NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 23, 2006

10:10 a.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will please come to order.

I ask everyone present to please rise and repeat with me the Pledge of Allegiance.

(Whereupon, the assemblage recited the Pledge of Allegiance to the Flag.)

THE PRESIDENT: In the absence of clergy, may we bow our heads in a moment of silence, please.

(Whereupon, the assemblage respected a moment of silence.)

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Thursday, June 22, the Senate met pursuant to adjournment. The Journal of Wednesday, June 21, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

On behalf of Senator Hannon, Madam President, I wish to call up his bill, Senate Print Number 8278A, which is at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 2001, by Senator Hannon, Senate Print 8278A, an act to authorize the Village of Hempstead.

THE PRESIDENT: Senator Farley.

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.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

THE PRESIDENT: The bill is

restored to third reading.

SENATOR FARLEY: Thank you, Madam President.

Madam President, I wish to call up Senator Bruno's bill, Senate Print 8438, which was recalled from the Assembly and it's now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 2113, by Senator Bruno, Senate Print 8438, an act to authorize the County of Saratoga.

SENATOR FARLEY: Madam President, I now move to reconsider the vote by which this bill passed, and I ask that the bill be restored to the order of third reading.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

THE PRESIDENT: The bill will be restored to the order of third reading.

SENATOR FARLEY: Thank you, Madam President.

THE PRESIDENT: Senator Robach.

SENATOR ROBACH: Yes, Madam President. Are there any substitutions at the desk?

THE PRESIDENT: Yes, there are, Senator.

The Secretary will read.

THE SECRETARY: On page 7, Senator Seward moves to discharge, from the Committee on Rules, Assembly Bill Number 9308A and substitute it for the identical Senate Bill Number 6015B, Third Reading Calendar 226.

On page 17, Senator Morahan moves to discharge, from the Committee on Finance, Assembly Bill Number 1473 and substitute it for the identical Senate Bill Number 7058, Third Reading Calendar 720.

On page 39, Senator Spano moves to discharge, from the Committee on Civil Service and Pensions, Assembly Bill Number 3467 and substitute it for the identical Senate Bill Number 5118, Third Reading Calendar 1459.

On page 45, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 11945 and substitute it for the identical Senate Bill Number 8381,

Third Reading Calendar 1888.

On page 47, Senator Saland moves to discharge, from the Committee on Rules, Assembly Bill Number 6640B and substitute it for the identical Senate Bill Number 7616, Third Reading Calendar 2060.

On page 48, Senator Alesi moves to discharge, from the Committee on Rules, Assembly Bill Number 2683 and substitute it for the identical Senate Bill Number 3591, Third Reading Calendar 2187.

On page 48, Senator Padavan moves discharge, from the Committee on Rules, Assembly Bill Number 7166B and substitute it for the identical Senate Bill Number 4150B, Third Reading Calendar 2189.

On page 48, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 10113A and substitute it for the identical Senate Bill Number 6826A, Third Reading Calendar 2192.

On page 49, Senator Rath moves to discharge, from the Committee on Rules, Assembly Bill Number 10225A and substitute it for the identical Senate Bill Number 6938A,

Third Reading Calendar 2193.

On page 49, Senator Saland moves to discharge, from the Committee on Rules, Assembly Bill Number 11055A and substitute it for the identical Senate Bill Number 7617A, Third Reading Calendar 2194.

On page 49, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 11341 and substitute it for the identical Senate Bill Number 7941, Third Reading Calendar 2195.

On page 49, Senator Paterson moves to discharge, from the Committee on Rules, Assembly Bill Number 10492 and substitute it for the identical Senate Bill Number 8089, Third Reading Calendar 2197.

On page 49, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 11842 and substitute it for the identical Senate Bill Number 8256, Third Reading Calendar 2199.

On page 49, Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 9593B and substitute it for the identical Senate Bill Number 8261,

Third Reading Calendar 2200.

On page 49, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 9902B and substitute it for the identical Senate Bill Number 8312, Third Reading Calendar 2201.

On page 49, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 8761A and substitute it for the identical Senate Bill Number 8341A, Third Reading Calendar 2202.

On page 50, Senator Seward moves to discharge, from the Committee on Rules, Assembly Bill Number 11401 and substitute it for the identical Senate Bill Number 8357, Third Reading Calendar 2204.

On page 50, Senator Robach moves to discharge, from the Committee on Rules, Assembly Bill Number 11883 and substitute it for the identical Senate Bill Number 8379, Third Reading Calendar 2205.

And on page 50, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 7975A and substitute it for the identical Senate Bill

Number 8419A, Third Reading Calendar 2207.

THE PRESIDENT: Substitutions ordered.

Senator Robach.

SENATOR ROBACH: Yes, Madam President. Can we go to the noncontroversial reading of the calendar, please.

THE PRESIDENT: We can, and we will.

The Secretary will read.

THE SECRETARY: Calendar Number 226, substituted earlier by Member of the Assembly Morelle, Assembly Print Number 9308A, an act to amend the Insurance 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, 41.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 388, by Member of the Assembly Brodsky,

Assembly Print Number 8544B, an act to amend the Public Authorities Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 720, substituted earlier by Member of the Assembly Dinowitz, Assembly Print Number 1473, an act to amend the Executive Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

902, by Senator DeFrancisco, Senate Print 5529A, an act to amend the Criminal Procedure Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1167, by Senator LaValle, Senate Print 1633B, an act to amend the Tax Law.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1236, by Senator --

SENATOR HASSELL-THOMPSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1290, by Senator Farley, Senate Print 7526B, an act to amend the Banking Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1353, by Senator Hannon, Senate Print 7494A, an act to amend the Public Health 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, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1459, substituted earlier today by Member of the Assembly Brodsky, Assembly Print Number 3467, an act to amend the Civil Service 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 30th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1574, by Senator LaValle, Senate Print 7613A, an act creating the Task Force on Quality Assurance in Anesthesia.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42. Nays, 2. Senators Robach and Young recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1624, by Senator Seward, Senate Print 4650A, an act creating the Canadarago Lake Protection and Improvement District.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1744, by Member of the Assembly Silver,

Assembly Print Number 11255A, an act to amend the General Municipal Law and others.

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, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1888, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11945, an act to amend the Education Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Krueger, to explain your vote.

SENATOR LIZ KRUEGER: Madam

President, I would respectfully request to be excused from voting on 1888 because I have a pecuniary interest in this calendar.

SENATOR ROBACH: Without objection, Madam President.

THE PRESIDENT: You will be recorded as abstaining from voting, Senator.

SENATOR LIZ KRUEGER: Thank you, Madam President.

THE PRESIDENT: Senator Robach, without objection.

The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 1888: Ayes, 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1996, by Senator Morahan, Senate Print 8264A, an act to authorize the Greenwood Lake Union Free School District to file.

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, 46.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 2003, by Senator DeFrancisco, Senate Print 8282, an act to amend the General Municipal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 2040, by Senator Flanagan, Senate Print 8317, an act to amend the Election 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 Krueger, to explain your vote.

SENATOR LIZ KRUEGER: Thank you, Madam President.

Well, I understand what the Senator was trying to do with this bill, which is to open up for inspection a board of elections and their authorized agents to look at the proprietary software within voting machines.

This is not a same-as bill with the Assembly. The Assembly has passed a bill, A11641, that I believe much more clearly and concisely and directly addresses the problem.

And while I believe it is the intention of Senator Flanagan in this bill to try to address the same concern, I do not think that his bill does meet that standard. And I am sorry that we are not instead passing a same-as bill today with the Assembly.

And so because I think this is technically flawed, I will be voting no.

Thank you, Madam President.

THE PRESIDENT: And you will be

recorded as voting in the negative, Senator.

The Secretary will announce the results.

THE SECRETARY: Ayes, 45. Nays, 2. Senators L. Krueger and Sabini recorded in the negative.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 2060, substituted earlier today by Member of the Assembly Paulin, Assembly Print Number 6640B, an act to amend the Education Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 2084, by Senator Hannon, Senate Print 4621, an act to amend the Education Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 2107, by Senator Saland, Senate Print 8407, an act authorizing the City of Hudson.

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, 47.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 2143, by Senator Bruno, Senate Print 8444, an act to amend the Environmental Conservation Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 2178, by Senator Leibell, Senate Print 8426,

an act to amend the Public Authorities Law --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 2179, by Senator Golden, Senate Print 8428, an act to amend the Administrative Code of the City of New York.

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, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 2182, by Senator Little, Senate Print 8436, an act to amend the Criminal Procedure Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 2187, substituted earlier today by Member of the Assembly Morelle, Assembly Print Number 2683, an act to amend the Education Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 2188, by Senator LaValle, Senate Print 4068A, an act to amend the Mental Hygiene Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 2189, substituted earlier today by Member of the Assembly Grannis, Assembly Print Number 7166B, an act to amend the General Municipal Law and others.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 7. This act shall take effect on the 120th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48. Nays, 1. Senator Little recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 2191, by Senator LaValle, Senate Print 6636, an act to amend the General Business Law.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

SENATOR ROBACH: Lay it aside temporarily.

THE PRESIDENT: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 2192, substituted earlier today by Member of the Assembly DelMonte, Assembly Print Number 10113A, an act to amend the Environmental Conservation Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 2193, substituted earlier today by Member of

the Assembly Schimminger, Assembly Print Number 10225A, an act in relation to authorizing.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 2194, substituted earlier today by Member of the Assembly Paulin, Assembly Print Number 11055A, an act to amend the Social Services 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, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 2195, substituted earlier today by Member of the Assembly Grannis, Assembly Print Number 11341, an act to amend the Public Health Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 2197, substituted earlier today by Member of the Assembly Farrell, Assembly Print Number 10492, an act authorizing the City of New York to reconvey its interest.

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

Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 2199, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11842, an act requiring the Transplant Council to complete a study.

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, 51.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 2200, substituted earlier today by Member of the Assembly Rivera, Assembly Print Number 9593B, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT MEIER: Read the

last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 2101, substituted earlier today by Member of the Assembly Latimer, Assembly Print Number 9902B, an act to amend the Public Health Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 2202, substituted earlier today by the

Assembly Committee on Rules, Assembly Print Number 8761B, an act to amend the Public Health Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 2203, by Senator Johnson, Senate Print 8352, an act to amend the Insurance Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 2204, substituted earlier today by Member of the Assembly Grannis, Assembly Print Number 11401, an act to amend the Insurance Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 2205, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11883, an act to amend the Public Health Law and the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 180th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 2206, by Senator Golden, Senate Print 8413, an act to amend the Public Health Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 2207, substituted earlier today by Member of the Assembly Galef, Assembly Print Number 7975A, an act to amend the Penal Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 2208, by Senator Golden --

SENATOR ROBACH: Lay it aside temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

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

Senator Robach.

SENATOR ROBACH: Mr. President, if you could alert the members to come to the chamber. Ring the bell, so we can begin the controversial reading of the calendar, starting with Calendar Number 1236, by Senator Saland.

ACTING PRESIDENT MEIER: The Secretary will ring the bell.

Members are asked to come to the chamber and take their seat for the controversial reading of the calendar.

The Secretary will read the controversial calendar, beginning with Calendar 1236.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator Saland, Senator Schneiderman has requested an explanation of 1236.

But before you do that, maybe we could have just a little order in the house.

The Secretary will read.

THE SECRETARY: Calendar Number 1236, by Senator Saland, Senate Print 7921B, an act to amend the Environmental Conservation Law.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, this is a bill which is intended to deal with the issue of testing of private wells in those circumstances in which there may be the possibility or likelihood that they may be contaminated in a

fashion which might not ordinarily be demonstrated on the routine -- what I'll term routine test that is required by most lending institutions.

Those tests generally will serve for purposes of detecting any number of problems, particularly if it relates to E. coli or nitrates, cost perhaps $40 to $50, and are commonly provided for in either contract law or in fact merely required by the lending institution.

There are, however, a group of contaminants which are not generally indicated on those types of tests, and those contaminants generally are the result of some type of industrial pollution, perhaps some type of pollution by reason of proximity to a gasoline station -- MTBE, PCEs, TCEs and a host of other of these types of contaminants which, again, would not show.

What this bill proposes to do is to say that there are certain areas which at first blush you would think would be critically important to have testing of wells for those very contaminants. And this bill

says if you're in the vicinity of a Superfund site, you would be required to have your well tested. And when you had your well tested, there would be a state fund that would reimburse you, an existing fund in which there's some $15 million. You would make application to that fund for reimbursement.

In other circumstances where there might be mandatory well testing, those circumstances would occur when the Development of Health and the Department of Environmental Conservation determined that a particular area was at risk healthwise. They would make a recommendation to the local governing body, the local going body would then make a determination as to whether or not they wanted to adopt mandatory well testing for a specific area within a county or perhaps an entire county. But again, that would be a local matter.

Were that to occur, that too would be a reimbursable expense. That expense would be reimbursed by way of an offset from the transfer tax. These tests occur generally on transfer of property. And on the transfer tax

on the sale, there would be an offset.

In all other instances, these tests would be at the option of the purchaser. And if in fact the purchaser opted to have this test, again, the seller, on the transfer of property, would have the ability to offset, by way of a tax credit, an amount to be determined as reasonable by the Department of Health.

These tests, based on the New Jersey experience, run anywhere from $400 to $600. New Jersey is the only state in the union that requires mandatory well testing. And to date their experience has been that some 1 percent of the wells have the kinds of unique contaminants that are sought to be tested under this bill.

And while some 8 percent of the wells are contaminated based on their experience, what they've determined is 7 of those 8 percent are the types of contaminants that picked up, again, on what I term the routine tests required by your lending institution or which you will generally contract for.

In the State of New York there are in excess of 800,000 private residents that are being served by wells. If we extrapolate New Jersey's experience to New York's experience -- and certainly I would think, given the nature of New Jersey and the intense industrial development in certain areas, it's likely that they may well have higher rates of contamination than even in New York -- we're talking about maybe 8,000 homes in New York having a problem that would warrant this additional, more sophisticated, targeted testing. Even if we double it, triple it, quadruple it, quintuple it, we're talking 20,000, 30,000, 40,000 homes, perhaps, out of, again, 800,000 homes.

So this is a targeted effort. There's an education component that requires the Department of Health really to, in effect, engage in a public health information effort to educate the general public about the importance of this testing. There is a provision that requires all tests to be done by certified labs, certified labs to report the results to the Department of Health so

there's a database to determine where in fact these contaminated wells may be.

And what the bill also provides is that this database will be certainly maintained and would become the source for, should the occasion arise, a determination as to the need of any additional mandatory well testing.

The bill also provides a disclosure mechanism. In contracts, there -- as you will recall, we passed several years ago a bill that requires contract disclosure with regard to certain conditions of a home. This bill adds to those contract conditions, requiring disclosure of certain information with regard to your well -- whether you've had it tested, if there were any contaminants, what those contaminants were, and several other questions that are provided.

The downside is people can, in effect, buy out of that disclosure by paying $500. That is not an uncommon practice. What we therefore do is we also provide that if in fact a seller fails to disclose that they had a test or fails to disclose the result of that

test, the purchaser has the ability to seek damages and rescission, therefore avoiding the legal doctrine of a contract merging into a deed and leaving a purchaser often at the mercy of a system which may not respond to their legitimate concerns.

Mr. President, that is perhaps a not-too-brief explanation of the bill.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

Senator Onorato suggested I ask for a more detailed explanation. However, I will pass on that request.

I think that there are two fundamental problems that I have with this bill. And I'd like to speak on the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: The first problem is that the Assembly has passed a more comprehensive bill unanimously -- unanimously -- Assembly A6459, sponsored by

Assemblyman Thomas DiNapoli. And that bill has broader provisions than this bill. What that means is we're walking away with this year with nothing on the testing of well water because the bills don't match up.

I would urge my colleagues that if we have time -- and I think we do have time -- we should pass a Senate version of Assemblyman DiNapoli's bill.

The critical distinction -- this is my second problem with the bill -- between the Assembly version and Senator Saland's version is found on page 2 of Senator Saland's bill, which provides that the department, and this is the Department of Environmental Conservation, in consultation with the Department of Health, may, pursuant to a finding that there is not a health threat -- it's not clear what that means -- exclude or limit by geographic area or geologic formation some areas of the state.

Now, what that means is that unlike New Jersey, there are areas of the state where there will be no requirement that well water will be tested. And we know from our

experience and we know from the experience in New Jersey that in some cases there are contaminated wells even surrounded by other areas where the water is pristine.

Why is that? Because there's been illegal dumping of chemicals for hundreds of years in this state, decades, going back into the 19th century. There are people who have dumped things like fiberglass, petrochemicals, trichloroethylene. Those are the sorts of things that have showed up in New Jersey. And there's a substantial portion -- Senator Saland noted that it's a small portion of the wells that are contaminated, but even one contaminated well can be deadly.

So I view this as something like mandatory seat belt laws. Is it a burden? Yes. You know, if you're driving two blocks, who wants to do it? Is it something that does save lives when you make it apply to everyone? Absolutely. There's no question that the record in New Jersey reflects that there are some wells that are likely to be in areas that the department in New York State would find don't constitute health threats because

they're surrounded by areas where the water is clean.

We have to require that every well be tested. There are microenvironments in our state where there has been very, very specific dumping in a very small area. In fact, if you look at the history of this -- and we know this from litigation concerning some of this dumping. The most famous one was a book and then a movie, A Civil Action. But this goes on all over the place.

If you have a particular service station or a particular facility -- and this could be a service station that was operating in 1920 and shut down -- they may have dumped chemicals in a particular spot and then development goes on, a subdivision gets built. There's no way to tell that a particular home is in danger of chemical poisons, long-term damage, unless you test every home.

So, ladies and gentlemen, I would suggest that we vote against this one-house bill. Let's get a bill that would pass the Assembly. We have a great model in A6459. Let's test all the well water. Because it may

not be a large number of people who are injured or who die for our failure to test every well, but if one child dies, if one senior citizen is injured, that's too much.

In the State of New York we should not do less than the State of New Jersey. We should do more. We have an even more diverse array of chemicals that have been dumped here because of our great industrial tradition, again, dating back into the nineteenth century. Let's take that extra step and not pass a bill that includes this vague mandate allowing exclusion of large geographic areas or geologic formations.

So I would encourage a no vote, Mr. President, in the hope that we will be able to come up with a water-testing bill. I suspect we will be back here again this year. Let's get something done that we can pass both houses, make a law, protect the citizens of this state from dangerous contaminated well water.

Mr. President, thank you.

SENATOR SALAND: On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Saland, on the bill.

SENATOR SALAND: At the risk of raining on Senator Schneiderman's parade, the exclusion language is comparable to language in the Assembly bill. If you look at the Assembly bill, you will see there is a similar carve-out. So perhaps you will want to talk to the Assembly about getting that out of their bill as well.

The analogy of seat belts to a mandated cost I think is a little on the weak side. The seat belt law requires you to take an action. To require some 750,000 to 800,000 homeowners to spend anywhere from $400 to $600 is not quite the same as reaching across, bringing a lap belt and sliding it into your receiving end.

So I just stand to make those points. Thank you very much.

ACTING PRESIDENT MEIER: Senator Bonacic.

SENATOR BONACIC: Will the sponsor yield for a couple of questions.

ACTING PRESIDENT MEIER: Senator

Saland, will you yield for a question from Senator Bonacic?

SENATOR SALAND: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR BONACIC: Steve, I know that when you get a mortgage, the mortgagee requires that the well be tested. And most attorneys doing real estate have that provision if they represent a buyer.

Now, in the tests that you envision under this legislation, could you talk in differences in cost. Because the first test, is the water drinkable, as opposed to what the test will be under this legislation, is it different?

SENATOR SALAND: Generally the test that you're talking about is a potability test and also a volume test, is the well returning so many gallons per minute. That is what I referred to as the routine or garden-variety required test, $40 to $50.

There is then a menu of other tests you can have that will really be keyed in on different types of potential contaminants.

New Jersey's experience has been that depending upon what you choose, the costs can be anywhere from $400 to $600. I've seen others saying as much as $300 to $500.

What this bill would say would be that you have the option, the purchaser has the option -- if it's not in the mandated area, if you're not in the vicinity of a Superfund site or if your local county governing entity, in conjunction or with the recommendation of DOH and DEC, has not chosen to indicate a mandated area, the buyer will have the option of requesting additional testing above and beyond what I've termed the routine test.

If the buyer does that, the seller gets an offset from the transfer tax on closing for the cost of that test, based upon a predetermined amount as fixed by the Department of Health.

SENATOR BONACIC: Will the sponsor continue to yield.

ACTING PRESIDENT MEIER: Senator Saland?

SENATOR SALAND: Yes,

Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR BONACIC: Is the power with the Department of Health and the DEC to talk about the area? Will they have the sole determination of the area that will -- they'll say might be at risk that requires higher testing? Or will there be public hearings --

SENATOR SALAND: Under -- under -- that would be up to the local county.

Under existing law, counties do have the ability to make a determination as to whether or not they wish to declare an area to be one that requires additional well testing.

What we are doing is bringing in the expertise of the State Department of Health and State DEC, but still leaving the decision with the local county governing agency. If they want to give that function to the Department of Health, that's well within their authority to do so. I would assume it would be a process in which there would be public input. And I would assume there will be some type of hearing mechanism that they

would adopt to do that.

SENATOR BONACIC: Thank you.

On the bill.

ACTING PRESIDENT MEIER: Senator Bonacic, on the bill.

SENATOR BONACIC: I always get nervous when the DEC and the Department of Health are involved, to the extent that they say remedial action has to be done.

I'm concerned for two reasons. One is timely replies. Because in the real estate market, a lot of transactions are time-sensitive. And if you're involved with agencies and there's delays, that in itself could hurt real estate deals, just terminating because of timeliness. Because a lot of these contracts are conditioned on closing by a certain date, where time is of the essence.

So I could see a process -- and by the way, I'm going to support your bill. I'm just expressing concerns.

The second thing that I have a problem with is to the degree of remediation that may be required that a seller may not be able to afford.

Right now the real estate market has been working pretty good in terms of the seller and buyer deciding the degree of remediation in order to close. When you get these superagencies involved, I believe the degree of remediation will be deeper, more expensive, and perhaps not only terminate the real estate deal but put a scar on that seller for tremendous expenses of remediation and having much more difficulty in the future of selling that property.

I understand what you're trying to do, I support you, and I'm going to vote for the bill. But I just wanted to express my concerns.

And I thank you, Senator Saland.

ACTING PRESIDENT MEIER: Senator Morahan.

SENATOR MORAHAN: Thank you, Mr. President. Will the sponsor yield?

ACTING PRESIDENT MEIER: Senator Saland, will you yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The

sponsor yields.

SENATOR MORAHAN: I just have two simple questions outside the legal realm of discussion here.

Number one, as I understand it, if this is -- if the purchaser wants to have the well tested and it's not tested by closing date, what happens? Does the -- I know the seller will have to --

SENATOR SALAND: I don't view that as a problem. I mean, this is a ministerial function. The same way you would test for your bank currently --

SENATOR MORAHAN: So the assumption is --

SENATOR SALAND: It's just another test that will be conducted, and will be conducted in a fashion that comports with the closing date.

If you sign a contract on the first of June for a closing on the first of August, there's ample time to do all this testing. So it will not impair the ability to close timely.

SENATOR MORAHAN: Will the

sponsor continue to yield.

ACTING PRESIDENT MEIER: Senator Saland?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR MORAHAN: I guess I'm trying to understand. I understand that portion of it. But if, for whatever reason, the well is not tested by closing date, will the closing continue to occur?

SENATOR SALAND: I would think that if it was a condition of the closing, that it would not. But I think you're creating a scenario that's impossible to attain.

You know, I've handled probably hundreds of closings when I was practicing actively. It's a routine test. It's done in a matter of days, and it's never an impediment to the closing. The only time there is a problem is if the test shows some problem with the well, and then you make an effort to remediate.

SENATOR MORAHAN: Thank you. I have not done closings other than participated in those for my own purchases.

The other question is -- and I believe it's contained in your bill, I just want to get it on the record -- that a local municipality or county can regulate this issue on their own. For example, Rockland County has a local law that requires that the well be tested prior to sale.

SENATOR SALAND: This would not impact Rockland County's existing law. There's no effort here to supersede Rockland County's existing law. It would remain in effect under this bill.

SENATOR MORAHAN: Thank you. Thank you, Mr. President. Thank you to the sponsor.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the bill?

Debate is closed, then.

The Secretary will ring the bell.

Members are asked to return to the chamber for a vote.

Read the last section.

THE SECRETARY: Section 8. This act shall take effect on the 180th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1236 are Senator Andrews, Breslin, Connor, Coppola, DeFrancisco, Diaz, Duane, Gonzalez, Hassell-Thompson, Klein, L. Krueger, Little, Onorato, Oppenheimer, Paterson, Sampson, Savino, Schneiderman, Serrano, A. Smith, M. Smith, Stachowski and Stavisky.

Those Senators absent from voting: Senators Dilan, C. Kruger and Parker.

Ayes, 34. Nays, 23.

ACTING PRESIDENT MEIER: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 2178, by Senator Leibell, Senate Print 8426, an act to amend the Public Authorities Law and

others.

SENATOR HASSELL-THOMPSON: Explanation.

ACTING PRESIDENT MEIER: Senator Leibell, an explanation has been requested with regard to Calendar 2178.

SENATOR LEIBELL: Thank you, Mr. President.

ACTING PRESIDENT MEIER: First, before you do that, could we have some order in the chamber, please.

Senator Leibell.

SENATOR LEIBELL: Thank you.

As we all know, last year we passed a far-reaching piece of legislation that attempted to, and I think successfully, bring reform to the area of the public authorities. That was an effort that, when we went through it at that time, we knew it was incomplete and we stated that on the record.

We waited for the Governor's commission, Commissioner Millstein's report to come out, at the same time that the Senate -- Senator Smith, myself, Assemblyman Brodsky, we were conducting an additional public hearing.

At which point Mr. Millstein, the State Comptroller came forth and testified.

First, let me note that we continued to work with the Assembly. I want to thank Senator Smith because we have worked very closely on this over the last many months. Also, Senator Bruno for his help and support.

And we have in front of us today legislation which I believe continues with this process of reform, to attempt to give us accountability, to let the people of our great state know what our authorities are doing, authorities which have meant so much to us historically.

As I look at this bill in front of us, candidly, I have to say that -- the commission, under Ira Millstein, came forward with their suggestions, as well as the Executive -- and I have to say that what I bring before you today, with Senator Smith, is in most respects I think quite superior and attempts to, as I said, continue with this process of reform.

What we have attempted to do here

is to lay out some additional recommendations. And I'll try and be specific as to what the bill does. It would expressly outline the powers, duties and independence of the Authority Budget Office, the ABO that was created last year, placing it under the independent purview of the Public Authorities Control Board.

Hopefully this will provide improved compliance, accountability, transparency, efficiency and effectiveness. It would provide for improved board membership screening standards and processes.

The bill would further expand the governmental and public reporting requirements of state and local public authorities; would require public authority board members to acknowledge that they understand their fiduciary duties; require audit and governance committee members to possess the skills necessary to carry out the duties and functions of such committees; would require public authorities that issue debt to establish a finance committee to make recommendations for oversight of the same;

establish a uniform fiscal year for public authorities, urban renewal agencies and certain others specifically designated as July 1st, unless they can prove that it is not in that entity's best interest; and require that all subsidiaries of public authorities be created by an act of this State Legislature.

As I said, I think in doing this we will have gone and taken a major step forward in this continuing process of reform of our public authorities.

SENATOR LIZ KRUEGER: Mr. President.

ACTING PRESIDENT MEIER: I'm sorry, Senator Krueger, you were uncharacteristically unobtrusive.

Senator Liz Krueger.

SENATOR LIZ KRUEGER: Now, was that a compliment, Mr. President?

ACTING PRESIDENT MEIER: That was a sincerely meant compliment.

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

ACTING PRESIDENT MEIER: Senator

Leibell, do you yield for a question from Senator Krueger?

SENATOR LEIBELL: Yes.

SENATOR LIZ KRUEGER: Thank you.

I appreciate the explanation and overall support your bill, Senator. I think it is another step forward for us in trying to reform public authorities and protect the public by ensuring that we don't have renegade public authorities without reasonable oversight and rules and ethics.

My one question is, I read the bill carefully and I held it up against the Millstein Commission report -- and you referenced that commission report -- and it is not clear to me that this bill explicitly says that paid, registered lobbyists should not be on the boards of public authorities, whether or not they are paid to be on those public authorities.

So I was wondering if you could show me -- either clarify for me that it is in your bill or explain to me why it's not in the bill.

SENATOR LEIBELL: Fine.

I want to again say that I think that the Millstein Commission did an excellent job. This was a great deal of work. And I want to compliment also the Executive, because he brought in Ira Millstein, who I think most of us know is, in terms of corporate governance, the leading authority not only in this country but probably worldwide. So we're very grateful for the work they've done.

And the issue you bring up is one that we have talked about and considered and tried to figure out the best way to approach it.

What we attempted to do was in our bill, in Section 12, we have provided for a process to be established by regulation of the Authority Budget Office for the screening of proposed directors. And this was an important issue, as you noted, in the Millstein report.

You're correct that the statute does not expressly spell out the regulation. And such is the very nature of providing regulatory authority, it should be noted that any such regulation pursuant to this bill must be approved by the PACB, which is basically

the Majority Leader, the Speaker and the Governor. And I think what we've tried to do, as we do in providing regulatory authority in so many other areas, is to give that entity the ability to screen, to look at, to examine and to make a determination within that authority whether that individual has a conflict or should not be there.

Now, if we were to find at a subsequent time that that does not work, we're going to be back here reviewing that issue again.

SENATOR LIZ KRUEGER: Thank you. Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Liz Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you. I want to thank the sponsor for his explanation and for his work on the bill, as I want to thank my colleague Senator Ada Smith, who's his cosponsor on the bill.

Again, overall, I am very pleased with this bill. The one place where I must respectfully disagree with my colleagues is that when I read the Millstein report, when I

continue, as we all do, to read the stories of scandals around the country -- not of paid, registered lobbyists existing; there's a very strong reason to have lobbyists who are experts in their field who represent the interests of their clients.

My objection is that because, by definition, they represent the interest of their clients, they are, quote, in a legitimate, valuable way paid guns for their clients. That there is a reason, because of that, and because of the stories that have come out around the country -- certainly, most famously, the Abramoff scandal in Washington that continues -- there is a strong argument that we need to pass a law that explicitly says if you're a registered lobbyist you cannot serve on a public authority board.

And I believe, again, taking it simply from the Millstein report, that since we have a law now that says paid directors of public authorities in New York have to be subject to both Sections 73 and 74 of the Public Officers Law, which would actually then exclude paid, registered lobbyists, that we

need to expand that to include unpaid board members of public authorities under those same sections. Right now they are only subject to Section 74 of the Public Officers Law.

So I believe it would be simple to resolve this. Simply, as I believe the commission recommends, change Section 73 of the Public Officers Law so that you could not be a paid or an unpaid officer of a public authority if you are a registered lobbyist.

And that's the technical story. The untechnical story -- and I think you probably don't disagree with me, but I want to just say it on the record -- is, again, I have no problem with people being lobbyists. I have no problem with having people being paid or even paid well to be lobbyists. The problem with putting them on public authority boards is by definition, I believe, there's an inherent conflict of interest with representing independently the interests of the public as an appointee of the government.

So I've been asked privately, Well, you think it would be a problem if they were on the board of an industry that they're

representing in front of the board, and I've said, yes, that would distinctly be a problem.

I voted no against a specific nominee here last week -- maybe it was this week. The days flow together -- a gentleman named Joseph Strasburg to continue on the board of the SONYMA authority. He is a paid lobbyist for the real estate industry. I don't believe he should be on the board of a housing financing agency because I think, by definition, it's an inherent conflict. No disrespect to that individual or the skills he brings to his job as a paid lobbyist.

But I would have the same problem even if it was a different industry and, say, you were on the board of a housing agency but you were technically a lobbyist for the healthcare industry.

And here's why I think that's an inherent conflict. Because of course we know that many lobbyists in this town work for lobbying companies who represent many clients. Right? Probably most of them do, statistically. And so even if you're a lobbyist for the healthcare industry and you'd

be nominated to sit on a board that might deal with racing and wagering or housing or workers or almost any other imaginable public authority, the conflict for me is still there because the people you work with daily may be representing the industry that's coming before you.

The people who may be your partners in that lobbying firm may be representing interests that would come before you at the public authority. And, frankly, your decisions might in fact affect your bottom line in your payment as a partner in a company and how much they made or did not make that year.

So again, I think that this is an opportunity to explicitly clarify in the law that if you are a paid, registered lobbyist you should not be allowed to be paid or unpaid as a public authority board member.

I think that -- I won't speak for you -- I think that most people in this room would probably agree with me that they would like to do it. I'm sorry it's not in the bill.

I will vote for your bill. But I wanted to clarify this on the record because hopefully there are more opportunities to fix this, perhaps not this session, but to make sure that we don't lose track of what I believe is a very important issue in public authorities reform.

Thank you, Mr. President. I vote yes.

ACTING PRESIDENT MEIER: Senator Leibell.

SENATOR LEIBELL: If I can just respond briefly.

And I don't think we're that far apart on this issue, to be honest with you, because I think it is also an issue of concern.

The regulation, regulations will be able to specifically state for any authority that a lobbyist would not be eligible. These authorities would be able to do that.

My concern is that when we put this into statute, we may lose some very talented person who's out there and really doesn't have a conflict and is a type of lobbyist who's not

really what we would envision as a normal lobbyist.

So it may come to the point where, yes, we have to come back, as I noted, and consider this again. However, I think under this bill there is sufficient authority to address the issue that you have raised.

And if there's not, I have an idea we're going to know very quickly and then we're going to come back and address it in a different way.

ACTING PRESIDENT MEIER: Senator Ada Smith.

SENATOR ADA SMITH: Thank you, Mr. President.

Once again this year I have the opportunity to rise and to thank Senator Leibell for his cooperative spirit and for allowing this conference to participate in what is landmark legislation.

As we continue to improve upon what we started last year, I also want to thank Senator Bruno for allowing us to participate, and for Senator Leibell being so considerate of the views of the Senate Minority.

And he is a pleasure to work with. I thank him, and I thank his staff. And I look forward to next year being able to go even further than we have gone this year.

ACTING PRESIDENT MEIER: Does any other Senator wish to be heard on the bill?

Debate is closed, then.

The Secretary will ring the bell.

Members are asked to return to the chamber for a vote.

Read the last section.

THE SECRETARY: Section 20. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Leibell, to explain his vote.

SENATOR LEIBELL: Thank you, Mr. President.

This Legislature over the last couple of years was confronted with some very serious questions concerning the public authorities in the State of New York.

We have worked with the Executive,

we have worked with the State Comptroller, we have worked with the Attorney General, we have worked together as partners. As Senator Smith noted, this has been a complete partnership between the Majority and Minority as we have attempted to address this problem.

I think we have made great strides together. We have made very significant improvements. There's no question, and I'll state it again, I believe there will be more work that will have to be done in the future.

But I think that we can all leave here very well satisfied that we have collectively done a very good job in reforming these authorities which have played such a significant part in the history of this great state and undoubtedly will in the future of this state.

So thank you, Mr. President. I support this legislation.

ACTING PRESIDENT MEIER: Senator Leibell will be recorded in the affirmative.

Senator Gonzalez, to explain his vote.

SENATOR GONZALEZ: Thank you,

Mr. President.

I want to thank Senator Ada Smith and Senator Leibell on the work they've done; also Senator Bruno.

As you said, that it's a partnership. And you are exemplary in that partnership, and we can do a lot of things together. So I vote aye and thank you very much again.

ACTING PRESIDENT MEIER: Senator Gonzalez will be recorded in the affirmative.

Senator Farley, to explain his vote.

SENATOR FARLEY: Mr. President, thank you very much.

I just want to rise and salute Senator Leibell on this. You know that last year, that was the first corporations and authorities reform that has been here that has been done by this Legislature in decades and decades and decades. And it was a major piece of legislation.

And as he promised, they're going to tweak it and make it better. And this is just another example of the Legislature doing

something that people thought we could never do.

And I salute Senator Leibell and the entire committee. Thank you.

ACTING PRESIDENT MEIER: Senator Farley will be recorded in the affirmative.

Announce the results.

THE SECRETARY: In relation to Calendar Number 2178, those Senators absent from voting: Senators Dilan and C. Kruger.

Ayes, 58. Nays, 0.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 2191, by Senator LaValle, Senate Print 6636, an act to amend the General Business Law.

SENATOR HASSELL-THOMPSON: Explanation.

ACTING PRESIDENT MEIER: Senator LaValle, an explanation has been requested of Calendar 2191.

SENATOR LaVALLE: Thank you, Mr. President.

This legislation in various forms has been before this body on a few occasions,

has gone to the Governor and the Governor has vetoed it. But I believe that things have changed since the last time this bill has been on the floor.

This is no doubt, in particular if you live in downstate New York, that for some bizarre reason the price of gasoline can be 20 to 30 cents higher than upstate. You could pay $2.83, $2.90 in the upstate region and pay anywhere from $3.17 to $3.36 on Long Island.

And the reason -- you reach for a rationale. Why? Why is this? Is it transportation costs? You query people, they say no, not really. What we have seen, and I think everyone is aware of it, is greater consolidation of companies. We now have Mobil Exxon. The amount of competition is being reduced. The power and strength of these companies is enormous in the marketplace, and they will use their strength and advantage to get whatever they can get from the consumer.

This legislation before us deals with the relationship between the company and the franchisee. I don't think we realize that over our lifetimes, when we had far greater

number of independently owned stations, the advantage, the competition, the service that we got from the independent service station.

Today they are dwindling. But those that are here and have a franchise agreement with the company -- and I've said this over and over again on the floor -- is a master-servant relationship. You would ask yourself why would someone even enter into an agreement. But the great American dream is to own your own business, to be happy doing what you want to do. But the company has great control.

We, in this legislation, make an attempt to give the franchisee some leeway. The legislation talks about the distances that new company-owned stores can locate next to an operating retail station. In cities with a population greater or equal to 1 million, it's one mile. Counties with a population greater than 900,000 not wholly contained within a city, 1.5 miles. And all other counties, 2 miles.

There are some exceptions to the distance limitations: where a retail service

station is to be located on the opposite side of a divided highway, where there exists a natural physical barrier, such as a body of water, and where a retail station is to be located on property owned by the state.

The importance of this -- and we've talked about this in prior legislation on this floor -- is to ensure that the terms and conditions that are entered into do not control the price and the volume of gasoline that must be sold during a particular period of time. And so what we're trying to do is to ensure that the franchisee can compete.

And this is the only way we can go at it with the big companies -- the ExxonMobil, Shell -- to ensure that those independent agents can continue to operate in a way where they can be competitive and not be told and to have their prices set and the amount of volume of gasoline established.

I think the time has come to ensure that there is some competition in the marketplace. As you would imagine, the independent stations support this legislation; the major companies oppose it. So if we

believe in competition, a vote in the affirmative is the correct vote.

ACTING PRESIDENT MEIER: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President. Would Senator LaValle yield for a question.

ACTING PRESIDENT MEIER: Senator LaValle, do you yield?

SENATOR LaVALLE: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR CONNOR: Thank you, Mr. President.

Mr. President, the Governor vetoed similar -- almost identical, but similar legislation in 2002 and I believe, as I read it, in 2004 vetoed identical legislation.

And I appreciate -- I listened carefully to Senator LaValle's remarks, and he said since the Governor vetoed it in 2004 circumstances have changed. My question, Mr. President, is since the Governor vetoed the bill in 2004, has the bill changed as it's before us now?

SENATOR LaVALLE: Very little if any, Senator.

But what the circumstances -- the Governor, in his veto, was relying on the Consumer Protection Board and things that the Consumer Protection Board, he had hoped, would do in terms of education and also involvement in any unfair practices by the companies.

And I can tell you that I have interacted with the Consumer Protection Board in terms of their being more aggressive. And quite honestly, you see what the situation is. It is what it is. And nothing that the Governor talked about has happened in terms of pressure or any other prior legislation that has passed in the intervening years.

SENATOR CONNOR: Thank you.

On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Connor, on the bill.

SENATOR CONNOR: Mr. President, this bill creates an interesting cast of opponents here. On the one hand are the greedy, gouging, big oil companies, and on the other hand the gouging -- and some have been

proven to be price-gougers, or at least charged by the Attorney General -- independent or franchise operating service station attendants.

You may all have seen in the headlines a while back a gas station singled out -- that's I believe a franchise-holder there, it's not a company-operated station -- near the Manhattan Bridge in Brooklyn. I'm tempted to say in my district, but I think actually it's in Senator Montgomery's district by a couple of blocks. It was charging $4 and some cents a gallon a while back, and people started picketing him, were outraged, and he lowered the price.

Why was he charging that, Mr. President? Well, you know, he's the only gas station within a mile or a mile and a half, and it's right where you get on the Brooklyn-Queens Expressway, or get off, if like you need gas and you're on E, and right where you get on or get off the Manhattan Bridge.

If you've ever been -- and it happens to me a lot, given my district. If

all of a sudden that little thing goes off and you're out of gas and you're in Manhattan, and I think my Manhattan colleagues will confirm this, you immediately think, jeez, where is there a gas station? There aren't that many. And in Manhattan you pay the highest prices for gasoline anywhere. They rip you off when you find a gas station.

There was an article about a year ago about a gas station in Lower Manhattan, the only gas station I believe left in Lower Manhattan for a couple of miles around. It was charging -- before the recent escalation in prices, it was charging 75 cents more a gallon than anywhere else.

Now, okay, so we have opponents here. We have the large oil companies that want to make more money -- and Lord knows they're drowning in money, if not in petroleum -- and the service station owners, and I haven't seen recently a lot of them filing for bankruptcy.

What is the answer here? We're all concerned about the high prices of gasoline. We all want to bring them down. We passed --

we tried, as little as a state government as we could do, we tried with the gasoline tax recently.

But I know one answer. And maybe I'm just a conservative Democrat -- I've never been accused of that -- but my economics courses taught me that the answer to high prices is more competition, not less competition. And I'm surprised to see coming from the Republican Majority in this house every two years this bill that would protect certain gasoline stations from competition, even while we're saying why are prices so high.

And if having another gas station open a quarter of a mile away means the existing franchise-holder has competition, well, good business practice says figure out if you can lower your prices a couple of cents a gallon, and people will drive into your station and not the one a quarter of a mile down the road. Word gets around.

And believe me today, Mr. President, people are shopping for gasoline prices far more than they ever did.

And it's quite understandable.

Why is this bill anti-competitive? Now, I know it's masked in the -- it looks like it's, oh, we're trying to preserve competition for the poor franchise-holders. Well, you know, we dealt with fair practices in this business when we adopted Chapter 74 of 2004, the New York Motor Fuels Marketing Practices Act, which promotes competition and make the predatory, discriminatory pricing rebates and practices unlawful. And they're unlawful, I believe, in the context of franchising as well.

And how big is this problem? Are the ravenous large oil companies -- well, the one oil company I think with the most -- the most company-owned service stations in New York State is ExxonMobil. But it only constitutes 6 or 7 percent of the ExxonMobil stations you see. 93 percent of them are owned by a franchisee.

So I don't think it's a major problem in terms -- and there are laws that forbid predatory activities by the franchisor, by the large oil companies, going way back.

We all heard about in this school. The Sherman Antitrust Act, as early as 1890. The Clayton Antitrust Act, 1914. Federal Trade Commission Act, 1914 -- all prohibit the kind of predatory actives that one might fear when the large oil companies are going to come into a competitive situation with one of their franchisees.

We have a state law, the Donnelly Act, 1893. It prohibits price fixing, bid rigging, monopolization, boycotts, typing arrangements, territorial and customer allocations, among other practices. It has fines of up to a million dollars for corporations, $100,000 for individuals. It allows a private right of action, very important, a private right of action to enjoin these actions, with treble damages. And it has a felony violation, also punishable by a million-dollar fine, $100,000 in -- a million dollars for corporations, $100,000 for an individual, and four years in prison. We've protected the competitive marketplace as best we can.

This bill would eliminate

competition. It would let someone like that guy by the Manhattan Bridge keep out a large oil company -- i.e., ExxonMobil; I think it's a Mobil station -- from locating a few blocks away and charging competitive prices.

I understand why service station operators like to be the only game in town. You know, there's no businessperson, when you've got your own business, who wouldn't say forget the theory of competition, I'd like to have a monopoly right here. I'd like to be the only candy store in my neighborhood. Because you know why? I can make a few cents more on every candy bar, and people want to eat candy, they got to come to my candy store. I don't want a candy store up the street underselling me.

But our whole market economy depends on competition. And this would prevent competition. So how can we seriously -- and I'm a Democrat saying this. I'd like to hear from some of my colleagues in the other party. How can you seriously say that an anticompetitive measure -- that you're concerned about gasoline prices, you're

concerned, you're concerned enough to repeal a tax, and yet you want to eliminate competition and pray that prices will come down.

Any real economist, any real business expert will tell you, you want prices to come down, you create competition and the market, the market will adjust. Competition will get, through the marketplace, the lowest conceivable price at a profit for any good, whether it's -- any goods or services, whether it's gasoline or widgets.

So I'm opposed to this bill. And, you know, when we debated it two years ago, my opposition was much more theoretical about anticompetitive practices. And four years ago it was even more theoretical.

You look at today's gasoline prices and you want to protect service station owners from having any competition nearby? Under the guise that, oh, the big bad oil companies can squeeze their own franchisees who constitute 93 percent of their business in New York?

And by the way, Mr. President, a large oil company that does not currently have franchisees in New York State can come in and

locate anywhere. They're somehow exempt from this.

Now, maybe that's good, because we'd like to get more in for competition. But keeping out the ones who already do business in New York makes absolutely no sense, no sense whatsoever. It will only protect the profits of those who are already getting the enormous profits.

I'm opposed to this bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Padavan.

SENATOR PADAVAN: Thank you, Mr. President.

Senator Connor, I think you missed something that you can observe, as I observe it, every time we ride down the Thruway. Most of them are ExxonMobil. And you will notice that at different places, the prices vary. And by the way, substantially less everywhere than they are in our city. But they vary.

Now, do you know why that's so? Because in their franchise agreement with the Thruway Authority they are required to

maintain a pricing level with the general pricing level of that particular area of the state they're in. They're required to do it.

Would they do it on their own? Probably not. But that's the deal they enter into to be able to have an ExxonMobil station on the Thruway.

So you do have to somehow force these people to be competitive. In that instance, you could do it by virtue of the contract, the franchise and so on.

Now, when I go to my district and I'm on one end of it, in Flushing, and I look at a Mobil station and I'm on the other end of it, on the border of Nassau, the prices are the same. They're the same. Very high, I might add, but they're the same.

Which tells me in a very practical way that whether they are independent owners or whether they're owned by a large conglomerate that has a number of stations, they're fixing the prices. They're fixing the prices. And there is no competition among them.

Now, what Senator LaValle is

saying, as you just pointed out in your final remarks, yeah, any other company can come in, any other brand, and that will be competition with ExxonMobil. But when you rely upon that one entity to provide competition among its retail outlets, you're kidding yourself. It's not going to happen. It isn't happening. The proof is in what you see every day.

Now, this bill isn't going to solve all the problems, but I think it certainly moves in the right direction of seeing that they don't dominate a whole area, that other kinds of retailers from other firms will be in that vicinity and perhaps provide a competition that does not currently exist.

ACTING PRESIDENT MEIER: Senator Volker.

SENATOR VOLKER: Mr. President, what is kind of comical -- I know what you're saying, Marty, and I'm generally for competition.

But when you're talking about Manhattan, there's some reasons why the Manhattan gas prices are as high as they are. It's no secret that cities -- and New York has

got more regulations, more fees, more everything than anyplace in the United States of America. And frankly, most of the cities do that. It's one reason why gas is higher, why a lot of things are higher.

But there's something I have to tell you. You see this memo here? You're on the side of ExxonMobil and all the other companies who are claiming exactly what you're saying. But the only thing is they're claiming the reverse of what you're saying. They're saying that this bill will hurt them and that therefore it will raise prices.

Well, you know, if it raises prices, as you said, that's supposedly in favor of the oil companies. So why would they be opposed to raising prices and making more money? The answer is this is all nonsense.

In many ways -- and by the way, I have represented local service stations. I think every time I had them sign a contract, I gave them the same advice: Don't sign this contract, it's a lousy contract, it's ridiculous, da-da-da-da-da-da. But if you have to sign it, sign it, and we'll do the

best we can.

Because if you ever read these franchise contracts, they're so loaded on the side of the company, it's just -- it's idiotic. But there's not much you can do, because they -- thanks in part to our own bad practices, because we're the ones that throw gasoline and oil companies out of this country with our ridiculous environmental stuff. And we don't have -- the big thing is we don't have any new refineries. Put about five refineries in this country, and the price will plunge. But unfortunately, that's not going to happen. We haven't built a refinery in this country in twenty years.

Anyways, the bottom line is I don't see where this bill does any damage. In fact, I used to, as chairman of Energy, I'd be opposed to this sort of thing. But then I realized it really doesn't matter to price, it's all a matter of dealing with the major oil companies who, very honestly, have a tremendous advantage.

What Senator LaValle is doing here is something that in normal business is not a

good idea except that the way the system is right now, they have all the advantages anyway. And this bill, actually all it does is give certain people -- that is, individuals in an area -- the ability to deal with other -- with big company stations.

But I have to tell you one thing. Nobody in the oil business thinks this is a good idea, because actually it works against their best interests. So if you think this helps the oil companies, you're absolutely wrong.

ACTING PRESIDENT MEIER: Senator Larkin.

SENATOR LARKIN: Thank you, Mr. President.

I was really amazed at Senator Connor's comment about what we're going to do is to kill the industry. The industry was killed in part because his side of the aisle and in the other house, they don't want to build refineries. We don't have any refineries.

But when you talk about the number of stations on, last September, Labor Day

weekend, I surveyed 35 gas stations. And what did I find out? All the DBs that bought gas, they bought it in Wappinger Falls. They had 14 stations. They told them: We will sell you a hundred thousand gallons of gas, you'll have a certified check. And by the way, this is the price as of 1:00 p.m. this afternoon for every station.

I did it to 35 stations, and I got the same answer. I got it from Hess, I got it from DB, I got it from Mobil, I got it from Exxon, Amoco. They're in cahoots. And my good friend Mr. Klein will say: We've got to get somebody to look at it. So I did. We have an Attorney General who has that responsibility. And after two months response, it came back signed by an attorney in New York City, who probably couldn't find Vails Gate, and said we've already done 35 investigations, and we're suing them and we're doing this and we're doing that.

Guess what? Hasn't done any in my area, because I went back to those 35 stations and they said: Nobody's ever contacted us.

Now, you can go right here to

Saratoga, Stewart's in Saratoga. They set the price of Stewart gas throughout the state of New York. It isn't that guy on the corner.

And if you really want to know, go down and ask the guy who runs the store. He can set the price for the hot dogs, the hamburgers, the cigarettes, the bubble gum or what else, but he can't sent the price on the Lotto machines, nor can he set the price on gas, because his supplier makes that determination.

And if you think putting more stations in there is going to lower it, you're foolish. I went this April, and I went to the same 35 stations, and I got the same answer: Nobody from the Attorney General's office has ever contacted us, and we still buy gas in bulk, and we still set the price per the directions of those in Wappinger Falls.

So I commend Senator LaValle. Because normally we think that more is better. But sometimes when you take the pie away from them, they realize that it's their turn. And right now, we don't have any players helping us.

ACTING PRESIDENT MEIER: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

I want to thank Senator Padavan, because I think he's just given us the direction to get after the Thruway Authority. I don't know why they're making those stations on the Thruway rip us off every week.

The fact is, although I guess if we get a new administration, they won't be able to influence the Thruway Authority until 2010 or something, based on some of the things we've done this week.

The fact, though, is, you know, we have laws against monopolistic practices. We have laws against price-fixing and price-gouging. And we have laws against franchisors unfairly extracting conditions, anticompetitive conditions from their franchisees.

And if you analyze this -- and I have no sympathy for the large oil companies, Mr. President, because as I started this debate out, I said here we have contrasted the

greedy and the greedier, and I'm not sure which side which falls on. That's why I talk about competitive theory and existing anticompetitive antitrust laws.

But if you consider to turn around an argument we've heard that, oh, the big oil companies wouldn't be against this, they say in their memos they want to bring prices down, but why would they want to do that. Well, the other side of the coin is why does the franchise-holder want a monopoly? It's not so they can bring prices down either.

I don't know that there's any good guys, that there's any good guys in this fight. What I do know is that the marketplace demands competition if you're going to get fair prices. The fact that we don't have that, the fact that oil companies allegedly tell the franchisees what to charge, according to some of my colleagues who have spoken here, is precisely the reason this is a bad bill.

The rationale for this bill from the franchisees is, oh, the big oil company might open a station a half a mile down the road and undercut my prices because of their

big economic power. That's contrary to what I'm hearing from the other side of the aisle that, oh, the big oil companies, they don't want this bill so they can go in there and charge higher prices. The franchisees are saying, No, they'll undercut apply prices.

The real answer about the fair price is competition, competition, and more competition. That's why I'm against this bill.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

I rise to support this legislation. And I agree with what Senator Connor had talked about. But this isn't textbook economics. And what you just concluded in your statement is why I rise. It's because the independents are telling me that the corporates that are less than a half a mile, maybe a block or two, are undercutting them on the prices of gasoline.

And I've got two gasoline stations, ExxonMobil, in my home community where I live,

probably less than a quarter mile from each other. The one furthest west is always a couple of pennies cheaper than the one east. And I go to the guy in the east and I asked him why. And he said: "Because he's selling gas, that's a corporate station, for what I'm probably paying for it. And then he changes my franchise agreement, ExxonMobil, right in the middle of the agreement, because there must be some clause legally that allows them to do it that says my minimum's were 500,000 gallons a month. Now they've raised it to 750,000, just like that. And they go in and put a snack shop and they tell me in six months I have to take mine out. And then they go in and they put a repair station, and they tell me in six months I have to take mine out."

So that's what I look upon this bill doing, creating a level playing field.

You know, when I was a kid growing up, Mr. President, all the major roads in my town and throughout Nassau County were there was commercial development had four gas stations on every corner. You know, wherever

you went there was four gas stations. Now there's one left. Maybe two or three are abandoned, one became a bank, and the others are just boarded up or they're painted black or yellow or whatever the gas station does on Long Island. And the one that's left is corporate-owned, because of the examples I just told you about how they're squeezing them out.

So I don't look upon this as anticompetition. I look upon it as bringing competition for an industry that has none.

You know, Senator LaValle in his opening remarks said the corporate power allows them to do whatever they want. I look upon it as the corporate greed allows them to do whatever they want. Last Monday I paid $2.87 on the Island -- I'm sorry, $3.17 on the Island. Up here, a little further north, I paid $2.87.

I asked somebody in the industry that represents the independent retailers why, why am I paying so much on the Island and, you know -- not so little, it's still a lot, $2.87 a gallon up here. He says, "Well, they know

they can get away with it."

Corporates are dominating the Island. The independents are being squeezed out. Another guy came to me recently, they raised his minimums 500,000 gallons a month to a million. He'll be out of business in six months. He's been in business 25 years; he'll be out in six months.

So I look upon this as levelling the playing field, allowing for competition. You know, we lowered the sales tax. We tried in our own way, as you said, Senator Connor, in our own limited way to give relief. I haven't seen it. I haven't seen it. They're allowed to dictate whatever they want.

But it's a fact. It's a reality. And we see it every single day. You mentioned in New York City about the gas stations. When I go into the city, I make sure I fill up because of exactly what you said. I wouldn't even know where to find a gas station. But where I live, it's being -- it's an industry that is becoming scarce. It's becoming unknown to the independent retailers. And they're seeing -- if they own their property,

they're saying, I can't stay here anymore, I can't pass this on to my children. I've been in business, this was my life's work. I'll sell the property now and get out.

And it's unfortunate that these men and women who dedicated their lives to building up a business are having everything taken away from them because of what's going on in today's society, in reality, with the economies of today, where the corporate greed is just dictating what they want.

I'll be voting in the affirmative. Thank you.

ACTING PRESIDENT MEIER: Senator Alesi.

SENATOR ALESI: Thank you, Mr. President.

For a number of years I've taken very seriously this situation of company stores and the lack of competition and in fact, in my opinion, the manipulation of the market.

And if you listen to what Senator Fuschillo describes in his home area, you can see the same thing in my home area and, I

suspect, anywhere else in this state.

Now, as a business owner and as chairman of Commerce and Small Business, it's always very difficult for me to stand up and take on one business over another. But I think that this is an issue that really deserves our attention.

If you know anything about company stores, you know that the major oil companies that provide product to those company stores do it at a price that is substantially less than they give to the same brand stores just down the street owned by an individual, somebody that has a franchise.

And so when someone invests their life savings, their blood, sweat, their tears in a small business -- and maybe they own one store, maybe even two -- and they're there working it, like the person who lives just next door to me, and they're putting everything they have into that business and they have to buy that product from the oil company at a price that the oil company gives them, and just down the road that oil company opens up another superstore that it owns and

they sell to that store that they own the product at substantially less -- and they're competing with somebody that has a franchise with them, that has a lease, and they're selling gasoline for less money on a retail basis than they are to somebody that has to buy it from them.

Now, somebody can say that's the marketplace; somebody can say that's fair. But I don't think it is.

And I'll take this argument just a little bit further, because there's a thing called zone pricing, and this makes the evidence even more clear how the big oil companies can manipulate the market price.

They don't even have to have a company store to sell the product at a smaller price here than they do over here. They can have two separate franchise-holders within a few blocks of each other and just based on what they call zone pricing, in other words, an area's ability to pay, one area a little more affluent than another, they fix the price of that product at a higher price. And they tell the retailer: This is what you have to

sell it -- this is what you have to buy it for us for, and so you have to sell it for more.

And if you go down the street two or three blocks where there's less ability to pay because of the area, the buying power of the people that live in that area, they sell to them for less. And they say: You're going to sell it at this price.

By the way, if you don't know that, there's a range at which these retailers can sell. They won't let them go above that range. They have a stranglehold on these small businesses.

And when you look at this zone pricing and when you look at the company stores, you can't miss the fact that there's manipulation of the way this product is sold to the various outlets.

So if you don't buy the fact that it's unfair to the small business owner because you're saying, Well, you know what, that's the way the market works, then you have to look at what the consumer is doing. And the consumer is being affected by this kind of manipulation. You and I, the people that we

tried to help when we did this sales tax thing. You and I, the people that we try to help in so many other ways to deal with the high cost of living in this state. And you can't help but recognize that the consumers are getting burned just as much as those small business owners are.

So, yes, I'm for a free market. Of course I'm for a free market. But I also recognize that when there's manipulation going on that's patently unfair -- and in a free market, there has to be some kind of fairness, has to be fairness to those people that own a franchise, that have to sign a lease with the oil companies and buy those products, and there has been to be fairness to the consumers that are buying products at a cost that is manipulated by the people providing the product.

And I applaud the author of this bill, and I will support it.

ACTING PRESIDENT MEIER: Senator Farley.

SENATOR FARLEY: I just want to say -- I wasn't going to speak on this bill.

But after listening to Senator Fuschillo and Senator Alesi, I don't know how anybody can vote against this. It's very, very -- this is something that affects every one of us every day of our life as we're on the road trying to buy gasoline. It's terribly unfair.

Senator LaValle, I applaud you for bringing this bill. This is a very significant bill, and I hope that everybody votes in favor of it.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on this bill?

Debate is closed, then.

The Secretary will ring the bell.

Members will come to the chamber for a vote, please.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: Thank you,

Mr. President. It's been an interesting debate. I think that in the context of the severe dislocation of many individuals and businesses as a result of higher oil prices, we need to revisit proposals like this that have been around for quite a few years and get periodically vetoed by the Governor.

There is an ongoing debate as to whether or not to impose these sorts of restrictions. The antitrust laws are inherently restrictive of competition, and yet we view them as something that provides a long-term benefit.

I find that from my point of view, this law is too arbitrary in terms of the distances provided. It doesn't unbalance the playing field in a way that I think is productive in the current environment, and I will therefore be voting in the negative.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Schneiderman will be recorded in the negative.

Senator Alesi, to explain his vote.

SENATOR ALESI: Thank you, Mr. President.

To continue with the theme, but in the time frame allowed to explain my vote, I would just like to tell my colleagues here that in addition to those things that I just said, if you look around any neighborhood in our state and you see boarded-up gas stations that are no longer in operation, and they're there for two or three or four years sitting there doing nothing, you have to remember the nature of a closed gas station. It's extremely hard to do anything with that land because of brownfields and contamination and everything else.

And because of this unfair competitive nature that's being imposed on small businesses and consumers, those stations are going to sit there as a blight on our neighborhoods for untold years. And that's another effect of this competitive situation that is being manipulated by those oil companies.

It's not just about small businesses, it's not just about consumers, it's actually creating blight in our neighborhoods.

ACTING PRESIDENT MEIER: Senator Alesi will be recorded in the affirmative.

Senator LaValle, to explain his vote.

SENATOR LaVALLE: Thank you, Mr. President.

I'd like to thank Senator Fuschillo, as our chair of the Consumer Protection Committee, for his continuous support, and the support of my colleagues on this very, very important piece of legislation.

I think Senator Connor in his remarks didn't realize that this legislation, and I'm going to repeat it again, prohibits a motor fuel refiner franchisor from directly impacting the financial position of its franchisee dealer or distributor by locating a company-owned service station in direct competition with such franchisee.

It allows for franchisee stations to be opposite one another or would not be impacted by this legislation.

I would also like to mention that in the Governor's veto message, he very

specifically said that the sponsors and proponents of this bill continue to raise legitimate issues and concerns related to the ability of dealer franchisees to compete with their franchisors on a level playing field.

And this legislation is all about competition and about trying to reduce gas prices. I vote in the affirmative.

ACTING PRESIDENT MEIER: Senator LaValle will be recorded in the affirmative.

Senator Onorato, to explain his vote.

SENATOR ONORATO: To explain my vote, Mr. President.

I think this is a very good bill.

Talking from personal experience with my brother, who had a gasoline station that was a franchisee, and they were forced to increase their quota when they couldn't sell the product, especially when it came to tires, windshield wipers, and accessories that no one in their right mind is going to come into a gasoline station like that to pay the prices that were required of them when they can go to any of the distributors around for half the

price. So eventually they wound up having to get out of the business.

So I'm voting in favor of this bill. I vote aye.

ACTING PRESIDENT MEIER: Senator Onorato will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 2191 are Senators Andrews, Connor, Coppola, Dilan, Gonzalez, Parker, Paterson, Schneiderman, Serrano, A. Smith and Stachowski.

Absent from voting: Senator C. Kruger.

Ayes, 48. Nays, 11.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 2208, by Senator Golden, Senate Print 8449, an act to amend the Insurance Law.

ACTING PRESIDENT MEIER: Senator Robach.

SENATOR ROBACH: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT MEIER: There is

a message at the desk.

SENATOR ROBACH: Move to accept.

ACTING PRESIDENT MEIER: All those in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

The Secretary will read.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 2208, absent from voting: Senator C. Kruger.

Ayes, 59. Nays, 0.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Robach, that completes the

calendar.

SENATOR ROBACH: Mr. President, there will be an immediate meeting of the Rules Committee.

The Senate will stand at ease until the completion of that committee meeting.

ACTING PRESIDENT MEIER: Immediate meeting of the Rules Committee.

The Senate will stand at ease pending the report of the Rules Committee.

(Whereupon, the Senate stood at ease at 12:18 p.m.)

(Whereupon, the Senate reconvened at 12:31 p.m.)

ACTING PRESIDENT MEIER: Senator Robach.

SENATOR ROBACH: Mr. President, if we could return to reports of standing committees.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read the report of the Committee on Rules.

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

following bills:

Senate Print 1002C, by Senator LaValle, an act to amend the Volunteer Firefighters Benefit Law;

1787, by Senator Balboni, an act to amend the Penal Law;

4610A, by Senator Hannon, an act to amend the Vehicle and Traffic Law;

4691A, by Senator Fuschillo, an act to amend the Public Health Law;

4849A, by Senator DeFrancisco, an act to amend the Criminal Procedure Law;

5944A, by Senator Montgomery, an act to amend the General Municipal Law;

6607A, by Senator Robach, an act to amend the Vehicle and Traffic Law;

7035C, by Senator DeFrancisco, an act to amend the Uniform City Court Act;

7787, by Senator LaValle, an act to amend Chapter 114 of the Laws of 1998;

7877, by Senator LaValle, an act to amend the General Municipal Law;

8238, by Senator Hannon, an act to amend the Public Health Law;

8349A, by Senator Bonacic, an act

to amend the Transportation Corporation Law;

8397B, by Senator Golden, an act to amend the Judiciary Law;

Assembly Print 11923, by the Assembly Committee on Rules, an act to amend the Public Authorities Law;

Senate Print 4665A, by Senator Robach, an act to amend the Retirement and Social Security Law;

6903, by Senator Maltese, an act to amend the Retirement and Social Security Law;

7386, by Senator Robach, an act to amend Retirement and Social Security Law;

And Senate Print 8343, by the Senate Committee on Rules, an act to amend the Retirement and Social Security Law.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Senator Robach.

SENATOR ROBACH: Mr. President, can we move to accept the report of the Rules Committee, please.

ACTING PRESIDENT MEIER: All in favor of accepting the report of the Rules

Committee signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The report of the Rules Committee is accepted.

Senator Robach.

SENATOR ROBACH: On the members' desks is Supplemental Calendar 62A. If we could go to the noncontroversial reading of that calendar.

ACTING PRESIDENT MEIER: The Secretary will conduct the noncontroversial reading of Supplemental Calendar 62A.

Senator Robach, could we return to motions and resolutions for a moment.

SENATOR ROBACH: Mr. President, there are some motions on the floor.

ACTING PRESIDENT MEIER: Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

On behalf of Senator Fuschillo, I

wish to call up his bill, Print Number 8124, recalled from the Assembly and it's now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1928, by Senator Fuschillo, Senate Print 8124, an act to amend the General Business Law.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

SENATOR FARLEY: I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR FARLEY: Mr. President, on behalf of Senator Padavan, I wish to call up his bill, Senate Print 7691A, recalled from the Assembly and it's now at your desk.

ACTING PRESIDENT MEIER: The

Secretary will read.

THE SECRETARY: Calendar Number 2154, by Senator Padavan, Senate Print 7691A, an act to amend the Family Court Act.

SENATOR FARLEY: Mr. 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 MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill will be restored to the order of third reading.

SENATOR FARLEY: Thank you, Mr. President.

I now move to discharge, from the Committee on Rules, Assembly Print 10767A and substitute it for Senator Padavan's identical bill.

The Senate bill on the first passage was voted unanimously. And I now move that the substituted Assembly bill have its third reading at this time.

ACTING PRESIDENT MEIER: So ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2154, substituted earlier by Member of the Assembly Rosenthal, Assembly Print Number 10767A, an act to amend the Family Court Act and the Criminal Procedure Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Robach.

SENATOR ROBACH: Could we take up that supplemental calendar, noncontroversial.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 2210, Senator LaValle moves to

discharge, from the Committee on Rules, Assembly Bill Number 10309A and substitute it for the identical Senate Bill Number 1002C, Third Reading Calendar 2210.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2210, by Member of the Assembly Magee, Assembly Print Number 10309A, an act to amend the Volunteer Firefighters Benefit Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2211, Senator Balboni moves to discharge, from the Committee on Rules, Assembly Bill Number 2833 and substitute it

for the identical Senate Bill Number 1787, Third Reading Calendar 2211.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2211, by Member of the Assembly DiNapoli, Assembly Print Number 2833, an act to amend the Penal Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR BALBONI: Mr. President, this bill has been around for nine years, and this is the first time it's going to become law.

And I rise because there's a gentleman who's been working this bill on

behalf of law enforcement for all nine years, and that's Floyd Holloway. And he's retiring this year, and this is the bill he wanted.

It's a substantive change. It makes the use of a child in a drug transaction a crime. And it's been amazing we haven't been able to get this done before this, but this is the year.

I vote aye, Mr. President. Thank you.

ACTING PRESIDENT MEIER: Senator Balboni will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2212, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 4294A and substitute it for the identical Senate Bill Number 4610A, Third Reading Calendar 2212.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2212, by Member of the Assembly Hoyt, Assembly Print Number 4294A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2213, Senator Fuschillo moves to discharge, from the Committee on Rules, Assembly Bill Number 6763A and substitute it for the identical Senate Bill Number 4691A, Third Reading Calendar 2213.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

2213, by Member of the Assembly Gottfried, Assembly Print Number 6763A, an act to amend the Public Health Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 6. This act shall take effect April 1, 2007.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 2214, by Senator DeFrancisco, Senate Print 4849A, an act to amend the Criminal Procedure Law and the Penal Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 2214 are Senators Duane, L. Krueger, and Parker.

Ayes, 57. Nays, 3.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2215, Senator Montgomery moves to discharge, from the Committee on Rules, Assembly Bill Number 9044A and substitute it for the identical Senate Bill Number 5944A, Third Reading Calendar 2215.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2215, by the Assembly Committee on Rules, Assembly Print Number 9044A, an act to amend the General Municipal Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2216, Senator Robach moves to discharge, from the Committee on Rules, Assembly Bill Number 10039A and substitute it for the identical Senate Bill Number 6607A, Third Reading Calendar 2216.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2216, by Member of the Assembly Morelle, Assembly Print Number 10039A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 2217, by Senator DeFrancisco, Senate Print 7035C, an act to amend the Uniform City Court Act and the Judiciary Law.

ACTING PRESIDENT MEIER: Senator Robach.

SENATOR ROBACH: Is there a message of necessity at the desk, Mr. President?

ACTING PRESIDENT MEIER: There is.

SENATOR ROBACH: Move to accept.

ACTING PRESIDENT MEIER: All those in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

THE SECRETARY: Section 10. This act shall take effect on the first of April next succeeding.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 2218, by Senator LaValle, Senate Print 7787, an act to amend Chapter 114 of the Laws of 1998.

ACTING PRESIDENT MEIER: Read the last section.

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

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

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to

Calendar Number 2219, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 10983 and substitute it for the identical Senate Bill Number 7877, Third Reading Calendar 2219.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2219, by Member of the Assembly Sweeney, Assembly Print Number 10983, an act to amend the General Municipal Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect January 1, 2007.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2220, Senator Hannon moves to discharge, from the Committee on Rules,

Assembly Bill Number 10690A and substitute it for the identical Senate Bill Number 8238, Third Reading Calendar 2220.

ACTING PRESIDENT MEIER: Substituted ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2220, by Member of the Assembly Gottfried, Assembly Print Number 10690A, an act to amend the Public Health Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 2221, by Senator Bonacic, Senate Print 8349A, an act to amend the Transportation --

SENATOR HASSELL-THOMPSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 2223, by the Assembly Committee on Rules, Assembly Print Number 11923, an act to amend the Public Authorities Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2006.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2224, Senator Robach moves to discharge, from the Committee on Rules, Assembly Bill Number 11434 and substitute it for the identical Senate Bill Number 4665A, Third Reading Calendar 2224.

ACTING PRESIDENT MEIER:

Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2224, by Member of the Assembly Abbate, Assembly Print Number 11434, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2225, Senator Maltese moves to discharge, from the Committee on Rules, Assembly Bill Number 10223 and substitute it for the identical Senate Bill Number 6903, Third Reading Calendar 2225.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2225, by Member of the Assembly Lentol, Assembly Print Number 10223, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2226, Senator Robach moves to discharge, from the Committee on Rules, Assembly Bill Number 3340A and substitute it for the identical Senate Bill Number 7386, Third Reading Calendar 2226.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2226, by Member of the Assembly Destito,

Assembly Print Number 3340A, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2227, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 11019 and substitute it for the identical Senate Bill Number 8343, Third Reading Calendar 2227.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2227, by Member of the Assembly Abbate, Assembly Print Number 11019, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Robach, that completes the noncontroversial reading of Supplemental Calendar 62A.

SENATOR ROBACH: Mr. President, if we could just stand at ease momentarily.

ACTING PRESIDENT MEIER: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 12:47 p.m.)

(Whereupon, the Senate reconvened at 1:25 p.m.)

ACTING PRESIDENT LITTLE: Senator Robach.

SENATOR ROBACH: Yes, Madam President. If we could continue with the

calendar, moving to Calendar Number 1762.

ACTING PRESIDENT LITTLE: Thank you.

The Secretary will read.

THE SECRETARY: Calendar Number 1762, by Senator Little, Senate Print 8092A, 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.

Senator Robach.

SENATOR ROBACH: Yes, can we now go to Calendar Number 2001, please.

ACTING PRESIDENT LITTLE: Thank you.

The Secretary will read.

THE SECRETARY: In relation to Calendar Number 2001, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 11896A and substitute it for the identical Senate Bill Number 8278A, Third Reading Calendar 2001.

ACTING PRESIDENT LITTLE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2001, by the Assembly Committee on Rules, Assembly Print Number 11896A, an act to authorize the Village of Hempstead.

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.

Senator Robach.

SENATOR ROBACH: Madam President, if we could now proceed to Calendar 2209, please.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 2209, Senator Morahan moves to discharge, from the Committee on Codes, Assembly Bill Number 8939A and substitute it for the identical Senate Bill Number 8459, Third Reading Calendar 2209.

ACTING PRESIDENT LITTLE: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2209, by the Assembly Committee on Rules, Assembly Print Number 8939A, an act to amend the Penal Law and the Correction 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 Morahan, to explain his vote.

SENATOR MORAHAN: Thank you, Madam President.

This bill creates a new Class A-II felony -- actually, two of them -- for predatory sexual assault.

Sometime back, in Florida, a young girl by the name of Jessica Lunsford was abducted right under a TV camera, taken away and murdered. This young lady had no chance. But the sexual predator, the murderer, who's now under the sentence for murder, under conviction, when he was convicted had previously committed a sexual assault as we are now creating today.

If he had been convicted under that on one of his prior assaults which he did commit, he would not have been on the streets to abduct this young kid.

And therefore, today, we're going to strengthen the penalties by creating these new felonies. These will cover such crimes as when they cause serious physical injury to the victim or uses or threatens immediate use of a

dangerous instrument, or if he or she commits a Class B violent felony sex offense against more than one person, or he or she has previously been convicted of a felony sex offense, incest, or use of a child in a sexual performed, or he or she commits a Class B violent felony sex offense and the victim is less than 13 years of age.

Upon conviction under these felonies, the person to be sentenced will be subject to life in prison with a minimum of not less than 10 years to 25.

So I think it's a good, strong bill. It's in answer to the Megan's Parents people who are out there lobbying for this bill. And hopefully we'll get this sort of measure across the United States.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Robach.

SENATOR ROBACH: Yes, Madam President, very briefly.

Let me thank Senator Morahan for this work. This is a bill that is very, very

much needed. There's no question we wish this didn't happen in our society. But as has been pointed out already, when you look at who the perpetrators of this are, rarely it is a new area. They're oftentimes involved in these types of activities repeatedly.

And we have a small sliver of our society wreaking a tremendous amount of damage, havoc, loss of life and long-term damage to women and children in our society.

So I feel that this bill will really not only go a long way to address that and get some of these people that need to be off the streets and away from people they can violate, but I also think it's going to restore a little bit more confidence into our system. Because this is one of the areas when children are abducted, when they're brutalized, killed, society and people often talk about this -- and this is an area where people frequently say to me, having worked in the criminal justice system prior to my time in the Senate, how do we have a system that allows this guy to be out there violating once already and then be out there again now to not

only violate but take the next step and even take a life on top of that.

This will do both of those things, stop that from happening and, I also believe, be responsive to the public that wants that confidence restored in protecting our women and children.

So I applaud Senator Morahan in getting this bill through, and I think it will serve New Yorkers well and make them safe.

Thank you.

ACTING PRESIDENT LITTLE: Thank you.

Senator Skelos.

SENATOR SKELOS: Thank you, Madam President.

I want to congratulate Senator Morahan on this great bill because really it caps off what I think has been an extremely successful year in this Legislature in terms of reforming and even making better our criminal justice system.

We started off this year in reforming Megan's Law to make sure that all violent Class 3, lifetime registration. Level

2, lifetime registration with an opportunity after 30 years to petition. And Level 1, 20 years requirement of registration.

We've moved along now with this piece of legislation, which is critically important to the whole picture.

We've expanded the DNA database so that we can capture some of these individuals that commit these horrendous crimes and hopefully prevent future crimes. And of course we've removed the statute of limitations on rape, which is really probably the biggest injustice that has been in our criminal justice system.

So I think this year's criminal justice package is something that we can all be very proud of. And I'm very happy that Laura Ahearn, from Parents for Megan's Law, is here, because I know that she's been a strong advocate of reforming and improving Megan's Law.

This is something again, if I can repeat, all of us can go back to our respective constituents, to the parents within our communities, our law-abiding citizens, and

say: We've done right by you.

This has been a great year. And, Madam President, I'm happy to vote for Senator Morahan's bill.

ACTING PRESIDENT LITTLE: Thank you.

The Secretary will announce the results.

THE SECRETARY: Ayes, 61. Nays, 0.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Robach.

SENATOR ROBACH: Yes, Madam President. If we could go to the controversial reading of Calendar Number 62A, Calendar Number 2221, by Senator Bonacic.

ACTING PRESIDENT LITTLE: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 2221, by Senator Bonacic, Senate Print 8349A, an act to amend the Transportation Corporation Law.

SENATOR SCHNEIDERMAN:

Explanation.

ACTING PRESIDENT LITTLE: Thank you.

Senator Bonacic, for an explanation.

SENATOR BONACIC: Thank you, Madam President.

Before I explain the bill, I want to thank Senator Bruno. I want to thank Senator Larkin, Senator Libous, Senator Meier, and Senator Seward for the work that they did on this legislation.

What this legislation does, it removes the power of eminent domain for those gas and electric transportation companies if three conditions are met: (1) the line begins and ends in the State of New York; (2) representatives of that particular gas and electric transportation company testify that rates in fact go up as a result of their activity in certain portions of the state; and (3) where that particular applicant has sought and did not receive an early designation to be a National Interest Electric Transmission Corridor under the Energy Policy Act of 2005.

Only if those three conditions are met the power of eminent domain is eliminated.

Now, let me say this. I've worked in the energy field for four years while I was going to law school. I realize how important it is to have the tool of eminent domain, for purposes of, one, delivering utility to not only parts of this state but part of the United States; two, if we have to enhance power, enhance our infrastructure, or enhance reliability of our infrastructure.

So it's a necessary tool that we must keep in order to serve the public good of delivering gas and electric.

But the power of eminent domain can be very destructive and traumatic for those homeowners who are losing their homes or having part of their homes or land diminished. So only in the three conditions that I've mentioned that the power of eminent domain is removed.

ACTING PRESIDENT LITTLE: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. If the sponsor would yield

for a few questions.

ACTING PRESIDENT LITTLE: Thank you.

Senator Bonacic?

SENATOR BONACIC: Absolutely. Yes, I do.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR SCHNEIDERMAN: I have some concern about the effect of this. But I have more concern about the drafting, which I'm afraid might result in difficulties of interpretation down the road.

The bill states that it only -- that the normal procedures for eminent domain that we've followed for years in New York, and that provide mechanisms for people to object to the exercise of eminent domain by power companies, will not apply to any merchant transmission company which commences and ends in the State of New York.

It doesn't refer to a transmission line, it refers to a company. So the way I read that, doesn't that say that the company has to be incorporated and then dissolved in

the State of New York?

SENATOR BONACIC: It does not. What it is is it is a transportation company that is in the business of delivering or transporting gas and/or electric within our state. It does not speak of place of incorporation.

SENATOR SCHNEIDERMAN: And through you, Madam President, if the sponsor would continue to yield.

SENATOR BONACIC: Yes.

ACTING PRESIDENT LITTLE: Thank you. The Senator continues to yield.

SENATOR SCHNEIDERMAN: The next section, next paragraph refers to that this company's employees, agents, representatives or assigns, having represented in testimony that the construction of a power transmission line will increase electric rates in any part of the state.

Is there any restriction on where that testimony could be? Sworn, at a hearing, in court? Any definition of what that means?

SENATOR BONACIC: The short answer is no.

SENATOR SCHNEIDERMAN: And finally, in the next section, through you, Madam President, is there any definition to the term "early designation"?

SENATOR BONACIC: Excuse me, Senator. You want to know what "early national designation" means?

SENATOR SCHNEIDERMAN: Through you, Madam President, yes, I'm interested in knowing if early designation as a national interest electric transmission, as opposed to designation generally, is a term of art that's defined anywhere in law or regulation.

SENATOR BONACIC: I understand your question.

We are referring to the national energy act of -- the Federal Energy Act of 2005. And when we speak of early special national designation, it's with respect to an application to the Department of Energy in Washington.

SENATOR SCHNEIDERMAN: Thank you.

And through you, Madam President, if the sponsor would continue to yield.

SENATOR BONACIC: Yes, I do.

ACTING PRESIDENT LITTLE: Senator Bonacic continues to yield.

SENATOR SCHNEIDERMAN: So am I correct in my understanding that the intent of this is really to narrow the application of the limitation this statute would imposed on eminent domain power in New York State so that it would clearly relate to one project and may or may not relate to other projects, but a particular project that is in fact on the drawing board right now?

SENATOR BONACIC: The intent is the language in the bill. If it meets the three conditions in the future, then it will also apply to a future company in the transportation of gas and/or electric.

SENATOR SCHNEIDERMAN: Thank you, Madam President. Thank the sponsor for his answers. On the bill.

ACTING PRESIDENT LITTLE: On the bill, Senator Schneiderman.

SENATOR SCHNEIDERMAN: I understand that the testimony that's referred to in this legislation included statements that electric rates could conceivably go up in

some parts of Central New York while they would probably go down in the Hudson River Valley and some other parts of this state.

I realize that this is a problem for people who are concerned about electric rates, which are already too high. But I am very concerned about us having special, vaguely drafted requirements to limit the exercise of eminent domain.

Eminent domain procedure provides affected landowners the right to notice and opportunity to oppose their land's condemnation. It provides for a judicial review, it provides for opportunities to intervene.

This would circumvent that entire process and essentially say, as to this particular project, we're taking away the power which other transmission companies exercise all the time.

I do have a concern about it. I also have a concern, quite frankly, about the intervention in the market when we do need additional transmission lines to the suburbs of New York City, New York City, and Long

Island. I think this is a tremendous problem.

People talk about the need for more power plants. The problem is that we have a lot of power we can't get the transmission lines that exist, because even though parts of New York and upstate New York and Western New York are in the grid where we're able to access a lot of power from other parts of the country and in fact in Canada, it can't get through transmission lines to the suburbs and the city. The result is much higher prices there.

The project that is at issue I think would reduce the prices, although I'm not clear it would have a tremendously beneficial effect. But I do have a concern about the language of the statute. I do have a concern about the lack of definition. When you're talking about represented in testimony, I suppose they could testify to each other or hold their own hearing.

So I'm not sure it is as narrowly tailored as the sponsor intends it to be. I think this could very well create confusion down the road, resulting in other companies

attempting to invoke this particular statute.

So my inclination is to vote against this. I think that we do need more transmission lines. I understand that it burdens the people through whose neighborhoods and properties the transmission lines run. But it is something that I would be very, very hesitant to vote against both because of the drafting issues, the unprecedented intervention in the eminent domain procedure, and the effect of lessening the transmission capacity to the suburbs, particularly, in this case, the Hudson River Valley suburbs of New York City.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Wright.

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

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

SENATOR WRIGHT: I certainly appreciate my colleague's efforts in addressing the constituent concerns that have

been raised in his districts.

I had occasion about a week ago to join four of my colleagues from both sides of the aisle in Norwich, with some 500 individuals in attendance expressing their concerns and opposition to this particular line.

And I think, based on what I've seen and know and have heard, that that's consistent up and down this line. Whether it's in Norwich or whether it's in Monticello or Otisville, at the southern end, it's a consistent opposition to the proposal that has been advanced.

And I certainly appreciate, understand, and respect the efforts of my colleagues to try to address that concern in a forthright manner.

Having said that, though, I sincerely believe that this legislation is the wrong approach. It does two things that concern me.

Number one, it sends a very chilling message to anyone who's looking to invest in the energy field and make the

investments in the State of New York.

New York, as many others, has encouraged private development to take on the initiatives of transmission and generation, to ensure that we have adequate capacity not only for our existing needs but for future needs.

And this is the type of investment that is required. Maybe not this particular project, but it is the type of investment that is required. And this sends a bad signal to those individuals making that investment.

Secondly, and I think it's even more compelling, is my concern that this sends the wrong signal to the federal government. It is because of legislation such as this that we have the federal government injecting itself into siting decisions in this state and elsewhere, because they are becoming convinced that we are incapable of achieving the needs that our citizens and others have and, at the same time, completing necessary projects, be it electrical transmission, natural gas transmission.

And so you've seen the federal government set the stage, as it has with

natural gas, they're now doing with electricity and this concept of essential corridors.

My concern is that we are not in effect defeating the need for essential corridors but, by passing legislation like this, we're demonstrating the need for federal intervention. I think that sends the wrong message to what we need to be doing in the energy arena here in the state.

I have the same concerns my colleagues have about this project. I think there are more than one fatal flaws to the project that will result in its demise.

I'm concerned that this legislation, though, in a broader context has a very adverse impact on our overall energy future. And as a result, I will be voting no.

ACTING PRESIDENT LITTLE: Thank you.

Senator Alesi.

SENATOR ALESI: Thank you, Madam President.

I give great respect to Senator Bonacic's approach and his attempt to solve a

problem that I'm sure is very close to his heart.

But as one someone who has spent a great deal of time on the issue of eminent domain, and as someone who has just in this house yesterday passed a bill that establishes a commission to deal with eminent domain from a comprehensive standpoint, I would have to say that I cannot embrace a piecemeal approach to the issue of eminent domain.

I think that -- again, with all respect to my good friend and colleague -- tat if we are going to approach this issue of eminent domain, that we would be better served to look at New York State from a very broad viewpoint. When you look at the Niagara Falls area, when you look at any other place in New York State, you have to recognize that there are many dissimilar approaches to the transmission of energy, and yet the end result hopefully is bring energy to the people in the best possible way and at the cheapest possible cost.

But that is done by companies who have to make investments. And we cannot risk

discouraging those investments from being made any more than we can risk the possible disruption of the delivery of energy.

And so I would be very hopeful that if the Assembly would pass the Commission on Eminent Domain, that this would be one of the kinds of issues that could be studied in a comprehensive way rather than a piecemeal way, and I believe that the state and its citizens would be better served.

ACTING PRESIDENT LITTLE: Thank you.

Senator Libous.

SENATOR LIBOUS: Thank you, Madam President.

I have certainly great respect for both Senator Wright, the chairman of the Energy Committee, and Senator Alesi. And I agree that, normally, doing something in piecemeal fashion isn't the best way to do it.

But I join Senator Bonacic and my colleagues that support this legislation, because when you're representing the public good, and in many cases you're protecting the public, that is an obligation and a

responsibility that we have. And sometimes, because of that, you have to do things in an unorthodox fashion.

Senator Wright, I thank you and applaud you for joining us in Norwich last week. And I think, although as chairman of the Energy Committee -- and I know you have a global responsibility -- I think you saw that it was very clear to all of us that this particular project that this piece of legislation would have an effect on would be extremely detrimental to a major portion of this state: disruptive to property owners, disrespectful to property owners, disruptive to the environment.

Incredibly disruptive to the environment. I have some very serious concerns about how it will disrupt our environment, not only from a scenic -- beautiful, scenic environmental view that we have in upstate New York but as far as affecting our streams and water aquifers and a whole host of environmental problems.

But I think what was really bothersome is that while I understand that we

as a state have to have an extensive energy policy and look for how we generate and create energy in our state all over the state -- from upstate to downstate to Long Island to New York City -- this project, the individuals who are pushing this project forward were extremely evasive in what their intent was, what their recommendations were, what their solutions were and even to the point where it was mentioned by Senator Schneiderman whether this would have an effect on a New York State company.

When I asked them where the company was headquartered, they couldn't tell me. When I asked them who paid their salary, they couldn't tell me. When I shared with them some additional subsidiaries, they said they had no knowledge of those subsidiaries, but directors of those subsidiaries actually served as officers of their company. And in one case was the treasurer that signed their paycheck.

So I think that we have a responsibility. And I applaud Senator Bonacic, Senator Seward, Senator Meier, my

colleagues for joining me on this and moving forward, because there comes a point in time where maybe it isn't the perfect situation in addressing energy policy, but this is for the public good. And we will do everything we can to protect the people that we represent.

And that's what this legislation does. It protects them, it protects their property.

Now, where I come from, Madam President, property is probably the greatest part of their individual wealth, whether they be a farmer, whether they be an individual who works in manufacturing. And to protect this company that we don't really know where they come from or where they exist, because they couldn't disclose that, to protect them from whomever these folks are I think is our responsibility.

So I support Senator Bonacic and my colleagues. This is a good piece of legislation. This addresses a very specific issue. This is a very serious issue at this time. And I would urge my colleagues to join us, because at some point in time in the

future they may have a very similar situation in which the people they represent come to them unanimously -- unanimously. No one is for this specific project. No one has come to me except for the three people who showed up at the hearing who represent the company but they don't know who pays them -- they're the only three people who support this project.

So I would urge my colleagues to join us in passing this very, very serious and important legislation today.

ACTING PRESIDENT LITTLE: Thank you.

Senator Bonacic.

SENATOR BONACIC: I wanted to -- I tried to respond to Senator Schneiderman's questions, but I wanted to give a little background of what we're dealing with.

Since the Federal Energy Act of 2005 was formed, what it did is it gave incentives for a new breed of energy companies, what we call a transporter of gas and electric. They don't generate electricity, they just deliver it.

And what it's done, it's opened the

door for what I call maverick energy companies. Their sole purpose is profit, greed, as much money as they could put in their pocket. I know that's the American way when you go in the private sector.

They are not regulated like Con Edison, Central Hudson. Those energy companies are what I call quasi-public. They want to raise rates, they have to go and justify why they do things.

But this new brand of energy companies that are going to come forward -- and we've seen one emerge -- are not in the best interests of the public that we serve when they come to a hearing and give testimony that as a result of their activity, rates, electric rates are going to go up for thousands and thousands of people at least 5 to 7 percent so they can deliver energy to other parts of the state.

Now, we have a sponsor in the Assembly. I have no memos in support or opposition in my file on the amended version of this bill, which were the three conditions that I spoke about earlier. Originally there

were memos in opposition from the Business Council, the Independent Power Producers, and the Energy Association. But on the amended bill, there's no opposition that I've received in writing. And in fact, I have a memo of support from the National Federation of Independent Business on the amended bill.

So I just wanted to share some of the background that we're dealing with a new breed of company that's emerging. And when they come in, and if they come in, to other parts of the state where, as Senator Libous spoke, that you will be affected adversely, where rates will go up, then I say to you: We don't have a good public policy when it comes to allowing these transportation companies to proliferate and profit excessively because they're not regulated like others. They give power to the wholesaler, who gives it to the retailer. Okay? That's how it works.

And I can't imagine an energy policy in this state that allows companies to come in that hurt, hurt, a large portion of people living in the State of New York to either stabilize or give more energy to other

parts of the state. Because what might benefit you today and hurts others, tomorrow it will be reversed.

So it's rational for the State of New York to step up, in that very limited, very limited situation, to take away the power of eminent domain for those kinds of maverick energy companies.

I started this off -- and I respect Senator Wright's remarks as the chair of the Energy Committee. And I've said we need the power of eminent domain to deliver energy.

But when it comes to these maverick companies, in those limited situations in meeting those three conditions that I believe will safeguard all of the residents -- not only today for a particular project that several Senators don't like, but it protects others when new ones come in that might affect your constituents in an adverse way -- this is a rational policy that the state can impose in a very, very limited way in curtailing the power of eminent domain.

And that is why I not only sponsored the bill, I'm supporting it.

Thank you very much, Madam President.

SENATOR SCHNEIDERMAN: Madam President, if Senator Bonacic would yield for a question, please.

ACTING PRESIDENT LITTLE: Senator Bonacic, do you yield?

SENATOR BONACIC: I will, of course.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR SCHNEIDERMAN: You mentioned before that there were no memoranda in opposition to the amended version of the bill. Have you not received the memo from the Energy Association of New York State in opposition to the amended version?

SENATOR BONACIC: May I ask you when is that dated?

SENATOR SCHNEIDERMAN: That is dated June 21st. Does that not apply to this bill?

SENATOR BONACIC: I don't have that in my file, and I will take a look at it if you --

SENATOR SCHNEIDERMAN: I will send a copy over to you via emergency messenger.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, I rise to support the bill. And I just want to comment a little bit about the concept of eminent domain.

Senator Alesi discussed the fact that we have a bill that was passed yesterday calling for a comprehensive study of eminent domain. It basically calls for the commencement of a commission 90 days after the enactment of that particular bill, that law once it's signed, and a report within a year thereafter. And that's why I supported it, because there's a short window.

However, the problem of eminent domain is so serious in this state, especially after the Kelo decision, which was decided just about -- almost exactly a year ago, giving -- affirming the state's broad rights

to take property of private individuals simply because the ultimate taxes, property taxes that will be received once the new developer comes in will be more than what the previous owner was paying. Now, that's a very dangerous situation.

Certainly we should have a policy that is consistent, a policy based upon a comprehensive study. I can understand that. However, in this session alone we passed an eminent domain bill preventing the taking by a municipality of a private golf course. That's a specific instance, specific case. It was a case that was compelling in my mind. I voted for it. I thought it's a pretty onerous situation to take over a private golf course so the municipality can own the same golf course. I mean, how amazing is that concept?

Well, that's the same thing we have here with Senator Bonacic's bill. Eminent domain abuses are occurring all over the state every day of the week. And if there's an emergency situation, if there's a situation that's got to be addressed before this study takes place or is completed, then certainly we

should act upon it for the people in that district.

Just a point that some people might know, since we handled the eminent domain hearings in the Senate Judiciary Committee. At least -- I know Senator Alesi handled them throughout the state, but in the Senate Judiciary Committee we had one here in Albany. And during the course of the testimony, the Bar Association of the State of New York suggested that we have a study.

The last time there was a study by the Bar Association, and the Senate and the Assembly acted on it, it took seven years to reform the eminent domain laws. We can't wait that long.

So although the study makes sense, although it's going to be an expeditious one if the law is followed, and it will provide much information that will help us make a rational decision, in the meantime if there's emergency situations that will protect the residents of this state from the onerous abuse of the broad powers of eminent domain that the Supreme Court has affirmed, then we should

take action.

And I'm going to vote yes on this bill.

ACTING PRESIDENT LITTLE: Thank you.

Senator Meier.

SENATOR MEIER: Thank you, Madam President. Just briefly, because Senator Bonacic and others have covered this quite well.

The grant of eminent domain powers originally to construct these type of transmission lines was done originally with, as Senator Bonacic I think explained, the more regularly recognized and regulated public utilities in mind.

And when you think of it, because of the fact that they're established in this business, there is less likelihood that they will use the power of eminent domain because they are already in possession of existing public utility easements, and therefore the incentive is for them to use them and to use the power of eminent domain sparingly if at all. It is incentivized all in terms of

avoiding the use of eminent domain.

Now we have, in this new world, as Senator Bonacic said, this new breed of transmission company which people in my district are dealing with now. At the hearing that Senator Libous talked about, when you asked them about the use of some alternative routes, it's too expensive, too expensive, too expensive.

But they're willing to take some of the homes of some of the people who I represent and who some of my colleagues who have spoken on this bill represent, never mind what it costs them. They're willing to take some of the farms of some of the people that some of my colleagues who have already spoken represent. They don't worry about their expense.

This bill corrects an injustice. This bill corrects people who are willing to throw the homeowners and the farm owners and the small business people who are in the path of this monstrosity, to throw their rights away because it's too expensive for them to use existing public rights of way.

And with all due respect to another colleague who suggested we should wait until a commission studies this, our constituents don't have time for a commission to report back. The time frame on this is a year from the date of the filing of the application, which occurred a couple of weeks ago.

This simply asks that these -- and by the way, Senator Libous is absolutely correct. If you want to get an idea about what we're dealing with, he couldn't even get them to establish their identity. Couldn't even get them to establish where the darn office is, let alone get some answers from them about what they're all about.

This is a bill that stops an injustice and prevents other similar injustices from occurring in the past. And I ask all of my colleagues on both sides of the aisle to support it.

ACTING PRESIDENT LITTLE: Thank you.

Senator Valesky.

SENATOR VALESKY: Madam President, would Senator Bonacic yield for a

question, please.

ACTING PRESIDENT LITTLE: Thank you.

Senator Bonacic, do you yield?

SENATOR BONACIC: I do.

ACTING PRESIDENT LITTLE: Thank you.

The Senator yields.

SENATOR VALESKY: Thank you.

Senator Bonacic, if this bill is approved today in both houses and signed into law by the Governor, would it deny the power of eminent domain to be exercised in the event that a company known as New York Regional Interconnect, which has an Article VII application pending before the Public Service Commission, would this law deny that company the power of eminent domain?

SENATOR BONACIC: Senator, I would rather not comment on any particular company at this time, because this legislation is generic.

If the three conditions are met and the shoe fits, the answer is yes. But if the shoe doesn't fit as to the three conditions,

the answer is no.

SENATOR VALESKY: Would the Senator yield for another question.

SENATOR BONACIC: Yes.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR VALESKY: Thank you, Senator Bonacic.

Are there applications pending before the Public Service Commission for which this law would apply? This bill, if it were signed into law.

SENATOR BONACIC: I believe there is.

SENATOR VALESKY: Okay. Thank you.

On the bill, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Valesky, on the bill.

SENATOR VALESKY: I want to thank Senator Bonacic for drafting this legislation, for bringing it before us today to debate.

As Senator Wright, the chairman of the Energy Committee, has indicated before us,

as Senator Libous and Senator Meier have commented earlier, there in fact is a company that has submitted an application, an Article VII application for construction of a 1200-megawatt electric transmission line running 200 miles through nine mostly rural counties, a project that has met with overwhelming opposition among the people that many of us on both sides of the aisle represent.

And for a number of reasons, the citizens of those nine counties are opposing this project -- everything from studies that show that construction of a power line such as this could reduce their property values by up to 50 percent, concerns about the health impact of a transmission line such as the one that has been proposed, the environmental impact on a mostly rural area of the state and finally, and perhaps most importantly, the economic impact that this would mean for upstate New York utility ratepayers.

This company has, in a Senate Energy Committee hearing, admitted that if this project were completed it would result,

over a 10-year period, an increase in upstate energy costs by $160 million per year. An increase of up to, of anywhere, I believe Senator Bonacic indicated earlier, a 5 to 7 percent rate increase for upstate New York ratepayers -- and, on the flip side, a 23 percent decrease downstate in electric utility rates.

Now, I am certainly aware that we have an issue in this state of transmission of electricity. But I am asking my colleagues to take into consideration the fact that we have a proposal before the Public Service Commission that, if approved, would result in upstate electric utility ratepayers subsidizing a transmission system and in fact paying more for their electricity to the benefit of downstate electric users.

This is not the way that we should be going in terms of an energy policy in this state. I understand people's concerns with eminent domain. But I encourage them to look at the way this bill is drafted, the narrow fashion that this bill is drafted, and the intent behind this bill, and I encourage all

of my colleagues on both sides of the aisle to support this legislation.

And again, I want to thank Senator Bonacic for bringing it to the floor.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Seward.

SENATOR SEWARD: Thank you, Madam President.

I rise as a supporter and a cosponsor of Senator Bonacic's legislation.

I certainly would agree with our chair of Energy that we in fact do need a comprehensive energy policy in the State of New York which helps all ratepayers throughout the State of New York, no question about it.

And I also agree with Senator Alesi, who along with Senator Bonacic have been real leaders in terms of eminent domain reform, which we certainly need in light of the Supreme Court decision of last year.

But there's no question that Senator Bonacic's legislation is directed at an immediate issue, an immediate problem which

is causing great fear and trepidation in several counties in the upstate region. When you get 500, 600, 800 people showing up at a high school auditorium to discuss this particular issue, you know there's great fear and trepidation.

And when I think of eminent domain, obviously, in the traditional sense, for good public projects in communities, whether it be a road, a sewer line, a bridge, a park, whatever it is, if private property is taken, certainly everyone in that community benefits, including the one who is giving up his property.

And even when our traditional utility companies, transportation corporations in the traditional sense, when they have used eminent domain in the past, we all benefit. Because when they're moving power from Point A to Point B in a region, obviously that helps all ratepayers and consumers in that particular region.

But Senator Bonacic's legislation is directed at a different animal here, a different type of corporation. And I believe

this legislation is narrowly drawn to address a particular situation whereby the people who are being asked to give up their private property, in most cases the single largest investment that they have in their lives, to give that up -- and in the case of many of our farmers in the upstate region, they'd also be giving up a whole way of life -- it seems to me that the question should be asked, well, what is that property owner who's giving up his property getting in return? What is that community in which he lives, what are they getting in return?

And through questioning at our Senate hearing in Norwich a week ago, unfortunately, the answer was zippo. They're getting nothing except -- except -- losing their property, unsightly power lines, and a higher cost for their electricity. Nothing but negatives, and no positives.

And so I think Senator Bonacic is on to something here. As we await more comprehensive energy policy, as we await more comprehensive eminent domain changes in this state, dealing with a particular situation

which today is in Central New York -- tomorrow, it could be somewhere else. I think that if a transmission line by one of these corporations is to be constructed, it ought to benefit all people, all consumers, all ratepayers in the State of New York, not causing harm on one group for the benefit of others.

So I support Senator Bonacic's legislation. It's carefully drawn, narrowly drawn. I don't believe it's going to upset either our efforts to reform eminent domain or come up with sound energy policy in this state.

And, Madam President, I enthusiastically will be voting in the affirmative.

ACTING PRESIDENT LITTLE: Thank you.

Senator Balboni.

SENATOR BALBONI: Madam President, I rise, for me, in a situation that I haven't had in several years: I do not know my position on this legislation.

And so therefore I'd like to ask

the sponsor if he would yield for just a couple of questions for clarification, to help make up my mind.

ACTING PRESIDENT LITTLE: Senator Bonacic, do you yield?

SENATOR BONACIC: I do.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR BALBONI: Thank you, Madam President.

Senator Bonacic, in lines 6 and 7 of the bill what do you mean by "through its employees, agents, representatives or assigns has represented in testimony"? What is meant by "represented in testimony"?

SENATOR BONACIC: I think that was a question that Senator Schneiderman posed earlier. But I don't mind repeating the answer.

SENATOR BALBONI: You know what, if you want, I could get the transcript.

SENATOR BONACIC: No, no, no. And I didn't mean to be disrespectful, Senator.

SENATOR BALBONI: I apologize.

It was Senator Bruno.

SENATOR BONACIC: But this was before a Senate Energy Committee where principals of this particular transportation company came and gave testimony to a Senate Energy Committee. That was the kind of testimony I was referring to.

And furthermore, I understand in a particular Public Service Commission filing there's an admission by the same company of increasing rates on several thousand of ratepayers within a certain -- a large portion of the State of New York.

SENATOR BALBONI: Madam President, through you, then if the testimony was elicited through another process -- say, a court case, a federal regulatory hearing -- would that also constitute grounds for the application of this statute?

SENATOR BONACIC: I think it would, if it wasn't uncontested or disputed.

It was our intent, where it amounts to an admission by representatives of the power company, whether it's in an oral declaration before witnesses, whether it was

sworn or unsworn, whether it was an application, but it is an admission by that particular applicant and its representatives and/or employees that this is so. And therefore, it's undisputable.

SENATOR BALBONI: Madam President, through you, may I ask another question.

ACTING PRESIDENT LITTLE: Thank you.

Senator Bonacic, do you continue to yield?

SENATOR BONACIC: Of course.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR BALBONI: Senator Bonacic, the line after that, line 8, testimony to the effect that it will increase electric rates in any part of the state.

Would you also take into account or should we take into account the fact that this might lower electric rates in another part of the state?

SENATOR BONACIC: The legislation talks specifically where the condition would

apply only with the raising of rates. There is no consideration on the lowering of rates.

SENATOR BALBONI: So, Madam President, through you, if I may ask another question.

ACTING PRESIDENT LITTLE: Thank you.

Senator Bonacic, do you continue to yield?

SENATOR BONACIC: I do.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR BALBONI: So then, Senator Bonacic, what would be your position if this project raised rates in one part of the state but lowered rates in another part of the state and the net effect from a statewide perspective was a wash? Would you wish this proceeding to not have the ability to use eminent domain?

SENATOR BONACIC: I think you have to look at that question with the other -- total of three conditions. You're isolating one condition.

But if the line began and ended in

the state of New York, if a particular company was rejected for an early national designation under the Federal Energy Act of 2005, and they raised rates on a substantial portion of residents of the State of New York, in that limited situation they would lose their right of eminent domain.

SENATOR BALBONI: Madam President, through you.

ACTING PRESIDENT LITTLE: Thank you.

Senator Bonacic, do you continue to yield?

SENATOR BONACIC: Yes, of course.

ACTING PRESIDENT LITTLE: The Senator continues to yield.

SENATOR BALBONI: Senator Bonacic, I appreciate your candor in this, but I think that you are mentioning things that are not contained within the language itself. For example, "substantially impacted," that language, that word is not in here. You talk about a sworn admission. Again, "admitted in testimony," not sworn. Again, it's a concept that's missing from here.

I am concerned only because I have never seen this language before. And as I read this bill, and this is where I need your guidance, I read these three conditions as make-or-break conditions. In other words, the way it is drafted, if any one of these conditions is missing, then the company that this would apply to would be able to use eminent domain.

SENATOR BONACIC: That's correct.

SENATOR BALBONI: That is correct?

ACTING PRESIDENT LITTLE: That's correct.

SENATOR BALBONI: So then, Madam President, through you --

ACTING PRESIDENT LITTLE: Continue.

SENATOR BALBONI: -- then the discussion as to whether or not this would perhaps lower rates in another part of the state is germane only because you talk about the impact on a statewide basis, do you not?

SENATOR BONACIC: The bill speaks for itself in terms of meeting three

conditions. And if those three conditions are met, then that particular mercantile transportation company loses their right of eminent domain.

SENATOR BALBONI: Okay. Madam President, just one more question, if I may ask.

ACTING PRESIDENT LITTLE: Thank you. Continue, Senator Balboni.

SENATOR BALBONI: This is a Public Service Commission-regulated transaction that we are discussing, based upon prior colloquy. And therefore, there is a process whereby the PSC will evaluate the various aspects of this transaction and will render its decision.

At this point in time do you have any idea, any expectation or any indication as to how the PSC will rule on this particular -- well, I shouldn't say particular -- the referenced transaction of concern that Senator Libous spoke about during the hearing and others?

SENATOR BONACIC: As I understand it, the purpose of the application before the

Public Service Commission will take a variety of issues -- whether there's a need, how it impacts the state, whether conditions have to be granted to allow them to move forward, whether it would be denied.

For example, I'm told when Marcy South came through between 20, 25 years ago, there were 21 adjudicated hearings before the Public Service Commission. And I believe there will be that same kind of activity that will take place over 12 months to address a variety of issues.

But if we pass this legislation, this legislation only addresses one aspect, the right of eminent domain of this company. And if this were to become law and the Public Service Commission application would go forward, then they would have to negotiate, with market value, for any takings not having the right of eminent domain. If these three conditions were met.

SENATOR BALBONI: Thank you very much.

Madam President, on the bill.

ACTING PRESIDENT LITTLE: Thank

you. Senator Balboni, on the bill.

SENATOR BALBONI: This debate and legislation, as well as the legislation that I offered to this house and passed on two different occasions, are evidence of frustration that we have. The first frustration is over the eminent domain law. And we are in good company, because every -- almost every state in the nation has addressed some aspect of eminent domain, saying it is just unfair to take somebody's home for a public project.

Now, in my case, it was to take a golf course. And whether or not that would ever rise up to something where you could take somebody's home, I would argue that it never would. And the address that I chose was to go to a specific reference in the environmental law that said if it was in a groundwater protection area, it couldn't be used in this way.

This bill is of a broader application. And when I consider the implications, I think of the blackout of 2004. And that points to the issue of the need for a

comprehensive energy plan in this state. Senator Jim Wright has been trying to do that for the longest time.

My concern, Senator Bonacic, is that this bill as currently drafted has a very specific application, is a local issue, but could have statewide ramifications. And I guess the thing I don't know, because I'm not sitting here with the company, is would this lower rates in, say, my district or on Long Island as a whole, and is that a viable consideration as we move forward on this legislation.

However, I think -- unless you know differently -- that this bill still has some time for consideration in the other house. I don't believe that the Assembly has this bill on the calendar. And so there may be opportunities to discuss this further. And perhaps what you're doing is you are getting the attention of the company that is being nonresponsive.

And therefore, I'll support the bill. I think, though, that there are huge issues associated with this type of approach,

whether it's my bill or your bill, and we really need a more comprehensive policy on both eminent domain and energy.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Is there any other Senator wishing to be heard?

Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Very briefly, Madam President, on the bill.

ACTING PRESIDENT LITTLE: On the bill.

SENATOR MALCOLM SMITH: I listened to the debate, and clearly at one point I was, as a downstater -- and I hate to refer to myself that way, but at times we must -- I had some concern about the bill.

But I will say my colleague Senator Dave Valesky gave some compelling information, compelling arguments, especially around the economics of the impact of the bill, and due to that I will be voting yes on this bill.

Thank you.

ACTING PRESIDENT LITTLE: Thank

you.

Senator Larkin.

SENATOR LARKIN: Madam President, the hour is getting late. The subject is well documented. I think my colleagues that support this legislation have clearly outlined what our problems are and how we should address them.

Senator Bonacic made a reference to Marcy South. Those of you who were around and listened to Marcy South, it was going to be a Christmas tree in June. And, you know, they were coming around with we're going to build a ball field in your yard, we're going to put a Christmas tree in yours, we're going to put a baseball field in yours. And, you know, the list got bigger and bigger and bigger, and the response was less and less and less.

Now, they came to visit me, they couldn't tell me who the lead sponsor in Washington was for them. We now know who they are. They couldn't who were some of the engineers that were on the project. And the question was asked about ownership and the Canadian aspects of it.

But the real issue here is when you think about it, this company come in and said: We're going to build it. They started to hear the flack that they were getting, and they come up with two routes that they were going to take this down. They put it all together, they went into the Public Service Commission. They didn't get the ability to ride over like an ATV. And then they went and said, We're going to bypass Albany, we're going to go to the feds. And they did. And the feds said thanks, but no thanks.

Now, there's a question here. There's five legislators here that it affects their specific district. There are eight counties. The last time I looked and saw how many people were in attendance in my area, there was over 500. And the basic premise was, What are you going to do? When are you going to do it? How are you going to do it?

Now, I heard Senator Schneiderman talk about the benefits it's going to be to New York City. Well, you know, I'd like to tell my colleagues in New York City that you have some representatives in Washington who

said today they are adamantly opposed to the project because it's a state issue of what the going to happen here.

But the real issue is are we doing something for the benefit of consumers in New York, or are we doing it for a specific effort to somebody to build? The issue that came in Marcy South was never fulfilled. What guarantees do we have that they will do this?

And then let's take an issue here. Some of our people up in our neck of the woods have been there for years, and now all of a sudden somebody's going to come along and say, you know, you lived here 30, 40, 50 years, get the -- out. We're going to take over.

I think that's the wrong message. I think if you go back and listen to some of the stuff on the Supreme Court with the Connecticut issue, the court was totally wrong. We have a golden opportunity here. If there is something to be done, let's spell it out. Let's not be ashamed of what we're talking about.

This is a serious issue. You have eight counties, eight counties, not just a

mile and a half. I have people who asked for maps, I have had a supervisor who asked for a briefing. And it's: In due time, we'll do it. Well, the due time is now and they haven't produced.

So, Madam President, they can bring all the ice cream and coffee they want and put it on the plate, but this bill is the ideal thing that we need to do, and we need to do it now.

ACTING PRESIDENT LITTLE: Thank you.

Does any other member wish to be heard?

If not, then 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: Senator Morahan, to explain his vote.

SENATOR MORAHAN: Thank you,

Madam President.

This bill really brings a focus to some of the arrogance that is displayed by major utility companies as they travel through our state, doing good things sometimes, bringing us energy to heat our homes and to light our lights, but at the same time, when they're inaccessible or unaccessible to the public, where they're not responsive to the public, this sort of action starts to move through the Senate.

So I commend Senator Bonacic, my colleague Senator Larkin, and all those who support this legislation. I rise to support this legislation and be recorded in the affirmative.

Thank you.

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

Senator LaValle, to explain his vote.

SENATOR LaVALLE: Thank you, Madam President.

There were -- Senator Balboni and I

were going back and forth about how we were going to vote on this. But Senator Libous said something that really hit home and brought me back to the early days of serving in this chamber when I was told by someone: You know, someday your district will have a problem and you will need the help and support of your colleagues.

Senator Morahan hit the nail right on the head. It is absolute arrogance by the companies. And it's one of the reasons Senator Wright has so many problems coming up with a comprehensive plan. Because when we talk about siting, they want to go through people rather than talk to people.

And Senator Libous talked about how everyone was in opposition to this but three people at a hearing. Three people. And so last time I realized the people that we represent are very important, that we are their extension.

And Senator Bonacic, Senator Libous, Senator Meier, I am going to support this legislation, because we need to be helpful to one another in problems that I

might have in my district dealing with energy parties, and I might be soliciting your support and your vote.

I vote yes, Madam President.

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

Senator Liz Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you, Madam President.

Well, it was a fascinating and confusing debate. What I think perhaps was missing -- and I am voting no -- was we sounded like we were arguing about eminent domain and the need for energy, or the cost of energy in one location versus another, but I would argue that the real problem here is that the State of New York, quote, unquote, deregulated the energy industry and sort of flunked the test of what we really need to be doing for the people of New York, which is ensuring that we have an expanded energy grid, that we've got 21st century transmission lines and service throughout the State of New York, that we have a rational siting policy, which

we don't, for new, safe, clean-energy plants.

And so since we haven't done any of that, since we haven't made a rational plan for energy, for expanding energy, for siting plants, for expanding our grid, for ensuring we've got security in our grid to provide the amount of utilities that are needed and will be needed in the 21st century, and because we've quasi-privatized energy, what used to be considered utilities being allowed to have eminent domain powers for public good ends up being -- and I respect Senator Bonacic's point on this -- what appears to be the use of eminent domain for a private company.

But in fact, I would argue that the real challenge for us is that supplying energy has to be a public responsibility, and dealing with how you site and expand your transmission grid has to be a public responsibility.

And so while it is a hard industry to love, the utility industry, I find that I have to vote no on this bill, but urge that we confront the bigger problem, which is ensuring that we have a supply of energy adequate to meet our 21st century needs, an adequate

expanded energy grid, transmission lines, and working with communities to ensure fair access and fair pricing throughout the State of New York.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you. Senator Krueger, how do you vote?

SENATOR LIZ KRUEGER: I vote no.

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

Senator Wright, to explain his vote.

SENATOR WRIGHT: Thank you, Madam President.

I'll make this quick, because I do in fact agree with the five sponsors of the legislation, and I do in fact share the concerns that they reflect relative to their constituency.

But I would be remiss if I didn't point out that this is not about deregulation. This is not as a result of any deregulation. Because in fact, as the sponsor pointed out, the Public Service Commission has a proceeding

that has commenced. It's called an Article VII, adopted by this Legislature in the public law. It very clearly articulates a process of review, very clearly allows for cross-examination, very clearly provides for public participation, and very clearly requires numerous studies. There is a process.

My concern, and my concern is very simple, if we do not follow or utilize that process as prescribed by law, we then open the door to the federal government intervening and taking the decisions out of our hands. That concerns me to an extreme great deal in terms of our ability to establish the energy policy we want for this state.

As a result, I have to vote no, Madam President.

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

Senator Alesi, to explain his vote.

SENATOR ALESI: Thank you, Madam President.

And I embrace the response given by

the chairman of the Senate Committee on Energy.

And in voting no on this bill, I would also like to point out that I embrace and share the passion of the sponsor of this bill in his desire to serve a specific need in his area.

My concern in this issue, and I raise the issue under the umbrella of eminent domain, is that first of all we are taking something that should be done on a far more comprehensive basis and we're applying a specific approach to it, thereby creating a possible domino effect anytime somebody has something specific to a particular region that will affect the entire state.

And under those circumstances, and given the example of Senator Balboni's golf course -- that was a very specific issue. And that doesn't impact anything or anyone else in this state, but it was an eminent domain issue. This impacts a specific area and a specific issue, but it can impact the entire state.

And based on that, and based on the

explanation given by the chairman of Energy that there is a process in place, there are laws and there are rules already for applications, that I have to vote no on this particular issue.

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

Senator Oppenheimer, to explain her vote.

SENATOR OPPENHEIMER: I've been on both sides of this, so it's really getting very -- I'm coming down on the negative.

And I agree very much with what Senator Krueger says. We have no siting law, we have done nothing on transmission lines. I mean, there's so much work to be done here. And in the long run -- you know, we environmentalists are sometimes accused of not permitting anything to happen because it will mar our properties and the beauty of our land.

And I feel that there's a need here for us to bring energy down to the southern part of the state. We all know that. We've done nothing on siting. I mean, we have to

have some answers here.

And I certainly empathize with what Senator Bonacic is saying. But I'm going to come down on the negative here and hope that we can address this in a comprehensive fashion. Because we're going to look pretty foolish if we run out of power in the next five years and haven't done anything.

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

Senator Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

This has been a very informative debate, and I find that I am also conflicted, as several of my colleagues have indicated. The area that would benefit the most from this -- the northern suburbs of the city, Westchester, Rockland, Orange counties, that area -- would, as Senator Valesky points out, and that the company has admitted this, do so at the expense of people in another part of the state.

I am troubled by that. And I hope that my colleagues who are in support of this for that reason will also join with those of us from the city and other parts of the state -- Buffalo, Rochester, Albany -- in dealing with the issue of school funding, where there are parts of the state that are suffering greatly from the existing school funding formula while some other areas benefit.

It is a very troubling thing, when we're all supposed to be working together, to have some areas benefit at the expense of others. But I find that in this particular case, the argument is just very, very difficult to deal with that we should alter the eminent domain procedure for this one particular project.

As Senator Wright has mentioned and Senator Oppenheimer just mentioned, we are trying to do a comprehensive energy plan, we are trying to change the laws relating to the siting of power plants. We've been unable to accomplish it. I suppose this is sort of the last-ditch effort to put some duct tape over

this particular problem, which affects, I gather, many, many constituents of my colleagues in Central New York.

I think that under the circumstances, however, I have to object to the Band-Aid approach, impressed as I am and compelled as I am by the argument that Senator Valesky and others have raised -- Senator Seward -- that we're talking about harming, really, an admission by a company that it's going to cost money, it's going to harm one group of New Yorkers and possibly benefit another.

And I understand very well Senator Larkin's statement. We get a lot of companies coming through here making big promises.

I don't think this is the proper way to proceed, however, Madam President, and I therefore will be voting no, but with gratitude to my colleagues for bringing these issues out, in the hope that we'll come up with a better way to deal with this issue down the road.

Thank you.

ACTING PRESIDENT LITTLE: Thank

you. Senator Schneiderman will be recorded in the negative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 2221 are Senators Alesi, Andrews, Connor, Coppola, Gonzalez, L. Krueger, Onorato, Oppenheimer, Parker, Sabini, Schneiderman, Serrano, A. Smith, Stavisky and Wright.

Absent from voting: Senator C. Kruger.

Ayes, 45. Nays, 15.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Robach.

SENATOR ROBACH: Yes, Madam President. There will be an immediate meeting of the Rules Committee in the Majority Conference Room.

The Senate will stand at ease pending the completion of that committee meeting.

ACTING PRESIDENT LITTLE: Thank you. Immediate meeting of the Rules Committee

in the Senate Conference Room.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 2:49 p.m.)

(Whereupon, the Senate reconvened at 3:05 p.m.)

ACTING PRESIDENT LITTLE: Senator Robach.

SENATOR ROBACH: Yes, Madam President. If we could return to reports of standing committees, there is a report of the Rules Committee at the desk.

ACTING PRESIDENT LITTLE: Reports of standing committees.

The Secretary will read.

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

Senate Print 1696B, by Senator Johnson, an act to amend the Retirement and Social Security Law;

1918, by Senator Robach, an act to amend the State Law;

2207C, by Senator Nozzolio, an act to amend the Correction Law;

3061A, by Senator Alesi, an act to establish;

7202, by Senator Golden, an act to amend the Public Officers Law;

7268A, by Senator Alesi, an act to amend the Public Health Law;

8095A, by Senator Winner, an act to authorize;

8113, by Senator Little, an act to amend the Real Property Tax Law;

8185, by Senator Marcellino, an act to amend the Environmental Conservation Law;

8433, by Senator Paterson, an act to authorize;

8440, by Senator Wright, an act to amend the Economic Development Law;

8467, by Senator Golden, an act to amend the Penal Law;

And Assembly Print 5399A, by Member of the Assembly Abbate, an act to amend the Workers' Compensation Law.

All bills ordered direct to third reading.

ACTING PRESIDENT LITTLE: Senator Robach.

SENATOR ROBACH: Madam President, could we move to accept the Rules report.

ACTING PRESIDENT LITTLE: Thank you. All those in favor of accepting the Rules report signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Those opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: The Rules report is accepted.

Senator Robach.

SENATOR ROBACH: Madam President, there has been a supplemental calendar distributed, Number 62B. If we could go to the noncontroversial reading of that calendar, please.

ACTING PRESIDENT LITTLE: The Secretary will read Senate Supplemental Calendar Number 62B.

THE SECRETARY: Calendar Number 2237, by Senator Johnson, Senate Print 1696B, an act to amend the Retirement and Social Security Law and the Military 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: In relation to Calendar Number 2238, Senator Robach moves to discharge, from the Committee on Rules, Assembly Bill Number 2685 and substitute it for the identical Senate Bill Number 1918, Third Reading Calendar 2238.

ACTING PRESIDENT LITTLE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2238, by Member of the Assembly Morelle, Assembly Print Number 2685, an act to amend the State 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 2239, Senator Nozzolio moves to discharge, from the Committee on Rules, Assembly Bill Number 3926A and substitute it for the identical Senate Bill Number 2207C, Third Reading Calendar 2239.

ACTING PRESIDENT LITTLE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2239, by Member of the Assembly Aubry, Assembly Print Number 3926A, an act to amend the Correction Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 6. This act shall take effect 18 months after it shall have become a law.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Senator Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you, Madam President.

I rise to thank Senator Nozzolio for getting this bill to the floor and passed through the Senate today. It's a critically important bill for so many people who have been so unjustifiably treated so badly in our prison system when they needed good quality mental health care services.

So we do not always agree on every bill that comes before us, but I wanted to stand up to recognize him for his very good work to accomplish this today. Thank you, Senator.

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

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

Senator Nozzolio, to explain his vote.

SENATOR NOZZOLIO: Thank you, Madam President. I rise to explain my vote.

I thank all my colleagues for supporting this measure, particularly Senator Volker, who was very instrumental in its development. That what we will see here is a process in New York that will establish safer prisons and more humane prisons. That is the objective of all of us.

It will lead to greater rehabilitation for those inmates who are behind bars. It will create a more safe environment for our correction officers and other correctional personnel. And I thank my colleagues for supporting this measure.

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

Senator Duane, to explain his vote.

SENATOR DUANE: Thank you, Madam President.

I want to thank Senator Nozzolio for his work and stewardship of this legislation.

Many of you know I've actually been

through, visited SHUs and people in SHUs. And I just really, really from the bottom of my heart, want to commend Senator Nozzolio for his work on this. Thank you very, very much.

Thank you, Madam President. I vote yes.

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

Senator Morahan, to explain his vote.

SENATOR MORAHAN: Thank you, Madam President.

I rise to congratulate Senator Nozzolio for passing this bill. I was delighted to be a cosponsor, as the chair of the Mental Health Committee.

This SHU bill, if you will, has been very difficult to move. It has great support with the families of those who are incarcerated and suffer with a mental disease.

And I think it's a tribute to the Corrections Department as well that we're willing now to train our people, if you will, to make a difference between behavior that is

just behavior for no good purpose versus behavior resulting from a mental disease.

So congratulations, Senator Nozzolio. I thank you on behalf of all those families who have appealed to us over the years for this sort of legislation. Job well done.

Thank you.

ACTING PRESIDENT LITTLE: Senator Morahan 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: In relation to Calendar Number 2240, Senator Alesi moves to discharge, from the Committee on Rules, Assembly Bill Number 6905 and substitute it for the identical Senate Bill Number 3061A, Third Reading Calendar 2240.

ACTING PRESIDENT LITTLE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

2240, by Member of the Assembly Englebright, Assembly Print Number 6905, an act to establish an advisory council.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2228, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 9707 and substitute it for the identical Senate Bill Number 7202, Third Reading Calendar 2228.

ACTING PRESIDENT LITTLE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2228, by Member of the Assembly Abbate,

Assembly Print Number 9707, an act to amend the Public Officers 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 Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

I have voted against this bill and similar bills in the past, as have quite a few of my colleagues. Really very simply, because we're advised by the Mayor of the City of New York, and we have no reason to doubt it, that there's no recruitment or retention problem for fire dispatchers that would warrant an exception to the rule that people live in the city where they're employed.

I think, generally speaking, there are quite a few of us here who believe that residency requirements are good. We have

large areas of New York City with tremendous unemployment where we have qualified people for these positions. And there simply is no need to provide an exemption, sympathetic as we are to the issue of fire dispatchers being treated the same as other members of the uniformed force.

So I will be continuing to vote in the negative, Madam President.

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

THE SECRETARY: Those recorded in the negative on Calendar Number 2228 are Senators Diaz, Dilan, Gonzalez, Klein, Parker, Paterson, Schneiderman and Serrano.

Ayes, 53. Nays, 8.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 2229, by Senator Alesi, Senate Print 7268A, an act to amend the Public Health Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 3. 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 2230, by Senator Winner, Senate Print 8095A, an act to authorize the reimbursement of certain expenditures.

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 2231, Senator Little moves to discharge, from the Committee on Rules, Assembly Bill Number 11520 and substitute it

for the identical Senate Bill Number 8113, Third Reading Calendar 2231.

ACTING PRESIDENT LITTLE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2231, by Member of the Assembly Friedman, Assembly Print Number 11520, 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: In relation to Calendar Number 2232, Senator Marcellino moves to discharge, from the Committee on Rules, Assembly Bill Number 11340 and substitute it for the identical Senate Bill Number 8185, Third Reading Calendar 2232.

ACTING PRESIDENT LITTLE: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2232, by Member of the Assembly Grannis, Assembly Print Number 11340, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Senator Serrano, to explain his vote.

SENATOR SERRANO: Thank you, Madam President.

I want to congratulate Senator Marcellino for putting this bill forward.

I introduced a very similar piece of legislation here in the Senate, and I've been working on this issue since my days in the New York City Council.

Diesel emissions are one of the

biggest causes of childhood asthma, especially in poor areas throughout the state, such as the areas that I represent in East Harlem and the South Bronx. We have to do more, and this bill will go some ways to ensuring that we have the cleanest technology, the cleanest fuel technology that we could possibly have for the trucks going through the state.

So I think that this is a very positive step. I'm glad to see that this bill is on the floor. And I look forward to it becoming law. Thank you.

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

The Secretary will announce the results.

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

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2233, Senator Paterson moves to discharge, from the Committee on Rules, Assembly Bill Number 11989 and substitute it

for the identical Senate Bill Number 8433, Third Reading Calendar 2233.

ACTING PRESIDENT LITTLE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2233, by the Assembly Committee on Rules, Assembly Print Number 11989, an act to authorize 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: In relation to Calendar Number 2234, Senator Wright moves to discharge, from the Committee on Rules, Assembly Bill Number 12013 and substitute it for the identical Senate Bill Number 8440,

Third Reading Calendar 2234.

SENATOR ROBACH: Lay it aside temporarily.

ACTING PRESIDENT LITTLE: The substitution is ordered.

The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 2235, by Senator Golden, Senate Print 8467, an act to amend the Penal Law.

ACTING PRESIDENT LITTLE: Senator Robach.

SENATOR ROBACH: Is there a message of necessity at the desk, Madam President?

ACTING PRESIDENT LITTLE: Yes, there is.

SENATOR ROBACH: Move to accept.

ACTING PRESIDENT LITTLE: All those in favor of accepting the message of necessity say aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: The

message is accepted.

The Secretary will read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Senator Golden, to explain his vote.

SENATOR GOLDEN: Madam President, I rise to explain my vote, and I thank you for recognizing me.

I want to thank both sides of this room and the Senate and to thank the Assembly for coming together on a bill, a very important bill that is an extension of the work that we did back in December, crimes against police officers, and trying and attempting to remove illegal guns off the streets of the city and state of New York.

What this does is raise the possession of an illegal gun from a D felony to a C felony and guarantees that the

individual that's caught carrying that gun will do time in jail.

In 2004, 4800 gun arrests were made. Less than 1200 did any time in jail at all, and less than 143 did more than a year. We were telling the bad guys it was all right to go out there with guns, to shoot and to kill.

And we've killed six New York City and New York State officers in the past 18 months [sic], and we gunned down nine between the months of June and December of last year, and this year so far six, with one being shot two weekends ago up here in Elmira.

So again, I want to thank all of my colleagues for guaranteeing that anybody caught with an illegal gun will do time in jail. And I want to point out Danielle Leidner, from the Intergovernmental Affairs Office of the New York City Mayor's office, for working with us and doing such a great job in writing this bill and giving us the opportunity to get this bill passed.

I vote aye. Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you. Senator Golden 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 2236, by Member of the Assembly Abbate, Assembly Print Number 5399A, an act to amend the Workers' Compensation Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 4. 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.

Senator Robach, that completes the reading of the noncontroversial calendar, Calendar Number 62B.

SENATOR ROBACH: Madam President, there's a supplemental active list that has been distributed to the members. If we could go to the noncontroversial reading of that, starting with Calendar 213.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 213, by Senator Leibell, Senate Print 5674, an act to amend the Public Authorities 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 957, by Senator LaValle, Senate Print 6999, an act to authorize payment.

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 1039, by Senator Nozzolio, Senate Print 1272 --

SENATOR HASSELL-THOMPSON: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 1524, Senator Little moves to discharge, from the Committee on Local Government, Assembly Bill Number 1600A and substitute it for the identical Senate Bill Number 3246B, Third Reading Calendar 1524.

ACTING PRESIDENT LITTLE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

1524, by Member of the Assembly Sweeney, Assembly Print Number 1600A, an act to amend the General Municipal 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, 60. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1562, by Senator Farley, Senate Print 7431A, an act to amend the Banking Law.

SENATOR HASSELL-THOMPSON: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

THE SECRETARY: Calendar Number 1608, by Senator Rath, Senate Print 6658, an act to amend the Tax Law.

ACTING PRESIDENT LITTLE: There

is a local fiscal impact note at the desk.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 2. Senators Duane and L. Krueger recorded in the negative.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Robach.

SENATOR ROBACH: Yes, Madam President. If we could return to motions and resolutions and call on Senator Flanagan, please.

ACTING PRESIDENT LITTLE: Thank you.

Motions and resolutions.

Senator Flanagan.

SENATOR FLANAGAN: Thank you, Madam President.

On behalf of Senator Winner, I'd

like to call up Senate Print Number 3531A, which is at the desk.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Senate Print 2148, by Senator Winner, Senate Print 3531A, an act to amend the Workers' Compensation Law.

SENATOR FLANAGAN: Madam President, I now move to reconsider the vote by which the bill passed the house and ask that it be restored to 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.

ACTING PRESIDENT LITTLE: The bill is restored to the Third Reading Calendar.

Senator Robach.

SENATOR ROBACH: Madam President, there is a resolution at the desk by Senator LaValle. If we could have the title read and move for its immediate adoption.

ACTING PRESIDENT LITTLE: The

Secretary will read.

THE SECRETARY: By Senator LaValle, Legislative Resolution Number 6267, commending the Suffolk County Clerk's staff upon the occasion of the Suffolk County Clerk's Office's designation by the Center for Digital Government and Government Technology as the recipient of the 2006 Best of New York Award for the Project Best Advancing Service to the Public.

ACTING PRESIDENT LITTLE: On the resolution, all in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: The resolution is adopted.

Senator Robach.

SENATOR ROBACH: Yes, Madam President. There is a resolution at the desk by myself. If we could read the title and move for its adoption, please.

ACTING PRESIDENT LITTLE: The

Secretary will read.

THE SECRETARY: By Senator Robach, Legislative Resolution Number 6266, urging the New York State Congressional Delegation to preclude approval of any of the recommendations of the Lake Ontario-St. Lawrence River Study Board without ensuring fair treatment of the counties which surround Lake Ontario and protecting the interests of its south shore communities.

ACTING PRESIDENT LITTLE: All those in favor of adopting the resolution signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: All those opposed.

(Response of "Nay.")

ACTING PRESIDENT LITTLE: We will reflect Senator Wright as opposed to the resolution.

The resolution is carried.

Senator Robach.

SENATOR ROBACH: Yes, Madam President. There is another resolution at the desk, by Senator Larkin. If we could have it

read in its entirety and move for its adoption, please.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: By Senators Larkin, Wright, Little and Meier, Legislative Resolution Number 5901, urging the New York State Congressional delegation to recommend the Department of Defense reinstate the terminology of "POW" or "Prisoner of War" into the classification of military personnel.

"WHEREAS, For many years in the past the Department of Defense used the terminology of 'Prisoner of War' to describe a military personnel's casualty status and category for reporting purposes; and

"WHEREAS, The Department of Defense's current verbiage of 'Missing/Captured' dramatically reduces the impact of reports and alters the responses from national and international organizations which have historically interceded in such cases; and

"WHEREAS, The nature of war has changed markedly and permanently, and rather

than change accordingly to provide maximum protection of all we send in harm's way, our government has established requirements that are too specific to be workable, too vague to be applicable, and too confusing to achieve understanding; and

"WHEREAS, The protection which should be automatically accorded those in harm's way is seriously eroded with the 'Missing/Captured' classification; and

"WHEREAS, American servicemen and servicewomen are not disposable items, and their security and well-being are more significant than the concerns, goals, sensitivities and idiosyncrasies of our enemies, or of any other nation; now, therefore, be it

"RESOLVED, That the New York State Congressional delegation be and hereby is respectfully memorialized by this Legislative Body to recommend the Department of Defense reinstate the terminology of 'POW' or 'Prisoner of War' into the casualty status and category classification of military personnel; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to each member of the New York State Congressional delegation."

ACTING PRESIDENT LITTLE: Senator Robach.

SENATOR ROBACH: Yes, Madam President. First, if we could open up Senator Larkin's resolution to sponsorship of anyone that would like it.

If you do not want to be on that, please notify the desk.

ACTING PRESIDENT LITTLE: Thank you.

All those in favor of adopting the resolution signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: The resolution is adopted and open to all members of the Senate.

SENATOR ROBACH: And then if we could move to the controversial reading of the

supplemental active list, starting with Senator Nozzolio's bill, Calendar 1039, please.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 1039, by Senator Nozzolio, Senate Print 1272, an act to amend the Criminal Procedure Law and the General Municipal Law.

ACTING PRESIDENT LITTLE: Senator Schneiderman.

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

ACTING PRESIDENT LITTLE: On the bill.

SENATOR SCHNEIDERMAN: This is a piece of legislation that has passed the Senate before. Quite a few of us voted against it, including several members on the other side of the aisle -- Senator Marchi, Senator DeFrancisco.

This bill provides for screening and recruiting of peace and police officers. The problem many of us have with the bill is while it requires past employers to provide

information about law enforcement agency applicants, it provides the broadest immunity that I've seen since I've been here from civil liability for former employers.

As long as the release of the employee information is without fraud or malice, they are exempt from liability. They can commit -- we had a discussion in the last few days about the difference between negligence and gross negligence. Under this bill, they could be guilty of negligence, they could be guilty of gross negligence. And this loose standard of care undermines the interest of complete and thorough investigation.

Now, if it is important, as this bill asserts -- and I think Senator Nozzolio is correct that we have full investigation of the backgrounds of people who we're going to entrust with our lives, with our property, our bravest and finest, New York City police officers, police officers in other parts of the state -- we have to ensure that the information provided in the course of an investigation into their background is accurate.

There is no reason to loosen the ordinary standards of care and undermine the interests of complete and thorough investigation by saying that unless you're committing fraud, you have no liability.

You can just pull any file out, whether it accurately reflects the background of that employee or not, and as long as you're not committing fraud or malice, you can be as sloppy as you want to be.

This almost encourages people to provide incomplete or misleading information. There's no way to enforce any sort of compliance with the law that would require people to provide proper and accurate information and be careful about this most important issue.

I hope that this would not open up the door, but I'm afraid it would, to people who shouldn't become police officers, people who have possibly criminal backgrounds or other things in their past that would cause most of us in this chamber to say, no, that's not someone we should entrust with the duties, responsibilities and powers of a police

officer.

This legislation as drafted would not provide accurate background checks. Again, I appreciate the intent. I think a lot of us want to make sure and believe that it is in the public interest to have thorough and accurate investigations of the background of police officers. But it is also in the public interest to require that those investigations are restricted to accurate information and that the former employers have some duty of care to ensure that the information is accurate.

So the fact that this provision is still in the bill I think will cause me and quite a few of my colleagues to vote no. I hope we'll be able to modify it and move forward in the future with something that provides for an accurate background check, including a search of criminal history records and employment records, so that we can ensure that we have the caliber of people that I know we all feel that we have in most cases and we deserve in all cases in our police departments.

Thank you, Madam President. I'll be voting in the negative.

ACTING PRESIDENT LITTLE: Thank you.

Is there any other Senator wishing to be heard?

Senator Diaz, on the bill.

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

It has been required by the City of New York, and by everyone, I believe -- I want to speak about the City of New York, about my daughter. My daughter is a police officer. And when she applied for the job, she was required to provide practically her whole life story.

And it is something that is correct to do. If you want to become a police officer, if you want to become a peace officer, you need to go through a background check. It is important. It is necessary for the government to produce or to be able to know who are the persons that are applying for those positions.

This bill, this bill authorizes law

enforcement agencies to conduct background investigations on prospective peace and police officers and requires an employer to disclose employment information relating to a current or former employee upon request.

I see nothing wrong with this piece of legislation. This is something that should be done, especially after 9/11. People, you don't even know who's applying for this security job.

So it's important for you to know the background, where the person that is applying for this position, where he or she worked before, what kind of job they did before, what are their background.

I congratulate Senator Nozzolio for this piece of legislation. I know that all my colleagues are voting against it. I am voting for it. And I think it's a piece of legislation that is needed and is called for, especially in these times in the nation and in the state.

So I urge my colleagues to vote for this piece of legislation. Thank you.

ACTING PRESIDENT LITTLE: Thank

you.

Senator Nozzolio, to close the debate.

SENATOR NOZZOLIO: Thank you, Madam President. On the measure.

I certainly appreciate the comments of my colleagues and the constructive criticism presented by Senator Schneiderman. It's a delicate balance, a balance to try to ensure that as much information as possible be obtained. And I thank Senator Diaz for his comments that we are trying to ensure the safety and integrity of those who are entrusted with the extremely important job, extremely responsible position of being our police officers.

Those in government, those who are selecting security officers have a higher obligation to the public at large to ensure that their applicants are well reviewed. And that it is -- hopefully this measure will help them in their efforts.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

The debate is closed.

The Secretary will ring the bell.

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.)

ACTING PRESIDENT LITTLE: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1039 are Senators Andrews, Connor, Coppola, Dilan, Duane, Gonzalez, Hassell-Thompson, Klein, L. Krueger, Parker, Paterson, Sabini, Sampson, Savino, Schneiderman, Serrano, A. Smith, M. Smith, Stachowski and Stavisky.

Ayes, 40. Nays, 20.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1562, by Senator Farley, Senate Print 7431A, an act to amend the Banking Law.

SENATOR HASSELL-THOMPSON: Explanation.

ACTING PRESIDENT LITTLE: Thank you. Senator Farley, for an explanation.

SENATOR FARLEY: Thank you very much, Madam President.

This is a bill that was developed by the New York State Banking Department and the New York State Association of Mortgage Brokers and the Empire State Mortgage Bankers Association.

Basically what it does, it tries to improve the professionalism of the industry while also ensuring greater accountability of persons who work in this industry.

The bill would require individuals who work for mortgage broker companies and mortgage banking companies to be individually registered with the State Banking Department. These individuals will also have to complete a certain number of hours of mortgage-related courses before they can initially be registered, and then complete a certain number of hours of continuing education every two years.

These requirements do not apply to the clerical staff.

The Banking Department has noted there have been certain people in the mortgage industry who have engaged in questionable and abusive practices while moving from company to company. The system of individual registration will help the department track these employees.

This is a consumer bill that protects the fraud that goes on in this industry to steal homes and so forth from consumers.

It's a bill that does not take effect until 2008. If there's some tinkering that needs to be done, I've got assurances from the industry that we'll take care of it. But we've got to send a message and stop this fraud that is going on in this industry. It's a good consumer bill.

ACTING PRESIDENT LITTLE: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

I have reached a point of -- somewhat of confusion, and some of which I've created myself. In working with Senator

Farley this year, we have tried be very cognizant of those issues relating to the bank that are in the best interests and trying to put forward that legislation that is in the best interests of consumers, as well as trying not to force our banking institutions to leave the state charter and go to the federal charter.

But in the process we've also been entertaining complaints about mortgage companies and new mortgage banking companies that in some ways don't seem to be responding in the best way possible to the consumer population.

However, also in talking to the banking industry -- to the mortgage banking industry, that is -- their feeling is that it's already an overly heavily regulated and a compliance burden for the licensed mortgage bankers who are doing business in the State of New York. And these mortgage bankers, as licensees of the state, don't enjoy the federal exemption nor that which the state-exempted banks enjoy, as proposed in this bill.

As a result, they feel that this bill places these mortgage bankers at a disadvantage as compared to the federal or state chartered mortgage banks and their subsidiaries or affiliates who are exempted from complying with the provisions of this pill.

As a consumer advocate, it sometimes creates a horned -- you know, you find yourselves on the -- in a dilemma. And, Senator Farley, I had hoped that we would be able to continue to wrestle with this bill. I had hoped that we would not put forward this bill at this time so that we could try to come up with some way to resolve some of the internal issues around this bill.

But it is before us. And I'm going to vote with you on this one, but I'm also going to insist that every opportunity that you and I have to continue to address both the consumer issues as well as some of the mortgage banking issues, we take the time to try to resolve those and amend this in such a way that we don't hurt but we encourage appropriate behavior on the part of our

mortgage bankers.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Farley.

SENATOR FARLEY: On the bill.

ACTING PRESIDENT LITTLE: On the bill.

SENATOR FARLEY: Let me just say that Senator Ruth Hassell-Thompson has been a delight to work with. We cooperated. I tried to keep you informed on everything we're doing.

This is a consumer bill. This is a very, very important bill for Superintendent Taylor. What we're talking about and what you were referring to, Ruth, is down at the lower level here, there's so many that are exempted, that that's where the trouble has been. That's where the fraud has taken place.

And unfortunately, some of these things could be draconian and so forth that we're trying to do, or we don't know what they're going to do. Fortunately, we've got a window of time. And you have my pledge that

we'll work together, particularly if this bill needs some amendments or some tinkering with.

But this is a very high priority. We need to send the message out here this year that we're not going allow this fraud in this area.

ACTING PRESIDENT LITTLE: Thank you.

Are there any other Senators wishing to be heard?

The debate is closed.

The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 5. This act shall take effect January 1, 2008.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: The Secretary will announce the results.

THE SECRETARY: Those Senators recorded in the negative on Calendar Number 1562 are Senators DeFrancisco and Gonzalez.

Absent from voting: Senator C. Kruger.

Ayes, 58. Nays, 2.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Robach.

SENATOR ROBACH: Yes, Madam President. If you could go to Senator Gonzalez for an announcement, please.

ACTING PRESIDENT LITTLE: Thank you.

Senator Gonzalez.

SENATOR GONZALEZ: Thank you, Madam President.

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

ACTING PRESIDENT LITTLE: There will be an immediate meeting of the Minority conference in Room 315.

SENATOR ROBACH: The Senate will stand at ease pending the completion of the Minority conference, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 3:56 p.m.)

SENATOR BALBONI: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Balboni, why do you rise?

SENATOR BALBONI: I'd like to announce that there will be a meeting of the Rules Committee in the Majority Conference Room at 5:10.

ACTING PRESIDENT MARCELLINO: There will be a meeting of the Rules Committee at 10 minutes after 5:00, which is in ten minutes, in the Majority Conference Room.

SENATOR BALBONI: Until then, we'll stand at ease.

ACTING PRESIDENT MARCELLINO: The Senate will be at ease until the Rules report.

(Whereupon, the Senate reconvened at 5:21 p.m.)

SENATOR BALBONI: Mr. President.

ACTING PRESIDENT ROBACH: Senator Balboni.

SENATOR BALBONI: I'd like to return to reports of standing committees. I believe there's a report of the Finance Committee at the desk.

ACTING PRESIDENT ROBACH: 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 Board of Parole, Jennifer Arena, of Selkirk.

ACTING PRESIDENT ROBACH: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT ROBACH: Senator Nozzolio.

SENATOR NOZZOLIO: Yes, Mr. President.

Jennifer Arena comes to the Parole Commission as a nominee. The Crime Victims, Crime and Corrections Committee reviewed her qualifications; they're extremely diverse. And particularly her experience in working in the New York State Attorney General's office will bode well for her service on the Parole Commission.

Please move the nomination.

ACTING PRESIDENT ROBACH: Senator

Balboni.

SENATOR BALBONI: I just want to add that Jennifer brings enormous sensitivity to the issues of government, a passion for the people.

She is somebody that we need to have in this position because of her unique understanding of all aspects of government from a broad array of policy-making positions.

And I join with Senator Nozzolio in urging that this be confirmed. Thank you.

ACTING PRESIDENT ROBACH: Thank you, Senator Balboni.

All those in favor of Jennifer Arena becoming a member of the State Board of Parole signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: Jennifer Arena is hereby confirmed as a member of the New York State Board of Parole.

(Applause.)

ACTING PRESIDENT ROBACH: The

Secretary will read.

THE SECRETARY: As a member of the State Board of Parole, Alan J. Croce, of Mattituck.

ACTING PRESIDENT ROBACH: Senator Johnson.

SENATOR JOHNSON: I move the nomination.

ACTING PRESIDENT ROBACH: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

I proudly rise to second the nomination of Alan Croce as a member of the Parole Commission, as a commissioner. That Al Croce is not a stranger at all to this house. As a matter of fact, he's very familiar with most of our members and particularly those of us -- Senator Volker, myself, others -- who are involved with criminal justice matters.

Al Croce continually kept us apprised in his capacity as chairman of the Commission on Corrections. He served in that capacity extremely well. He continued to inform the Legislature of the needs of the

commission in his responsibilities of reviewing the correctional facilities across the state.

He comes to the Parole Commission not only with that experience but also a broad array of experience in the local sheriff's departments of his home county of Suffolk.

It's an excellent nomination, Mr. President. I'm proud to support it.

ACTING PRESIDENT ROBACH: Senator LaValle.

SENATOR LaVALLE: Thank you, Mr. President.

I congratulate the Governor on making this appointment. And this is Alan Croce's fourth time before this house for confirmation.

As Senator Nozzolio had mentioned, he was the chair of the Commission on Corrections and did an outstanding job. I don't remember anyone in that role who worked as hard, was as productive as Alan Croce.

Alan now, with this nomination for the Parole Board, will have been through so many different positions in the criminal

justice system. Every one that he's held before this appointment, he did an outstanding job. And I have no doubt he will do an outstanding job in this position.

Congratulations, Alan.

ACTING PRESIDENT ROBACH: Senator Balboni.

SENATOR BALBONI: Yes, Mr. President. This is another nominee who has demonstrated a consistent dedication to government.

And what Alan brings to the job is that he is somebody you can approach, ask questions, get real good answers from them. And also, he has a unique way with people. And even, you know, has a way of being able to tell you what you don't want to hear about the process, but in a way that you understand why it's being done that way.

He is a really knowledgeable and experienced person, a great asset to the board.

ACTING PRESIDENT ROBACH: Senator Volker.

SENATOR VOLKER: Mr. President,

Alan Croce is probably the best chairman of the Commission on Corrections.

And the late Ralph Marino and I created that commission many years ago. And I think probably Alan Croce was exactly the kind of person that we envisioned would run the Commission on Corrections.

There's no question that Alan has all the qualifications in the world to be a parole commissioner and will do a great job. I wish him the very best. And frankly, I think we should appreciate the fact that he's still willing to serve in state service and continue to help the criminal justice system.

ACTING PRESIDENT ROBACH: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

I rise to congratulate the Governor on his very fine appointment.

I've gotten to know Al Croce over the years. He's a fine man. He'll do a great job. I wish him well, look forward to seeing him again. God bless.

ACTING PRESIDENT ROBACH: Is

there any other Senator wishing to be heard?

The question is on the nomination of Alan Croce as a member of the State Parole Board. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: Alan Croce is hereby confirmed as a member of the Parole Board.

(Applause.)

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: As a member of the State Board of Parole, James B. Ferguson, Jr., of New Rochelle.

ACTING PRESIDENT ROBACH: Senator Golden.

SENATOR GOLDEN: Mr. President, I rise to congratulate and to second the nomination of James Ferguson as a member of the Board of Parole.

James Ferguson is not only a good

friend and a good man, I had the privilege of working with his father in the New York City Police Department. He was an outstanding man in the police department, an outstanding family man, somebody you could go to and somebody that made a difference in the City of New York.

And his son should be proud of that, and he will do us, the State of New York, proud. So I congratulate the Governor for this choice.

And when you take a look at what James has been able to accomplish in law enforcement himself -- being a commissioner of the New York State Board of Parole, an administrative law judge of the New York State Division of Parole, an assistant district attorney in the Bronx in the major case squad, a professor at Mercy College and Monroe College, and worked with NYPD.

James also has received numerous awards for services in the Bronx district attorney's office, the New York City Police Department Retired Detectives, and many other organizations. James is also active in the

New York State and Georgia Bar Associations, the National District Attorneys Association, the National Association of Administrative Law Judges, the New York City Police Department Emerald Society and the Westchester Emerald Society, the Fraternal Order of Police, and the list goes on and on.

So I congratulate James, and the State of New York has got a real winner here.

James, congratulations, and I second this nomination.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President. On the nomination.

I proudly rise to second the nomination of James B. Ferguson as a member of the New York Board of Parole. Commissioner Ferguson has been a parole commissioner. And as our esteemed colleague Senator Golden has so well indicated, Commissioner Ferguson has had a broad background in criminal justice matters.

And upon my first meeting with him,

before he came to the Crime Victims, Crime and Corrections Committee for his initial confirmation, it was apparent that the diversity of experience that he's bringing to the board, has brought to the board, and, as now he's up for reappointment, that we certainly congratulate him for that experience and thank him for bringing that tenor of experience to the board.

It's important the board has a diverse background. And that we have already utilized the guidance of Commissioner Ferguson to help us in developing additional policy for the Parole Board, and we thank him for that.

This excellent nomination has our full support. Thank you very much.

ACTING PRESIDENT ROBACH: The question is on the nomination of James B. Ferguson, Jr., as a member of the New York State Parole Board. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Any opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: James B. Ferguson is hereby confirmed as a member of the New York State Parole Board.

Congratulations.

(Applause.)

ACTING PRESIDENT ROBACH: We are going to go just a little bit out of order here.

Senator Maltese, who was not in the chamber for the confirmation of Alan Croce, would like to say a few words.

SENATOR MALTESE: I appreciate very much your deference, Mr. President. I was out of the chamber.

I couldn't miss the opportunity to say a word about Alan Croce. Talk about a man who is well suited for a position and matched so perfectly with a position. His experience in law enforcement, his experience as an officer, as an undercover officer, as somebody who was undersheriff of a county as populous as Suffolk County.

As a former assistant district attorney myself, I well recognize recognizing all the sterling qualities of Alan Croce. As

the former chair of Crime Victims, I've come to know many of the accomplishments and splendid achievements of Alan Croce.

I commend the Governor on the nomination and wish to second the nomination at this late time and just add my accolades and praise for not only the Governor but Alan Croce.

Thank you, Mr. President, for your indulgence.

ACTING PRESIDENT ROBACH: Thank you, Senator Maltese.

Continuing, the Secretary will read.

THE SECRETARY: As a member of the State Board of Parole, Chris Ortloff, of Plattsburgh.

ACTING PRESIDENT ROBACH: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT ROBACH: Senator Little.

SENATOR LITTLE: Thank you, Mr. President. I stand to second the

nomination of Chris Ortloff as a member of the State Board of Parole.

Chris has been a lifelong resident of the 45th Senate District and lived in Lake Placid, born and raised in Lake Placid, and now lives in Plattsburgh. But in both communities he's been an active participant in the community and involved in government as well.

In Lake Placid he served on the village board and he was involved in the 1980 Winter Olympics held in Lake Placid, where he served as chief of ceremonies and awards for the Olympic Games.

As a journalist, he's also written two books, one on Lake Placid: The Olympic Years, 1932-1980 and A Lady in the Lake. In Plattsburgh he continued as a newscaster for Channel 5 television and then served in the Assembly for twenty years. In both places, he's also been involved in the community, particularly on the Battles of Plattsburgh, on all of the organizations that went on in promoting that for there.

In the Assembly, Chris has served

in numerous leadership positions and also as Assistant Minority Leader. I join my colleagues as we all wish Chris good luck in this position, in this new capacity. He brings a tremendous amount of experience to this position.

Congratulations.

ACTING PRESIDENT ROBACH: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

I wish to echo the comments of Senator Little in this endorsement of Chris Ortloff to be a member of the Parole Commissioner.

Those of us who served with Chris in the Assembly -- and many of us here have had that opportunity -- certainly knew that Chris Ortloff was very much involved in issues involving corrections. That he took a keen interest in issues that affected our state prisons, affected the brave men and women who work behind the walls who labor in the toughest beat in the America. Chris was constantly advocating on their behalf.

As such, I know he will be well suited for this opportunity as a commissioner of parole, and that we certainly believe that that background will serve him well, his legislative background as well as all the other biographical experiences that Senator Little shared.

That certainly Chris Ortloff has a diversity of experience and a passion for criminal justice issues that will bode well for a diverse board and one that will focus on justice and protection of our citizens.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Senator Balboni.

SENATOR BALBONI: Mr. President, so many of us in this chamber, including yourself, have served with Chris Ortloff for many, many years. He's always been a media-savvy, issue-savvy guy that has brought a lot of class and charm from the North Country.

I know that he's enjoyed working with Senator Little and they together have brought a lot of good things back to the

North Country.

And we're going to miss him in the legislative process, but I know he's going to bring a lot of insight and intelligence to the Parole Board. I support the nomination.

ACTING PRESIDENT ROBACH: Thank you, Senator Balboni.

Senator Maziarz.

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

I join in seconding the nomination of my good friend Chris Ortloff.

Chris, all of this stop and start here over the last 24 hours, and sitting around while nothing was happening, probably reminded you a lot of the other house. But I can assure you it doesn't happen here very often as much as it does over there.

This is a very good appointment, and I know that Chris will always, during his service on the State Board of Parole, as will the other nominees, keep in mind fairness, justice but, most importantly, the victims of crimes in the State of New York.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Senator Stachowski.

SENATOR STACHOWSKI: I told Chris in the gym that because of all the times he forced me to watch Fox Television News while I was trying to do my workout, that I wasn't going to vote for him. But then I remembered all the times he had the North Country breakfast, and it kind of balanced out.

I think that Chris will be a fine appointment. I congratulate the Governor. If he puts the same intensity into this position as he has into his job in the Assembly, I think that he will be a remarkable member of this board.

And I also have to say that anybody that could do two terms of service in Vietnam deserves our support, and that I'm glad to get up and have the opportunity to support Chris Ortloff.

ACTING PRESIDENT ROBACH: The question is on the nomination of Chris Ortloff as a member of the New York State Parole Board. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Any opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: Chris Ortloff is hereby confirmed as a member of the New York State Parole Board.

Congratulations.

(Applause.)

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: As a member of the State Commission of Correction, Daniel Stewart, of Plattsburgh.

ACTING PRESIDENT ROBACH: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT ROBACH: Senator Little.

SENATOR LITTLE: Thank you.

I rise now to second the nomination of Dan Stewart as a member of the State Commission of Correction.

Dan Stewart has a lot of

attributes. And in this confirmation process, one of the things that we can confirm is that he has a lot of patience.

He is the mayor of Plattsburgh and has served there for a number of years doing an excellent job working with the city, bringing all kinds of projects to the city and really building consensus among all people within the city. Known as Mayor Dan, he has a great deal of respect from people of all parties within the city of Plattsburgh. He is respected for his commitment to the city and to work that he was doing. He is a consensus builder. He is a person who listens to all sides of the issues.

And he certainly knows all about mandates and how mandates affect a city, a town, a county and how they affect your tax rate.

Dan is a person who will work well with the staff. He has already been down here. He has worked with Alan Croce for the past several weeks finding out more about the job and is anxious to get started. And I know he will provide a great deal of dedication and

effort in this position and will be very, very good in this position.

I look forward to working with him, and I'm sure that the Governor's choice of Dan is an excellent choice. Thank you.

And congratulations, Dan.

ACTING PRESIDENT ROBACH: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President. On the nomination.

Senator Little, who I'm very proud is a member of the Crime Victims, Crime and Corrections Committee of this body, when she talked about the qualifications of Dan Stewart to serve as a member of the Commission on Corrections, she, in advocating on his behalf, talked frequently about having someone on that commission that understood the cost to property taxpayers and particularly local governments as they wrestle with issues.

And that Senator Little's understanding of that dynamic and her endorsement of the nominee are certainly very important as the deliberations move forward.

That it's important to have on that

commission someone who understands the very important concept that whatever decisions are made must be borne in large part by the local property taxpayers. And that having local government experience, understanding what that dynamic is all about, is a key element.

And I think certainly, as Senator Little has indicated, he will bring a great dimension to this commission.

An excellent nomination. Thank you, Mr. President.

ACTING PRESIDENT ROBACH: On the nomination of Daniel Stewart as a member of the State Commission of Correction, all in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Any opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: Daniel Stewart is hereby confirmed as a member of the State Commission on Correction.

Congratulations.

(Applause.)

ACTING PRESIDENT ROBACH: The

Secretary will read.

THE SECRETARY: As a member of the State Commission of Correction, Frances T. Sullivan, of Fulton.

ACTING PRESIDENT ROBACH: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT ROBACH: On the nomination of Frances Sullivan as a member of the State Commission on Corrections, all those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Any opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: Frances Sullivan is hereby confirmed as a member of the State Commission of Correction.

The Secretary will read.

THE SECRETARY: As a member of the Workers' Compensation Board, Scott Craig Firestone, Esquire, of Port Washington.

ACTING PRESIDENT ROBACH: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT ROBACH: The question is on the nomination of Scott Firestone as a member of the Workers' Compensation Board. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Any opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: Scott Firestone is hereby confirmed as a member of the Workers' Compensation Board.

(Applause.)

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: As a member of the New York State Thruway Authority, Jeffrey D. Williams, of Lewiston.

ACTING PRESIDENT ROBACH: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT ROBACH: Senator

Rath.

SENATOR RATH: Thank you, Mr. President. I wish to second the nomination of Jeff Williams to the Thruway Authority.

Jeff has been a community activist and someone I've known for many years. I think it's a very wise choice by the Governor.

I congratulate Mr. Williams, look forward to working with him as we have many challenges throughout Western New York.

Thank you.

ACTING PRESIDENT ROBACH: Senator Coppola.

SENATOR COPPOLA: Thank you, Mr. President. On the nomination of Mr. Williams.

I rise in support of Mr. Williams' nomination at this time. Many of you may know that most of us in Western New York have raised serious issues with the New York State Thruway Authority and their lack of understanding of the issues with regard to the toll barriers that surround the City of Buffalo and in particular downtown Buffalo,

and the cost to local commuters.

And it's a serious issue that all the gubernatorial candidates have said that they would deal with this issue once they took office in January. All of the Western New York legislators, both at the local, county, state and even federal level, have weighed in on this issue. And it's a very serious issue to all of us in Western New York, to myself and my constituents and some of my colleagues here in the chamber.

I spoke with Mr. Williams earlier, and he did assure me that he will work diligently to come up with ways to remove, specifically, two barriers that are causing not only environmental hazards, causing traffic jams, safety hazards, and tremendous problems for the city of Buffalo.

And I'm very, very happy that the Governor has decided to appoint to the board somebody from Western New York, and I'm glad that Mr. Williams and I have had a very good discussion earlier about the ability to remove those tolls and possibly move them somewhere else or possibly eliminate them totally.

So I support this nomination, Mr. President.

ACTING PRESIDENT ROBACH: Thank you, Senator Coppola.

Senator Maziarz.

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

It's with a great deal of pride and pleasure that I rise to second this nomination of a very good friend of mine, Jeff Williams.

Jeff, I've known his family from Niagara Falls, Niagara County, for many, many years. Jeff will be an excellent addition, an excellent addition to the Thruway Authority. For a long time there has not been a representative from Western New York on the New York State Thruway Authority. And I think the Governor could not have picked a finer, fairer person.

As my colleague Senator Coppola pointed out, we have an issue regarding tolls in the city of Buffalo and the Western New York area. And, you know, it's going to take the wisdom of Solomon to go in there and to resolve that long-standing issue and

problem of toll barriers.

And Senator Coppola is right, there are environmental issues, transportation flow issues, and so forth. I know I've got issues, Jeff, about the tolls on the Grand Island bridges. And we know that resolution will come, but it's going to come quicker and better for the citizens of Western New York because we now feel that we have representation on that authority.

I heartily second this nomination.

Jeff, I wish you and your family well on this venture and many others in the future.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Senator Volker.

SENATOR VOLKER: Yeah, Mr. President. Mr. President, could I have this one on, this mike, please? Thank you.

I've known Jeff Williams for many, many years. There was a kind of a strange issue in Buffalo -- as everybody knows, some of the Washington officials have announced that they want to take all the tolls off the

Thruway. Somehow they forgot to tell us that there is no money out of Washington to help us take the tolls off, and the cost would be about $3.9 million.

But there's a mythology that's come around in Buffalo that it's easy to get rid of tolls. The truth is that you have to deal with bondholders and all sorts of things.

Jeff Williams got into a little problem in Buffalo because he had the audacity to say: I've got to look at the numbers. So they said, Well, he's not for getting rid of tolls. Which is silly. The truth is that he'll make an excellent member of the Thruway Authority.

And I'd just like to say to my colleagues that we are working on the Thruway Authority. But I think it is comical that every governor since Tom Dewey has said that they're going to get rid of the tolls on the Thruway, but somehow they found out that there's bondholders and tons of money and so forth that make it rather difficult.

So, Jeff, I hope you're on the Thruway Authority when the tolls come off.

But it's probably not too likely. But at any rate, congratulations, and you'll make an excellent member of the Thruway Authority.

ACTING PRESIDENT ROBACH: Is there any other Senator wishing to be heard?

On the nomination of Jeffrey D. Williams as a member of the New York State Thruway Authority, all in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Any opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: Jeffrey D. Williams is hereby confirmed as a member of the New York State Thruway Authority.

Congratulations.

(Applause.)

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: As a director of the State of New York Mortgage Agency, Jerome M. Becker, Esquire, of New York City.

As a director of the State of New York Mortgage Agency, Gregory J. Raphael,

Esquire, of Garden City.

As a member of the Battery Park City Authority, Frank J. Branchini, of New York City.

As a member of the Battery Park City Authority, Robert J. Mueller, of New York City.

As a member of the Capital District Transportation Authority, Norman L. Miller, of Schenectady.

As a member of the Niagara Frontier Transportation Authority, Eunice A. Lewin, of Buffalo.

As a member of the Administrative Review Board for Professional Medical Conduct, Datta G. Wagle, M.D., of Williamsville.

As a member of the Correction Medical Review Board, John Rugge, M.D., of Queensbury.

As members of the Advisory Board on Public Work, Daniel J. McGraw, Esquire, of Clifton Park, and Ross J. Pepe, of New City.

As a member of the Small Business Advisory Board, Loretta Kaminsky, of Williamsville.

As a member of the State Banking Board, Hans Joachim Doepp, of Purchase.

As a member of the Board of Trustees of the State University of New York College of Environmental Science and Forestry, Charles G. Fox, of New York City.

As a member of the State Board of Historic Preservation, Arete Swartz Warren, of New York City.

As a member and chairperson of the Freshlands Wetlands Appeals Board, Rhonda K. Amoroso, Esquire, of Garden City.

As a member of the Lake George Park Commission, Kenneth W. Parker, of Diamond Point.

As a member of the Allegany State Park, Recreation and Historic Preservation Commission, William J. Heaney, of Belfast.

As a member of the Niagara Frontier State Park, Recreation and Historic Preservation Commission, Jean Read Knox, of Buffalo.

As a member of the Taconic State Park, Recreation and Historic Preservation Commission, Kevin J. Plunkett, Esquire, of

Tarrytown.

As a member of the Thousand Islands State Park, Recreation and Historic Preservation Commission, Joanne Dicob, of Lowville.

As a member of the State Racing Commission, John Anthony Tesiero, Jr., of Amsterdam.

As a member of the Medical Advisory Committee, David J. Cerniglia, D.C., of Schenectady.

As a member of the Board of Directors of the New York Convention Center Operating Corporation, Mary A. D'Elia, of New York City.

As members of the Board of Trustees of the New York State Higher Education Services Corporation, Laureen Fitzgerald, of Albany; Richard Guarasci, of Staten Island; and John G. Zampella, IV, of Glenville.

As members of the Public Health Commission, Susan G. Regan, Esquire, of New York City, and Peter G. Robinson, of Rochester.

As a measure of the State Hospital

Review and Planning Council, Michael S. Sloma, of Youngstown.

As a member of the Council on Human Blood and Transfusion Services, Nadia Rajsz, of Glen Spey.

As a member of the Board of Visitors of the Broome Developmental Disabilities Services Office, Mildred Hendry Bengel, of Johnson City.

As a member of the Board of Visitors of the Capital District Developmental Disabilities Services Office, Joseph R. Auriemma, of Scotia.

As members of the Board of Visitors of the Mohawk Valley Psychiatric Center, Anne M. Jackson, of Boonville, and Maneck Kotwal, M.D., of New Hartford.

As a member of the Board of Visitors of the Rochester Psychiatric Center, Dorothy A. Wentland, of LeRoy.

As a member of the Board of Visitors of the Staten Island Developmental Disabilities Services Office, Frank L. Tellefsen, of Staten Island.

As a member of the Adirondack Park

Agency, Arthur S. Lussi, of Lake Placid.

As a member of the Dormitory Authority, Brian Ruder, of Scarsdale.

As an alternate nonvoting member of the Metropolitan Transportation Authority, James L. McGovern, of Manhasset.

As a trustee of the Power Authority of the State of New York, Leonard N. Spano, of Yonkers.

As a member of the Advisory Board on Public Work, Joseph R. Lagana, of West Nyack.

As a member of the State Park, Recreation and Historic Preservation Commission for the City of New York, Judith Pond Kudlow, of New York City.

As a member of the Thousand Islands State Park, Recreation and Historic Preservation Commission, William H. Wormuth, of Lowville.

As a member of the Board of Directors of the New York Convention Center Operating Corporation, Michael J. Stengel, of New York City.

As a member of the State Hospital

Review and Planning Council, J. Patrick Sheehan, of Larchmont.

As a trustee of the City University Construction Fund, Philip F. Foglia, Esquire, of the Bronx.

As a member of the Board of Visitors of the Helen Hayes Hospital, Kathleen Sweeney, of Haverstraw.

As a member of the Board of Visitors of the New York State Home for Veterans and their Dependents at Montrose, Gerald C. Walsh, of West Nyack.

And as a member of the Board of Visitors of the Rockland Children's Psychiatric Center, Linda M. O'Hagan, of Pearl River.

ACTING PRESIDENT ROBACH: On the confirmation of all the nominees as read by the Secretary, all in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT ROBACH: Senator

Krueger.

SENATOR LIZ KRUEGER: Thank you.

I will be voting no on the reappointment of Jerome Becker to the State of New York Mortgage Agency, SONYMA. Thank you.

ACTING PRESIDENT ROBACH: The record will so reflect.

The nominees are hereby confirmed in their respective titles.

SENATOR BALBONI: Mr. President.

ACTING PRESIDENT ROBACH: Senator Balboni.

SENATOR BALBONI: Could we please return to motions and resolutions.

There is a resolution from Senator Sabini at the desk. I would ask that the title be read and move for its immediate adoption.

ACTING PRESIDENT ROBACH: Motions and resolutions.

The Secretary will read.

THE SECRETARY: By Senator Sabini, Legislative Resolution Number 6268, memorializing Governor George E. Pataki to proclaim July 23 through 30, 2006, as Peruvian

Heritage Week in the State of New York.

ACTING PRESIDENT ROBACH: On the resolution, all those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Any opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: The resolution is adopted.

Senator Balboni.

SENATOR BALBONI: Mr. President, would you please recognize Senator Seward for a motion.

ACTING PRESIDENT ROBACH: Senator Seward.

SENATOR SEWARD: Yes, Mr. President. I wish to call up Senator LaValle's bill, Print Number 8405, which is at the desk.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Calendar Number 2142, by Senator LaValle, Senate Print 8405, an act to amend the Environmental Conservation

Law and others.

SENATOR SEWARD: Mr. President, I now move to reconsider the vote by which this bill was passed and ask that the bill be restored to the order of third reading.

ACTING PRESIDENT ROBACH: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT ROBACH: The bill is restored to third reading.

Senator Balboni.

SENATOR BALBONI: Mr. President, could we please return to Supplemental Calendar Number 62B and take up Senator Wright's bill, Calendar Number 2234.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Calendar Number 2234, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 12013, an act to amend the Economic Development Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT ROBACH: Senator Wright, to explain his vote.

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

The bill that we're voting on this evening is the extension of the Power for Jobs and Energy Cost Savings Benefits Service Program. This bill will extend that through -- excuse me, the current program will extend through June of 2007 and will also provide restitution for the higher than anticipated rates that were incurred under the existing Power for Jobs program.

This addresses the concerns that were raised by the Governor in the veto of the previous Power for Jobs extension that was included in the budget.

Thank you.

ACTING PRESIDENT ROBACH: Senator Wright, you will be recorded in the

affirmative.

Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT ROBACH: The bill is passed.

Senator Balboni.

SENATOR BALBONI: Yes, Mr. President. We're going to return to the main calendar for today, and we're going to take up a number of bills, the first being 2163, Calendar Number 2163, by Senator Hannon.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Calendar Number 2163, by Senator Hannon, Senate Print 8227B, an act to amend the Public Health Law.

ACTING PRESIDENT ROBACH: Senator Balboni.

SENATOR BALBONI: Yes, Mr. President. I believe there is a message of necessity at the desk.

ACTING PRESIDENT ROBACH: Yes, there is.

SENATOR BALBONI: Move to accept.

ACTING PRESIDENT ROBACH: All in

favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Any opposed?

(No response.)

ACTING PRESIDENT ROBACH: The message is accepted.

Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT ROBACH: The bill is passed.

SENATOR BALBONI: Mr. President.

ACTING PRESIDENT ROBACH: Senator Balboni.

SENATOR BALBONI: Will you please take up Calendar Number 1373.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1373, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 10917A and substitute it for the identical Senate Bill Number 7502A, Third Reading Calendar 1373.

ACTING PRESIDENT ROBACH: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1373, by Member of the Assembly Englebright, Assembly Print Number 10917A, an act to amend the Elder Law and others.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT ROBACH: The bill is passed.

Senator Balboni.

SENATOR BALBONI: Yes, could you

please take up Calendar 2061, by Senator LaValle.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 2061, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 8417B and substitute it for the identical Senate Bill Number 7675C, Third Reading Calendar 2061.

ACTING PRESIDENT ROBACH: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2061, by Member of the Assembly Canestrari, Assembly Print Number 8417B, an act to amend the Education Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT ROBACH: The bill is passed.

Senator Balboni.

SENATOR BALBONI: Yes, Mr. President. Could you please take up Calendar Number 2148, by Senator Winner.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Calendar Number 2148, by Senator Winner, Senate Print 3531A, an act to amend the Workers' Compensation Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT ROBACH: The bill is passed.

SENATOR BALBONI: Mr. President.

ACTING PRESIDENT ROBACH: Senator Balboni.

SENATOR BALBONI: Please take up

Calendar Number 2113, by Senator Bruno.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Calendar Number 2113, by Senator Bruno, Senate Print 8438, an act authorizing the County of Saratoga.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT ROBACH: The bill is passed.

SENATOR BALBONI: Mr. President.

ACTING PRESIDENT ROBACH: Senator Balboni.

SENATOR BALBONI: Could we please return to the reports of standing committees. I believe there's a Rules report at the desk.

ACTING PRESIDENT ROBACH: Reports of standing committees.

The Secretary will read.

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

Senate Print 2954C, by Senator Spano, an act to amend the Vehicle and Traffic Law;

5357B, by Senator Padavan, an act to amend the Vehicle and Traffic Law;

5582B, by Senator Seward, an act to amend the Insurance Law;

5612B, by Senator Winner, an act to amend the Workers' Compensation Law;

6629A, by Senator Spano, an act to amend the Mental Hygiene Law;

7389A, by Senator Robach, an act to amend the Education Law;

7510A, by Senator Libous, an act to authorize;

7552, by Senator Bonacic, an act to amend the Education Law;

7604B, by Senator Klein, an act to amend the Vehicle and Traffic Law;

7972A, by the Senate Committee on Rules, an act to amend the Tax Law;

8448, by the Senate Committee on

Rules, an act to amend the Insurance Law;

8465, by Senator Robach, an act to amend the Public Health Law;

8468, by Senator Volker, an act to amend the Civil Practice Law and Rules;

8469, by Senator Fuschillo, an act to amend the General Business Law;

And Senate Print 8474, by Senator Robach, an act to amend the Civil Service Law.

All bills ordered direct to third reading.

ACTING PRESIDENT ROBACH: Senator Balboni.

SENATOR BALBONI: Mr. President, I would move to accept the report of the Rules Committee.

ACTING PRESIDENT ROBACH: All those in favor of accepting the report of the Rules Committee signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: The report is accepted.

Senator Balboni.

SENATOR BALBONI: Mr. President, while we wait for the calendars to be distributed with the bills, could you please go back to the main calendar and take up Calendar Number 1928.

ACTING PRESIDENT ROBACH: The Secretary will read.

Senator Balboni.

SENATOR BALBONI: Mr. President, can we lay that bill aside for a moment, please.

ACTING PRESIDENT ROBACH: The bill is laid aside.

Senator Balboni.

SENATOR BALBONI: Mr. President, Calendar Number 1928 has now been put on the members' desks. The members will recall that all of us voted for this bill a couple of days ago, and then it was recalled, restored to the calendar, and now it has a message. I'm sorry, it was amended, and now it has a message on the amended version.

ACTING PRESIDENT ROBACH: The Secretary will read Calendar Number 1928.

THE SECRETARY: Calendar Number 1928, by Senator Fuschillo, Senate Print 8124A, an act to amend the General Business Law.

SENATOR BALBONI: I believe there is a message of necessity at the desk, Mr. President, and I would move to accept the message.

ACTING PRESIDENT ROBACH: There is a message of necessity at the desk. All in favor of accepting the message signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Any opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: The message is accepted.

Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT ROBACH: The bill is passed.

Senator Balboni, is there anything you'd like to do right now?

SENATOR BALBONI: Yes, I would. Let's see if I can do this.

We're going to take Calendar Number 2142, by Senator LaValle, which we already passed and then we recalled, and now it's going to be substituted and we're going consider it again.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 2142, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 7633B and substitute it for the identical Senate Bill Number 8405, Third Reading Calendar 2142.

ACTING PRESIDENT ROBACH: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2142, by Member of the Assembly Eddington, Assembly Print Number 7633B, an act to amend

the Environmental Conservation Law and others.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT ROBACH: The bill is passed.

Senator Balboni.

SENATOR BALBONI: Yes, Mr. President. Could we please go to Senate Supplemental Calendar Number 62C, which we will read in a noncontroversial fashion.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Calendar Number 2241, by Senator Spano, Senate Print 2954C, an act to amend the Vehicle and Traffic Law and others.

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

Read the last section.

THE SECRETARY: Section 28. This act shall take effect immediately.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 2241 are Senators Balboni, Maltese, Marcellino, Skelos and Volker. Also Senator Saland. Also Senator DeFrancisco. Also Senator Morahan. Also Senator LaValle.

Ayes, 52. Nays, 9.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 2242, by Senator Padavan, Senate Print 5357B, an act to amend the Vehicle and Traffic Law and the Administrative Code of the City of New York.

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

The Secretary will read the last section.

THE SECRETARY: Section 11. This act shall take effect immediately.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 2242 are Senators Balboni, DeFrancisco, Johnson, LaValle, Maltese, Marcellino, Morahan, Saland, Skelos and Volker.

Ayes, 51. Nays, 10.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 2243, by Senator Seward, Senate Print 5582B, an act to amend the Insurance Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT ROBACH: Senator Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

Well, this bill seems to slide through late in each session. But just for the record, as people are voting, this would allow cellphone sellers to basically go into the insurance business without being under the license or regulation of the New York State Insurance Department.

And I think that we shouldn't be removing insurance from the Insurance Department, to keep it simple. I understand it's a one-house bill, as it has been in the past. And again, there's so many coming through. But again, for the record, I'm not a big proponent of removing insurance from authorization and regulation by the Insurance Department, so I'm voting no. Thank you.

THE SECRETARY: Those recorded in the negative on Calendar Number 2243 are Senators Balboni, Bonacic, Connor, Coppola, Duane, Fuschillo, Golden, Hannon, Hassell-Thompson, Klein, L. Krueger, Larkin, LaValle, Meier, Morahan, Nozzolio, Rath, Savino, Skelos, A. Smith, Stavisky, Valesky, Volker, Winner, Wright and Young.

ACTING PRESIDENT ROBACH: Senator

Balboni.

SENATOR BALBONI: Mr. President, could we lay that bill aside temporarily.

ACTING PRESIDENT ROBACH: The roll call is withdrawn. The bill is temporarily laid aside.

(Groans.)

ACTING PRESIDENT ROBACH: If we could just have a little order in here so we could continue.

The Secretary will read.

THE SECRETARY: In relation to Calendar Number 2244, Senator Winner moves to discharge, from the Committee on Rules, Assembly Bill Number 8713B and substitute it for the identical Senate Bill Number 5612B, Third Reading Calendar 2244.

ACTING PRESIDENT ROBACH: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2244, by the Assembly Committee on Rules, Assembly Print Number 8713B, an act to amend the Workers' Compensation Law.

ACTING PRESIDENT ROBACH: Read

the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 2245, by Senator Spano, Senate Print 6629A, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2246, Senator Robach moves to

discharge, from the Committee on Rules, Assembly Bill Number 10570A and substitute it for the identical Senate Bill Number 7389A, Third Reading Calendar 2246.

ACTING PRESIDENT ROBACH: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2246, by Member of the Assembly Abbate, Assembly Print Number 10570A, an act to amend the Education Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2247, Senator Libous moves to discharge, from the Committee on Rules, Assembly Bill Number 11311A and substitute it

for the identical Senate Bill Number 7510A, Third Reading Calendar 2247.

ACTING PRESIDENT ROBACH: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2247, by Member of the Assembly Crouch, Assembly Print Number 11311A, an act to authorize the County of Broome.

ACTING PRESIDENT ROBACH: 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 ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 2248, by Senator Bonacic, Senate Print 7552, an act to amend the Education Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2249, Senator Klein moves to discharge, from the Committee on Rules, Assembly Bill Number 10938B and substitute it for the identical Senate Bill Number 7604B, Third Reading Calendar 2249.

ACTING PRESIDENT ROBACH: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2249, by Member of the Assembly Paulin, Assembly Print Number 10938B, an act to amend the Vehicle and Traffic Law.

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

Read the last section.

THE SECRETARY: Section 3. This

act shall effect on the 60th day.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 2250, by the Senate Committee on Rules, Senate Print Number 7972A, an act to amend the Tax Law.

ACTING PRESIDENT ROBACH: 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 ROBACH: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2251, Senator Bruno moves to

discharge, from the Committee on Rules, Assembly Bill Number 12014 and substitute it for the identical Senate Bill Number 8448, Third Reading Calendar 2251.

ACTING PRESIDENT ROBACH: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2251, by the Assembly Committee on Rules, Assembly Print Number 12014, an act to amend the Insurance Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 2251 are Senators Bonacic, Little, Meier, Rath, Saland and Seward.

Ayes, 55. Nays, 6.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2252, Senator Robach moves to discharge, from the Committee on Rules, Assembly Bill Number 11887 and substitute it for the identical Senate Bill Number 8465, Third Reading Calendar 2252.

ACTING PRESIDENT ROBACH: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2252, by the Assembly Committee on Rules, Assembly Print Number 11887, an act to amend the Public Health Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 2253, by Senator Volker, Senate Print 8468, an

act to amend the Civil Practice Law and Rules.

SENATOR BALBONI: Mr. President.

ACTING PRESIDENT ROBACH: Senator Balboni.

SENATOR BALBONI: Is there a message of necessity at the desk?

ACTING PRESIDENT ROBACH: Yes, there is.

SENATOR BALBONI: I move that we accept the message.

ACTING PRESIDENT ROBACH: All in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Any opposed?

(No response.)

ACTING PRESIDENT ROBACH: The message is accepted.

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.

ACTING PRESIDENT ROBACH: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2254, Senator Fuschillo moves to discharge, from the Committee on Rules, Assembly Bill Number 11427 and substitute it for the identical Senate Bill Number 8469, Third Reading Calendar 2254.

ACTING PRESIDENT ROBACH: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2254, by Member of the Assembly Pheffer, Assembly Print Number 11427, an act to amend the General Business Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 2255, by Senator Robach, Senate Print 8474, an act to amend the Civil Service Law and the State Finance Law.

ACTING PRESIDENT ROBACH: Senator Balboni.

SENATOR BALBONI: Mr. President, I believe there is a message of necessity at the desk.

ACTING PRESIDENT ROBACH: There is.

SENATOR BALBONI: I move to accept the message.

ACTING PRESIDENT ROBACH: All in favor of accepting the message signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Any opposed?

(No response.)

ACTING PRESIDENT ROBACH: The message is accepted.

Read the last section.

THE SECRETARY: Section 25. This act shall take effect immediately.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT ROBACH: The bill is passed.

SENATOR BALBONI: Mr. President.

ACTING PRESIDENT ROBACH: Senator Balboni.

SENATOR BALBONI: Could we please stand at ease for a moment.

ACTING PRESIDENT ROBACH: We certainly can. The Senate will stand at ease momentarily.

(Whereupon, the Senate stood at ease at 6:32 p.m.)

SENATOR BALBONI: Mr. President.

ACTING PRESIDENT ROBACH: Yes, Senator Balboni, why do you rise?

SENATOR BALBONI: I rise to inform you that there is an immediate meeting of the Rules Committee in the Majority

Conference Room.

ACTING PRESIDENT ROBACH: If the members of the Rules Committee could get to the Majority Conference Room as quickly as possible, we would appreciate it. And we will continue business upon completion of that committee meeting.

The Senate momentarily stands at ease.

(Whereupon, the Senate reconvened at 7:06 p.m.)

SENATOR BALBONI: Mr. President.

ACTING PRESIDENT ROBACH: Senator Balboni.

SENATOR BALBONI: Thank you for joining us. Would you please return to reports of standing committees. And I believe there is a Rules report at the desk.

ACTING PRESIDENT ROBACH: Reports of standing committees.

The Secretary will read.

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

Senate Print 5990, by Senator

Breslin, an act to amend Chapter 693 of the Laws of 1980;

6993B, by Senator Klein, an act to amend the Education Law;

7461A, by Senator Sabini, an act to amend the Education Law;

8303, by Senator Stachowski, an act to amend the Tax Law;

8361, by Senator Volker, an act to amend Chapter 605 of the Laws of 2000;

8408, by Senator Robach, an act to provide a temporary early retirement incentive;

8470, Senate Budget Bill, an act to amend Chapter 50 of the Laws of 2006;

8471, Senate Budget Bill, an act intentionally omitted (Part A);

8472, Senate Budget Bill, an act to amend the Education Law;

And Senate Print 8473, Senate Budget Bill, an act to amend Chapter 53 of the Laws of 2006.

All bills ordered direct to third reading.

ACTING PRESIDENT ROBACH: Senator

Balboni.

SENATOR BALBONI: Mr. President, we are going to wait until the bills are on the calendar.

But in the meantime, I will move to accept the report of the Rules Committee.

ACTING PRESIDENT ROBACH: All in favor of accepting the Rules report signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Any opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: The report is accepted.

Senator Balboni.

SENATOR BALBONI: Mr. President, could we please take up the Supplemental Calendar 62D and read it in a noncontroversial fashion.

ACTING PRESIDENT ROBACH: The Secretary will read.

SENATOR BRUNO: Mr. President.

ACTING PRESIDENT ROBACH: Senator Bruno.

SENATOR BRUNO: Can we at this time take up the noncontroversial -- I'm losing my voice, so everybody please be quiet -- Calendar Number 2261.

ACTING PRESIDENT ROBACH: If we could just have quiet in the chamber.

SENATOR BRUNO: Thank you. Thank you.

ACTING PRESIDENT ROBACH: The Secretary will read Calendar 2261.

THE SECRETARY: Calendar Number 2261, Senate Budget Bill, Senate Print 8470, an act to amend Chapter 50 of the Laws of 2006.

SENATOR BRUNO: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT ROBACH: Yes, there is.

SENATOR BRUNO: I would move to accept the message.

ACTING PRESIDENT ROBACH: All in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: All

those opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: The report is accepted.

Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT ROBACH: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up Calendar Number 2262.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Calendar Number 2262, Senate Budget Bill, Senate Print 8471, an act to amend the Social Services Law.

SENATOR BRUNO: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT ROBACH: Yes,

there is.

SENATOR BRUNO: I would move that we accept the message.

ACTING PRESIDENT ROBACH: All in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Any opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: The message is accepted.

The Secretary will read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT ROBACH: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take a short break to go

to conference in Room 332.

You're all welcome, but I suggest you not attend on that side.

(Laughter.)

SENATOR BRUNO: All right? And we'll be back in 15, 20 minutes.

And would you recognize Senator Gonzalez.

ACTING PRESIDENT ROBACH: Senator Gonzalez.

SENATOR GONZALEZ: Mr. President, there will be an immediate meeting of the Minority conference in Room 315.

And you're all welcome over.

ACTING PRESIDENT ROBACH: There will be an immediate conference for the Majority in the Majority Conference Room and a conference for the Minority in Room 315.

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 7:25 p.m.)

(Whereupon, the Senate reconvened at 8:34 p.m.)

ACTING PRESIDENT MARCELLINO: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to the order of motions and resolutions.

ACTING PRESIDENT MARCELLINO: We will return to motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

On behalf of Senator Morahan, I wish to call up Calendar Number 1998, Assembly Print Number 11278A.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: Calendar Number 1998, by Member of the Assembly Zebrowski, Assembly Print Number 11278A, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT MARCELLINO: Senator Farley.

SENATOR FARLEY: I now move to reconsider the vote by which this Assembly bill was substituted for Senator Morahan's bill, Senate Print 8268, on June 21st.

ACTING PRESIDENT MARCELLINO: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

SENATOR FARLEY: I now move that Assembly Bill Number 11278A be recommitted to the Committee on Rules and Senator Morahan's bill be restored to the order of third reading.

ACTING PRESIDENT MARCELLINO: So ordered.

SENATOR FARLEY: All right. Thank you.

ACTING PRESIDENT MARCELLINO: Senator Flanagan.

SENATOR FLANAGAN: Mr. President, on behalf of Senator Golden, I offer the following amendments to Calendar Number 2222, Senate Bill 8397B, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Skelos.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Skelos.

SENATOR SKELOS: If you could call up Calendar Number 2222, noncontroversial.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: Calendar Number 2222, by Senator Golden, Senate Print 8397C, an act to amend the Judiciary Law.

ACTING PRESIDENT MARCELLINO: There is a message at the desk.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT MARCELLINO: All in favor of accepting the message say aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The message is accepted.

Read the last section.

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

ACTING PRESIDENT MARCELLINO:

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MARCELLINO: The bill is passed.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Skelos.

SENATOR SKELOS: If we could continue with the noncontroversial reading of Senate Supplemental Calendar 62D.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 2256, Senator Breslin moves to discharge, from the Committee on Rules, Assembly Bill Number 9063 and substitute it for the identical Senate Bill Number 5990, Third Reading Calendar 2256.

ACTING PRESIDENT MARCELLINO: Substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2256, by the Assembly Committee on Rules, Assembly Print Number 9063, an act to amend

Chapter 693 of the Laws of 1980.

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

Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2257, Senator Klein moves to discharge, from the Committee on Rules, Assembly Bill Number 10995A and substitute it for the identical Senate Bill Number 6993B, Third Reading Calendar 2257.

ACTING PRESIDENT MARCELLINO: Substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2257, by Member of the Assembly Paulin,

Assembly Print Number 10995A, an act to amend the Education Law.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2258, Senator Sabini moves to discharge, from the Committee on Rules, Assembly Bill Number 11550A and substitute it for the identical Senate Bill Number 7461A, Third Reading Calendar 2258.

ACTING PRESIDENT MARCELLINO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2258, by Member of the Assembly Aubry, Assembly Print Number 11550A, an act to amend the Education Law.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2259, Senator Stachowski moves to discharge, from the Committee on Rules, Assembly Bill Number 11918 and substitute it for the identical Senate Bill Number 8303, Third Reading Calendar 2259.

ACTING PRESIDENT MARCELLINO: Substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2259, by the Assembly Committee on Rules, Assembly Print Number 11918, an act to amend the Tax Law.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2260, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 11960 and substitute it for the identical Senate Bill Number 8361, Third Reading Calendar 2260.

ACTING PRESIDENT MARCELLINO: Substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2260, by the Assembly Committee on Rules, Assembly Print Number 11960, an act to amend Chapter 605 of the Laws of 2000.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 2263, Senate Budget Bill, Senate Print 8472, an act to amend the Education Law.

ACTING PRESIDENT MARCELLINO: Senator Bruno.

SENATOR BRUNO: Is there a message of necessity at the desk?

ACTING PRESIDENT MARCELLINO: Yes, there is, Senator Bruno.

SENATOR BRUNO: I would move that we accept the message.

ACTING PRESIDENT MARCELLINO: On the motion to accept the message of necessity, all in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The

message is accepted.

Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 2263 are Senators Andrews, Breslin, Connor, Coppola, Dilan, Duane, Hassell-Thompson, Oppenheimer, Sabini, Saland, Savino, Schneiderman, Serrano, A. Smith, Stachowski, Stavisky and Valesky.

Ayes, 44. Nays, 17.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 2264, Senate Budget Bill, Senate Print 8473, an act to amend Chapter 53 of the Laws of 2006.

ACTING PRESIDENT MARCELLINO: Senator Bruno.

SENATOR BRUNO: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT MARCELLINO:

Yes, there is, Senator Bruno.

SENATOR BRUNO: I would move that we accept the message.

ACTING PRESIDENT MARCELLINO: All in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The message is accepted.

Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2265, Senator Robach moves to discharge, from the Committee on Rules, Assembly Bill Number 11805 and substitute it

for the identical Senate Bill Number 8408, Third Reading Calendar 2265.

ACTING PRESIDENT MARCELLINO: Substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2265, by the Assembly Committee on Rules, Assembly Print Number 11805, an act to provide a temporary early retirement incentive program.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time call up Calendar Number 2198.

ACTING PRESIDENT MARCELLINO: The

Secretary will read.

THE SECRETARY: In relation to Calendar Number 2198, Senator Maziarz moves to discharge, from the Committee on Rules, Assembly Bill Number 11713 and substitute it for the identical Senate Bill Number 8107, Third Reading Calendar 2198.

ACTING PRESIDENT MARCELLINO: Substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2198, by the Assembly Committee on Rules, Assembly Print Number 11713, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MARCELLINO: The bill is passed.

SENATOR BRUNO: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Bruno.

SENATOR BRUNO: Can we at this time take up Calendar Number 2190.

ACTING PRESIDENT MARCELLINO: The Secretary will read Calendar Number 2190.

THE SECRETARY: Calendar Number 2190, by the Senate Committee on Rules, Senate Print Number 5046A, an act to amend the Executive Law.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MARCELLINO: The bill is passed.

SENATOR BRUNO: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Bruno.

SENATOR BRUNO: Can we return to messages from the Assembly.

ACTING PRESIDENT MARCELLINO: Messages from the Assembly.

The chair hands down a message.

THE SECRETARY: The Assembly sent for concurrence the following bill.

On motion of Senator Bruno, and by unanimous consent, said bill was ordered to a third reading: Senate Print 8275, by the Assembly Committee on Rules, Assembly Print Number 11720B, an act to amend the Public Health Law.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MARCELLINO: The bill is passed.

SENATOR BRUNO: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Bruno.

SENATOR BRUNO: Can we return to

messages from the Governor.

ACTING PRESIDENT MARCELLINO: Messages from the Governor.

The Secretary will read.

THE SECRETARY: The Governor returned without executive approval Senate Bill Number 6758, Veto Number 215, entitled "an act to amend the Civil Service Law and the Labor Law."

ACTING PRESIDENT MARCELLINO: Senator Bruno.

SENATOR BRUNO: Mr. President, I move to lay said bill as vetoed by the Governor on the table.

ACTING PRESIDENT MARCELLINO: So ordered.

Senator Bruno.

SENATOR BRUNO: Can we now return to the order of motions and resolutions.

ACTING PRESIDENT MARCELLINO: Motions and resolutions.

SENATOR BRUNO: I move to take from the table Senate Bill 6758 as vetoed by the Governor.

ACTING PRESIDENT MARCELLINO: So

ordered.

SENATOR BRUNO: I now move to override the Governor's veto.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: Calendar Number 470, by Senator Spano, Veto Number 215, Senate Print 6758, an act to amend the Civil Service Law.

ACTING PRESIDENT MARCELLINO: The bill is before the house.

SENATOR BRUNO: Read the last section.

ACTING PRESIDENT MARCELLINO: Senators, ought the same become a law notwithstanding the veto of the Governor?

The Secretary will read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MARCELLINO: Please announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 470 are Senators Meier, Paterson, Rath and Saland.

Ayes, 57. Nays, 4.

ACTING PRESIDENT MARCELLINO: The motion to override the Governor's veto is carried.

Senator Bruno.

SENATOR BRUNO: Mr. President, we are nearing the end of this session. And I want to again, before all of us just go on our way, comment that we're going to end by the calendar the formal part of this session.

We expect to be back here sometime towards the end of September, because there's a Court of Appeals nomination that will be submitted and by law the Senate must reconvene to confirm within 30 days of the Governor's nomination. The last part will probably be in September.

But I really want to, as we end the formal part of this session, just acknowledge, again, one of the greatest New Yorkers, one of the greatest Americans that I've had the pleasure of knowing -- and I know you share

that view -- the most distinguished, longest-serving Senator I believe in the history of New York and this country -- in recognition, as we move in a minute to recess, of Senator John Marchi.

(Standing ovation.)

SENATOR BRUNO: Thank you all. On behalf of Senator Marchi and his family, thank you all.

There are bills remaining on the floor of the Senate. And, Mr. President, I would move that we recommit to Rules all the remaining bills that we have not acted on.

ACTING PRESIDENT MARCELLINO: As requested, all bills will be recommitted.

SENATOR BRUNO: And I would ask that we recognize Senator Paterson.

ACTING PRESIDENT MARCELLINO: Senator Paterson.

SENATOR PATERSON: Mr. President, that is the most stunning and resounding reception I have ever witnessed in my 21 years here in the New York State Senate. And it could not have been given to a nicer person, a more qualified person, or a more hardworking

person.

The only way that I can ever be in the same sentence with Senator Marchi is that I was born on his birthday. His 6th birthday, actually.

(Laughter.)

SENATOR PATERSON: And because of his great service and the tremendous relationship I've had with him -- he served here with my father and has been a friend to our family for a number of years and welcomed me, as he welcomed all of us, to the Senate -- for closing remarks I really would like to talk about nothing else other than just the great admiration I have for Senator Marchi.

I can't imagine serving in this chamber without Senator Marchi. Therefore, I am going to leave as well. Thank you.

(Laughter; applause.)

(Standing ovation.)

SENATOR BRUNO: Mr. President and colleagues, we are, as I mentioned, surely going to be back here in September. And so we have not discussed a formal closing, which means that you don't listen to David and

myself for 10 minutes or 15 minutes at this time.

(Laughter.)

SENATOR BRUNO: Thank you. Thank you.

(Laughter; applause.)

SENATOR BRUNO: But I wanted to say thank you. Thank you for that resounding applause. Thank you for all the good things that we have been able to do together so far.

I want to thank the staff in your offices, our offices that have been up literally 24/7 for a lot of days, who have helped us accomplish the great things that we have done this year.

(Applause.)

SENATOR BRUNO: And we have, we have done it in the spirit of togetherness, with all other things put aside other than the needs of our constituency, individually and statewide. We have partnered with the Assembly and partnered extremely well on behalf of the people and the great Governor of this state, who today will be his last day as Governor in the formal part of the session.

And he certainly has distinguished himself over these last months and years and will continue to until December 31st of this year. So we're indebted to him for his leadership and his partnering with the Legislature.

And I want to, before we make the next motion, again thank you all on behalf of really the greatest Senator, friend, colleague that any of us as a public servant will ever have the pleasure of sharing time, personally or in this chamber.

And, David, thank you for those kind remarks on the Senator's behalf representing your conference.

And we in this conference, each and every person would get up and speak from their heart, John, to you, to your family and to all the good things you have done on behalf of your constituency, all the people of New York State, and all the people here across the whole United States.

You are a role model for everybody -- as a citizen, as an individual, as a family person. And we love you from the

bottom of our hearts here, collectively.

And you all join me in that resolution. But hold the applause.

And, Mr. President, is there anything else at the desk that we have to do?

ACTING PRESIDENT MARCELLINO: No, the desk is clear, sir.

SENATOR BRUNO: Yes, we do. We have to recognize Senator Marchi, okay, the dean of the legislature in the United States.

ACTING PRESIDENT MARCELLINO: It's with great pleasure the chair recognizes Senator Marchi.

SENATOR MARCHI: Thank you very much. I -- I -- people wonder sometimes, coming back. But not coming back to me, with such a painful impact on me. I -- I -- within these four walls, you know, I love everybody in this building here. I mean, it -- wonderful people, uniformly decent and fine and good.

And I'll be envying you. And maybe I'll sneak back every once in a while and try to impose my presence again.

But it's been very painful. I want

to thank you for the way you express it in terms of everyone.

And you, Senator, he's -- we both celebrate our birthday on May 20th. So that I just kept running into parallel -- there isn't a person here that I -- it pains me just to be away and not to be seeing you regularly.

But I will sneak back, and I will come back to thank you again and again, because you can't imagine, you can't imagine the joy that I've had and the happiness that I've experienced being with all of you. And I don't exclude anybody. There isn't a person here that I don't have deep affection for.

And it's a memory that I'll carry with me the rest of my days. And God bless you all. I'm very, very grateful. Thank you.

(Standing ovation.)

SENATOR BRUNO: Mr. President, there being no business to come before the Senate, I would move that we stand adjourned subject to the call of the Majority Leader, intervening days to be legislative days.

Thank you. Travel safely, and God bless.

ACTING PRESIDENT MARCELLINO: The Senate will stand adjourned subject to the call of the Majority Leader, intervening days to be legislative days.

Safe home and God bless, everyone.

(Whereupon, at 9:08 p.m., the Senate adjourned.)