all members of the conference committee, Senator Skelos, for this measure. This will establish accountability, it will provide the results our citizens are demanding, and that means a more efficient, effective system of taxpayers' dollars being expended in a way that we can have some confidence that fraud and abuse in Medicaid will be ferreted out.

I am pleased to provide support to this legislative measure. This means results for our taxpayers, and it's what we're here to

achieve.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Senator Nozzolio is recorded in the affirmative.

Senator Saland, to explain his vote.

SENATOR SALAND: Thank you, Madam President.

I rise not merely to laud, as so many others have done tonight, Senator Skelos for his persistence and stick-to-it-iveness in making this a reality, but I rise to point out that between what we have done tonight, what we did in 2005 with the Medicaid cap, we have come to grips very substantially with a problem that has plagued not merely those of us who are state legislators and state officials, but particularly those at the county level who have had to time and again deal with the issue from their perspective, and very often that perspective means real property tax increases.

But what I would especially like to point out is that sometime approximately a year or so ago there was considerable

notoriety brought to this very subject when one of the more prominent media outlets in our state brought great attention to the fact that they, with a computer, somehow or other managed to access information and point out some very severe examples of the system being quite literally ripped off by providers. And really, I would think in some rather self-laudatory way, through their editorial comment talked about how they were bringing this issue to the forefront.

I rise in part to say we were there -- in large part because of Senator Skelos -- before that. There's been little or no mention of it. I think in one piece that I read, it got some passing mention. But probably at least six to eight weeks, maybe even longer, before this story broke as a major story -- and it certainly was a major story -- with little or no media attention we had talked about a Medicaid fraud bill introduced by Senator Skelos, with a more seamless system, such as the one that we're providing today. It was really the progenitor of what we have arrived at working together in

the conference committee, with both sides of the aisle, in both houses.

So I again laud Senator Skelos, not merely for what we accomplished today but for the fact that he has the foresight to get out in front of this issue, along with those of us here in our conference, long before it seemed to attain the level of popularity that it attained about a year or so ago, or perhaps I should say even the notoriety that it attained a year or so ago.

So, Madam President, I cast my vote in the affirmative.

ACTING PRESIDENT LITTLE: Senator Saland is recorded in the affirmative.

Senator Alesi, to explain his vote.

SENATOR ALESI: Thank you, Madam President. At the risk of seeming fashionable, I would also like to rise and join my colleagues in saluting Senator Skelos.

There's no doubt about the commitment that he has put into not only the DNA bill, the statute bill, going way back to Megan's Law. We all know of the energy, the devotion, the commitment that Dean Skelos has

given this body, this Legislature, the constituents that he serves and the residents of New York State. And this Medicaid bill will go a long way to helping all of those people.

And on a more local note, when we look at what's going on in my county, in Monroe County, with the cost of Medicaid starting to drive up the need for sales tax and other means of paying for those services, this will help not only save money but it will help with the money that we're expending to make sure that goes to those people that truly do need those services. We'll have results as a result of this. There will be accountability as a result of this.

And once again, at the risk of being fashionable, I'd like to compliment and congratulate Senator Skelos. So much so that I would respectfully suggest that maybe tomorrow the rest of us stay home and let him do the entire session on his own.

Senator Skelos, truly, you have done a remarkable job over the years, and you should be very proud of your efforts, as I'm

sure all of us are.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you. Senator Alesi will be recorded in the affirmative.

Senator Leibell, to explain his vote.

SENATOR LEIBELL: Thank you, Madam President.

I had the opportunity last year to go back and look at some of the history of this legislation. And as we all know, the goal here was to try and provide healthcare expeditiously to those who needed it most. I think over the course of years we've tried to achieve that goal.

However, we have seen and we've witnessed through various budgets the spiralling cost of this program. And as we've examined some of the reasons for that cost, it's been clear that fraud has hijacked a significant number of dollars that were meant to help those in need.

I want to also compliment you, Senator Skelos, in case anyone hasn't already

this evening, on this most dramatic piece of legislation. You certainly have worked hard on this throughout the course of the last couple of years and even before that.

I think this will go a long way towards making certain that these necessary dollars go to those for whom it is intended.

Thank you.

ACTING PRESIDENT LITTLE: Senator Leibell will be recorded in the affirmative.

Senator Golden, to explain his vote.

SENATOR GOLDEN: Thank you, Madam President.

I too rise to thank Senator Skelos for his Triple Crown winning, as Senator Schneiderman pointed that out. It is a great day here for the Assembly and for the Senate and for the Governor of this great state, that we can bring forth great legislation that really works for the people of the city and the state of New York.

Brooklyn has been the capital for Medicaid fraud for I don't know how long. This will give us the opportunity to go in

there to stop this Medicaid fraud and put these dollars where they belong. We're talking the savings of $350 million, we're talking about billions of dollars that will be saved here in the city and state of New York and put this state back on the track where it should be going and doing what the people's business should be, and that's saving them their money and giving this money to the people that need it.

So I commend Senator Skelos, and I commend all of the Senators here tonight in this Senate chamber for this great action.

Thank you, and I vote aye, Madam President.

ACTING PRESIDENT LITTLE: Senator Golden will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 2049, those Senators absent from voting: Senators Andrews, C. Kruger and Sampson.

Ayes, 58. Nays, 0.

ACTING PRESIDENT LITTLE: The

bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President.

(Applause.)

SENATOR SKELOS: Thank you very much. I thank all my colleagues, because really it is a joint effort and a very important bill. There may be changes in the future to even strengthen it.

But I think really what's significant, and I said this before, when people talk about dysfunction in Albany, we have a process here that calls for vigorous debate, calls for the minority to offer amendments, for us to sometimes put in one-house bills to send a message to the other house.

But in the end, I believe that we do work together in a very positive way. And today is an example. And quite frankly this entire year, under Senator Bruno's leadership, will be extremely positive for all of our mutual constituents.

Madam President, there will be a meeting of the Rules Committee in the Majority

Conference Room at 9:15. We will be taking the report of the Rules Committee and then adjourning.

So there's no need, unless you're a member of the Rules Committee, to stay here.

And if we could take up some motions at this time also.

ACTING PRESIDENT LITTLE: Thank you.

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Madam President.

On page number 29, on behalf of Senator Wright, I offer the following amendments to Calendar Number 997, Senate Print Number 3249C, and ask that said bill retain its place on Third Reading Calendar.

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

SENATOR NOZZOLIO: Madam President, on page number 58 I offer the following amendments, on behalf of Senator Skelos, to Calendar Number 1909, Senate Print

Number 7381B, and ask that said bill retain its place on Third Reading Calendar.

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

Senator Farley.

SENATOR FARLEY: Madam President, on behalf of Senator DeFrancisco, I wish to call up his bill, Senate 7216, which has passed both houses and not delivered to the Governor.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 1068, by Senator DeFrancisco, Senate Print 7216, an act to amend the Vehicle and Traffic Law.

SENATOR FARLEY: Madam President, I now move to reconsider the vote by which this bill was passed, and I ask that the bill be restored to the order of third reading.

ACTING PRESIDENT LITTLE: The Secretary will call the roll on reconsideration of the vote.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

SENATOR FARLEY: I now offer the following amendments.

ACTING PRESIDENT LITTLE: The amendments are received.

SENATOR FARLEY: Madam President, on behalf of Senator DeFrancisco, I wish to call up his bill, Senate 7233, having passed both houses but not delivered to the Governor.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 912, by Senator DeFrancisco, Senate Print 7233, an act to amend the Penal Law.

SENATOR FARLEY: Madam President, I now move to reconsider the vote by which this bill was passed, and I ask that the bill be restored to the order of third reading.

ACTING PRESIDENT LITTLE: The Secretary will call the roll on reconsideration of the vote.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

SENATOR FARLEY: Madam President,

I now offer the following amendments.

ACTING PRESIDENT LITTLE: The amendments are received.

The Senate stands at ease until the Rules Committee is completed.

(Whereupon, the Senate stood at ease at 9:14 p.m.)

(Whereupon, the Senate reconvened at 9:30 p.m.)

ACTING PRESIDENT LITTLE: Senator Skelos.

SENATOR SKELOS: Madam President, if we could return to reports of standing committees, I believe there's a report of the Rules Committee at the desk. I ask that it be read at this time.

ACTING PRESIDENT LITTLE: Reports of standing committees.

The Secretary will read the report of the Rules Committee.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills:

Senate Print 3232A, by Senator Seward, an act to amend the Environmental

Conservation Law;

3530C, by Senator Golden, an act to amend the Elder Law;

4621, by Senator Hannon, an act to amend the Education Law;

5071B, by Senator Spano, an act to amend the Social Services Law;

5606A, by Senator Hannon, an act to amend the Public Health Law;

5975A, by Senator Maziarz, an act to amend the Public Health Law;

6833, by Senator Spano, an act relating to establishing;

6986A, by Senator Golden, an act to amend the Social Services Law;

7340A, by Senator Hannon, an act to amend the Social Services Law;

7373, by Senator Klein, an act authorizing;

7717A, by Senator Hannon, an act to amend the Public Health Law;

8200, by Senator Robach, an act to amend the Legislative Law;

8342A, by Senator Spano, an act to amend the Tax Law;

8347A, by Senator Marcellino, an act to amend the Environmental Conservation Law;

8354, by the Senate Committee on Rules, an act to amend the Education Law;

8355, by Senator Saland, an act to amend the Education Law;

8360, by Senator Saland, an act to amend the Education Law;

8363A, by Senator Balboni, an act authorizing;

8364, by Senator Maltese, an act to amend the General Municipal Law;

8365A, by Senator Golden, an act to amend the Education Law;

8383, by Senator Padavan, an act directing;

8384, by Senator Alesi, an act to amend the Economic Development Law;

8385, by Senator Alesi, an act to amend the Economic Development Law;

8386, by Senator Alesi, an act to amend the State Administrative Procedure Act;

8393, by Senator DeFrancisco, an act to amend Chapter 203 of the Laws of 2004;

8407, by Senator Saland, an act to authorize;

8414, by Senator Bruno, an act to amend the State Finance Law;

8417, by Senator Spano, an act to amend the Insurance Law;

8420, by Senator Flanagan, an act to amend the Education Law;

8423, by Senator Flanagan, an act to amend the Economic Development Law;

8435, by Senator Meier, an act to amend the Family Court Act;

8438, by Senator Bruno, an act authorizing;

And Senate Print 8442, by Senator Golden, an act to amend the Tax Law.

All bills ordered direct to third reading.

ACTING PRESIDENT LITTLE: Senator Skelos.

SENATOR SKELOS: Madam President, I move to accept the report of the Rules Committee.

ACTING PRESIDENT LITTLE: All in favor of accepting the report of the Rules

Committee signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: The report is accepted.

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

ACTING PRESIDENT LITTLE: There is no further business, Senator Skelos.

SENATOR SKELOS: There being no further business, I move we stand adjourned until Thursday, June 22nd, 10:00 a.m.

ACTING PRESIDENT LITTLE: On motion, the Senate now stands adjourned until Thursday, June 22nd, at 10:00 a.m.

(Whereupon, at 9:33 p.m., the Senate adjourned.)