NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 5, 2007

3:19 p.m.

REGULAR SESSION

LT. GOVERNOR DAVID A. PATERSON, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

Would all assembled please rise and join me in reciting our Pledge of Allegiance.

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

THE PRESIDENT: Our invocation today will be delivered by the Reverend John Morgan, of the International Baptist Church of Brooklyn.

REVEREND MORGAN: Thank you. And let's pray.

Our Heavenly Father, we are grateful for the goodness of the Lord in the land of the living.

We're grateful for these Senators, for the politicians that you have put into office. The Bible is clear that You have put men in, and You can take them out. But You put these here. I pray that You will give each one wisdom that only comes from God.

The Bible says if you like wisdom, ask of God and He'll give it to you liberally. So I pray You'll give these Senators great

wisdom, the wisdom of God to run our state.

Help our national politicians. The Bible tells us to pray for all of our politicians. I pray for them. I pray You'll give them wisdom.

And I pray, because of Your working in and through these people, that we will have laws that will protect us. The Bible says safety is of the Lord. We know that You are the one that protects. But You work through human beings. And so I pray that You will help us to have the kind of laws to protect us in all ways.

I pray that provision would be ours as well. What a great nation we have. Thank You for growing up in America, for being in America. And I pray You'll continue to make our nation great.

And I pray that You'll bless these Senators' families now -- their wives, their children. I know that they go through trying times because of having a husband or a wife in politics. So I want You to bless the families of these politicians. Protect them. Provide for them.

And, Lord, may Your will be done for our nation, for our state. I pray it today in Jesus' name. Amen.

THE PRESIDENT: Thank you, Pastor Morgan, for those wonderful thoughts.

The reading of the Journal.

THE SECRETARY: In Senate, Monday, June 4, the Senate met pursuant to adjournment. The Journal of Sunday, June 3, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

I wish to call up Print Number 1773, on behalf of Senator Saland, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 96, by Senator Saland, Senate Print 1773, an act to amend the Education Law.

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

THE PRESIDENT: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

SENATOR NOZZOLIO: Mr. President, I now offer the following amendments on behalf of Senator Saland.

THE PRESIDENT: The amendments are received and adopted, Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, on page 4 I offer the following amendments to Calendar Number 71, on behalf of Senator Trunzo, Print Number 1262, and ask that said bill retain its place on Third Reading

Calendar.

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

The chair recognizes Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

On behalf of Senator DeFrancisco, on page number 31 I offer the following amendments to Calendar Number 842, Senate Print Number 4878, and ask that said bill retain its place on Third Reading Calendar.

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

Thank you, Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

On behalf of Senator Young, on page number 33, I offer the following amendments to Calendar Number 871, Senate Print Number 5579, and ask that said bill retain its place on the

Third Reading Calendar.

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

Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

On behalf of Senator Rath, on page number 40 I offer the following amendments to Calendar Number 988, Senate Print Number 5194, and ask that said bill retain its place on Third Reading Calendar.

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

SENATOR LITTLE: Thank you.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Mr. President, I believe there are substitutions to be made at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 34,

Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 3568 and substitute it for the identical Senate Bill Number 5398, Third Reading Calendar 917.

On page 36, Senator Young moves to discharge, from the Committee on Agriculture, Assembly Bill Number 7232A and substitute it for the identical Senate Bill Number 4455A, Third Reading Calendar 945.

On page 36, Senator Young moves to discharge, from the Committee on Rules, Assembly Bill Number 7339 and substitute it for the identical Senate Bill Number 5580, Third Reading Calendar 947.

On page 42, Senator Libous moves to discharge, from the Committee on Rules, Assembly Bill Number 6089 and substitute it for the identical Senate Bill Number 4126, Third Reading Calendar 1024.

On page 42, Senator Seward moves to discharge, from the Committee on Rules, Assembly Bill Number 7199 and substitute it for the identical Senate Bill Number 4133, Third Reading Calendar 1026.

On page 53, Senator O. Johnson

moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 8209 and substitute it for the identical Senate Bill Number 5842, Third Reading Calendar 1218.

On page 53, Senator O. Johnson moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 8213 and substitute it for the identical Senate Bill Number 5843, Third Reading Calendar 1219.

On page 62, Senator C. Kruger moves to discharge, from the Committee on Rules, Assembly Bill Number 8193 and substitute it for the identical Senate Bill Number 4538, Third Reading Calendar 1325.

On page 55, Senator DeFrancisco moves to discharge, from the Committee on Judiciary, Assembly Bill Number 7369 and substitute it for the identical Senate Bill Number 4246, Third Reading Calendar 1350.

On page 66, Senator Leibell moves to discharge, from the Committee on Civil Service and Pensions, Assembly Bill Number 6538 and substitute it for the identical

Senate Bill Number 4562, Third Reading Calendar 1375.

And on page 68, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 6634 and substitute it for the identical Senate Bill Number 3678, Third Reading Calendar 1406.

THE PRESIDENT: Substitutions ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees, I believe there's a Finance Committee report at the desk. I ask that it be taken up at this time.

THE PRESIDENT: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator O. Johnson, from the Committee on Finance, reports the following nomination.

As Medicaid Inspector General, James G. Sheehan, of Albany.

THE PRESIDENT: Senator Johnson.

SENATOR OWEN JOHNSON: I rise to

move the nomination.

THE PRESIDENT: On the nomination, Senator Hannon.

SENATOR HANNON: Mr. President, I would like to address the body and just give you some reasons that we have come across, in having conversations with Governor Spitzer's recommendation, for appointment of the Medicaid Inspector General.

James Sheehan brings a distinguished record of professional accomplishment in regard to looking at Medicaid fraud, Medicare fraud, healthcare fraud -- as a federal prosecutor, as a federal prosecutor and head of the civil division in Philadelphia, and then moving on to Assistant Attorney General, dealing with matters that were not just specific cases, although there were significant achievements in that regard, but also looking at topic areas such as different types of billing, different types of processes.

So what I can say as a conclusion is that we as citizens of the United States have benefited from what he has already done

in regard to enforcing federal laws that say there ought to be fair pricing, there ought to be fair processes, that people who are taxpayers will get the money that is and the worth of their taxes that we pay through Medicare and Medicaid in a good, efficient healthcare system.

In the year 2006, this legislative body, together with then-Attorney General Eliot Spitzer and Governor George Pataki, worked long and mightily to come up with a new Medicaid Inspector General statute. That statute, enhanced by what we did as significant appropriations in this year's budget, gives us the best chance we have ever had to have a fairly good system at looking at Medicaid fraud, provider fraud, recipient fraud, and, accompanying with it, improper payments that really should get to the credit of the state's treasury.

In Jim Sheehan we have somebody who has the managerial capacity, has the prosecutorial capacity, the legal capacity to bring forward an efficient office, one that's going to have high hurdles to achieve because

of the budgetary and FSHRP goals that we've asked Medicaid fraud to turn back to the state's treasury.

And therefore, Mr. President, I'm most happy to recommend to this body that we confirm Jim Sheehan to be the Medicaid Inspector General.

THE PRESIDENT: The question is on the nomination of James G. Sheehan, of Albany, as New York State's Inspector General for Medicaid. All those in favor please indicate so by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: James G. Sheehan, of Albany, who joins us today from the west gallery, is hereby confirmed as the Inspector General for Medicaid. He brings with him a long career in law enforcement and a strong healthcare background.

Mr. Sheehan, congratulations and best of luck from all the Senators here in the chamber.

(Applause.)

THE PRESIDENT: The Secretary will read.

THE SECRETARY: As director of the New York State Environmental Facilities Corporation, Charles J. Kruzansky, of Voorheesville.

THE PRESIDENT: Senator Johnson.

SENATOR OWEN JOHNSON: I rise to move the nomination.

THE PRESIDENT: On the nomination, all those in favor please indicate by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nomination is confirmed.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could adopt the Resolution Calendar, with the exception of Resolutions 2567 and 2629.

THE PRESIDENT: All those in favor of adopting the Resolution Calendar, with the exceptions provided by Senator

Skelos, please indicate so by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, there's a Resolution 2567 at the desk, by Senator Golden. If we could have the title read, open it up for cosponsorship, and move for its immediate adoption.

THE PRESIDENT: Thank you, Senator Skelos.

The Secretary will read the title.

THE SECRETARY: By Senator Golden, Legislative Resolution Number 2567, memorializing Governor Eliot Spitzer to proclaim November 2007 as Alzheimer's Disease Awareness Month and November 13, 2007, as Memory Screening Day in the State of New York.

THE PRESIDENT: Senator Golden.

SENATOR GOLDEN: Thank you, Mr. President.

I rise today as we are passing a

resolution proclaiming November as Alzheimer's Disease Awareness Month and November 13, 2007, as Memory Screening Day.

Alzheimer's disease is a slow progressive disorder of the brain that results in loss of memory and other cognitive functions and, in some cases, even death.

Alzheimer's is the eighth leading cause of death in the United States and affects an estimated 5 million Americans, a number that is estimated to triple by 2050. Alzheimer's is the 12th leading cause of death in New York State for people over 65 years of age. Three million seniors here today, 5.5 million seniors here in about 10 to 15 years, and two out of every four over the age of 85 years of age has and will get Alzheimer's. And Alzheimer's is noncurable.

My mom is in the beginning stages of Alzheimer's. And as chairman of the State Senate Aging Committee, it is important that we fight the stigma associated with Alzheimer's and get the individuals and their caregivers the assessment tools and medical care necessary to live with dignity,

independence and respect.

I am grateful that we are joined today by two individuals who are leading the fight to improve the quality of care for individuals with Alzheimer's disease.

Mr. Eric Hall is the founding chief executive officer of Alzheimer's Foundation of America. Mr. Hall spearheaded the development of the Alzheimer's Foundation of America, which includes 800 member organizations in North America. And that's just in the last five years.

Among Mr. Hall's numerous accomplishments, he has rolled out three major national initiatives, including AFA Quilt to Remember, National Memory Screening Day, and National Commemorative Candle Lighting.

We're also joined by Carol Steinberg, executive vice president of Alzheimer's Foundation of America, and Ms. Steinberg is the award-winning journalist and public relations professional who has contributed to the formation and growth of the Alzheimer's Foundation of America.

Ms. Steinberg's efforts to raise

the public awareness of Alzheimer's have helped Americans get a better understanding of this debilitating disease.

Once again, I thank Eric and Carol for joining us here today and encourage them to continue the valuable service to the State of New York and to the United States of America.

And I welcome all of my colleagues here today to join us on this resolution in acknowledging that November is Alzheimer's Disease Awareness Month and that November 13th is Memory Screening Day.

Thank you, Mr. President.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution carries for November being Alzheimer's Awareness Month and November 13th being Memory Screening Day. Thank you, Senator Golden.

Senator Golden has opened up this

resolution for all. Anyone that wishes not to go on the resolution can indicate so at the desk.

Senator Little.

SENATOR LITTLE: Thank you, Mr. President. There's a Resolution 2629 at the desk, by Senator Hannon. May we please have the title read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Hannon, Legislative Resolution Number 2629, honoring Mary Katherine "Katie" Beckett's life work on behalf of vitally needy children and her service to others.

THE PRESIDENT: Senator Hannon.

SENATOR HANNON: I just want to ask, Mr. President, that if anybody would like to cosponsor this resolution, please just let the desk know. We welcome it.

It's on behalf of a young woman who took a personal tragedy and, with her mother, managed to change the laws of this nation and many other states so there's great access to

healthcare, much better than there was before.

Thank you, Mr. President.

THE PRESIDENT: Senator Hannon, what we will do is we will open the resolution and put the names of all the members on it. Any member indicating that they would not wish to be on the resolution may indicate so at the desk.

On the resolution, all those in favor please indicate so by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution carries.

Senator Little.

SENATOR LITTLE: Thank you, Mr. President. Can we please recognize Senator Farley for a motion.

THE PRESIDENT: On a motion, Senator Farley.

SENATOR FARLEY: It's nice to be recognized. Thank you.

On behalf of Senator Marcellino, Mr. President, I wish to call up his bill,

Print Number 5157, recalled from the Assembly, and it's now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1189, by Senator Marcellino, Senate Print 5157, an act to authorize the City of Glen Cove.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: Senator Farley.

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

THE PRESIDENT: The amendments are received and adopted, Senator Farley.

SENATOR FARLEY: Mr. President, on behalf of Senator Saland, I wish to call up his bill, Print Number 1092A, recalled from the Assembly, and it's now at the desk.

THE PRESIDENT: The Secretary

will read.

(The Secretary called the roll.)

THE SECRETARY: Calendar Number 128, by Senator Saland, Senate Print 1092A, an act to amend the Executive Law and the General Business Law.

THE PRESIDENT: Senator Farley.

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

THE PRESIDENT: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

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

THE PRESIDENT: The amendments are received and adopted, Senator Farley.

The chair recognizes Senator Little.

SENATOR LITTLE: Thank you. Mr. President, may we please have the noncontroversial reading of the calendar.

THE PRESIDENT: The Secretary will conduct the noncontroversial reading of

the calendar.

THE SECRETARY: Calendar Number 174, by Senator Lanza, Senate Print 2175, an act to amend the Retirement and Social Security Law.

THE PRESIDENT: The Secretary will read the last section.

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

THE PRESIDENT: The Secretary will call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Announce the results.

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 221, by Senator Nozzolio --

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 395, by Senator Leibell, Senate Print 3637, an

act to amend the Executive Law.

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 450, by Senator Padavan, Senate Print 738, an act to amend the Administrative Code of the City of New York.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 451, by Senator Padavan, Senate Print 739, 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, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 478, by Senator LaValle, Senate Print 2129, an act to amend the Highway Law.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 553, by Senator Marcellino, Senate Print 1558, an act to amend the Environmental Conservation Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 676, by Senator Little, Senate Print 1100, an act to amend the Navigation Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 685, by Senator Rath, Senate Print 3990, an act to amend the Parks, Recreation and Historic Preservation Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 714, by Senator Larkin, Senate Print 1046, an act to amend the Agriculture and Markets Law.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 718, by Senator Young, Senate Print 4454, an act to amend the Agriculture and Markets Law and the Real Property Tax Law.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 727, by Senator Young, Senate Print 367, an act to amend the Social Services Law.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 760, by Senator Trunzo, Senate Print 561, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Read the last section.

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

November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 771, by Senator Libous, Senate Print 3550, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 775, by Senator Little, Senate Print 4242, an act to amend the Navigation Law.

THE PRESIDENT: Last section.

THE SECRETARY: Section 10. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 839, by Senator Griffo, Senate Print --

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 872, by Senator Young, Senate Print 386, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: 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, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 875, by Senator Fuschillo, Senate Print 3853, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Last section.

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

THE PRESIDENT: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 917, substituted earlier today by Member of the Assembly Lifton, Assembly Print Number 3568, an act to amend --

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

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

THE SECRETARY: Calendar Number 942, by Senator Larkin, Senate Print 343, an act to amend the Agriculture and Markets Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 13. This act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 945, substituted earlier today by Member of the Assembly Magee, Assembly Print Number 7232A, an act to amend the Agriculture and Markets Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Results.

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 947, substituted earlier today by Member of the Assembly Magee, Assembly Print Number 7339, an act to amend the Agriculture and Markets Law.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 979, by Senator Seward --

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside by the Acting Minority Leader, Senator Duane.

THE SECRETARY: Calendar Number 998, by Senator Maltese, Senate Print 1768A, 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, 58. Nays, 1. Senator Winner recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1024, substituted earlier today by Member of the Assembly Lupardo, Assembly Print Number 6089, an act to amend the Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1025, by Senator Libous, Senate Print 4127, an act to amend the Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1026, substituted earlier today by Member of the Assembly Lifton, Assembly Print Number 7199, an act to amend the Tax Law.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1077, by Senator Fuschillo, Senate Print 4722, 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 April.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1087, by Senator Trunzo, Senate Print 883, an act to amend the Correction 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, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1118, by Senator DeFrancisco, Senate Print 4877, an act to amend the Domestic Relations Law and the Family Court Act.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1135, by Senator Little, Senate Print 5704A, an act to amend the General Municipal Law and the Town Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 10. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1183, by Senator Volker, Senate Print 2676, an act to amend the Local Finance Law.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1218, substituted earlier today by Member of the Assembly Sweeney, Assembly Print Number 8209, an act to amend the Environmental Conservation Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 1219, substituted earlier today by Member of the Assembly Weisenberg, Assembly Print Number 8213, an act to amend the Environmental

Conservation Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1220, by Senator Young, Senate Print 389, 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: Those recorded in the negative on Calendar Number 1220 are Senators Connor, Duane, Gonzalez, Hassell-Thompson, Perkins and Schneiderman.

Ayes, 54. Nays, 6.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 1222, by Senator Farley, Senate Print 1295, an act to amend the Civil Rights Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 2. Senators Connor and Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1224, by Senator Padavan, Senate Print 1601, an act to amend the Penal Law, the Vehicle and Traffic Law, and the Criminal Procedure Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 10. This act shall take effect on the first of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 2. Senators Duane and Hassell-Thompson recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1236, by Senator Golden, Senate Print 3441, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1241, by Senator Padavan, Senate Print 4209, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This

act shall take effect on the first of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Hassell-Thompson, to explain her vote.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President.

I had asked this bill to be laid aside yesterday because I had some questions on the bill. Having spoken with the sponsor since, I'm going to be voting on the bill.

But I am very disappointed because the original origin of this bill came from the City of Mount Vernon and the final print does not include any municipality outside of New York City. So I will be working hopefully to get a bill that will pass to go beyond the environs of New York City.

Thank you, Mr. President.

THE PRESIDENT: Your vote, Senator?

SENATOR HASSELL-THOMPSON: I'm voting for, Mr. President.

THE PRESIDENT: Senator

Hassell-Thompson will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1242, by Senator Volker, Senate Print 4954, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1243, by Senator Volker, Senate Print 5026, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1246, by Senator LaValle, Senate Print 5159, an act to amend the Criminal Procedure Law.

THE PRESIDENT: Please 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, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1262, by Senator Fuschillo, Senate Print 5131, 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, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1277, by Senator Marcellino, Senate Print 5305A, an act to amend the Navigation 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, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1284, by Senator Leibell, Senate Print 4697, an act to amend the Real Property Tax Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect January 3, 2008.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1285, by Senator Flanagan, Senate Print 5571 --

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1294, by Senator Maltese, Senate Print 5764, an act to amend the Real Property Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Bonacic recorded in the negative.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 1295, by Senator Lanza, Senate Print 5801, an act to amend the General Municipal 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, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1305, by Senator Volker, Senate Print 4704A --

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

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

THE SECRETARY: Calendar Number 1309, by Senator DeFrancisco, Senate Print 5769, Concurrent Resolution of the Senate and Assembly proposing an amendment to Section 1 of Article 6 of the Constitution.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The resolution carries.

THE SECRETARY: Calendar Number 1311, by Senator Nozzolio, Senate Print 590, 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, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1314, by Senator LaValle, Senate Print 5476A, an act to amend the Education Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: The bill is laid aside for the day at the request of the Acting

Majority Leader, Senator Little.

The Secretary will read.

THE SECRETARY: Calendar Number 1325, substituted earlier today by Member of the Assembly Weinstein, Assembly Print Number 8193, 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, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1332, by Senator Volker, Senate Print 5763, an act to amend the Criminal Procedure 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, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1334, by Senator DeFrancisco, Senate Print 1265, an act to amend the Public Health Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1348, by Senator Flanagan, Senate Print 839, an act to amend the State Finance Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1350, substituted earlier today by Member of the Assembly Destito, Assembly Print Number 7369, an act to amend the Judiciary 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, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1352, by Senator Padavan, Senate Print 4487A, an act to amend the General Business Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1365, by Senator Maltese, Senate Print 1238A, an act to amend the General Municipal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1368, by Senator Padavan, Senate Print 2486, an act to amend the Retirement and Social Security Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1375, substituted earlier today by Member of the Assembly Abbate, Assembly Print Number 6538, an act to amend the Retirement and Social Security Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1388, by Senator Robach, Senate Print 4101, an act to amend the Civil Service Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 7. This act shall take effect on the 90th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1389, by Senator Golden, Senate Print 4920, 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, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1396, by Senator Larkin, Senate Print 5751, an act to authorize the Village of Cornwall-on-Hudson.

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

The Secretary will 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, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1406, substituted earlier today by Member of the Assembly Burling, Assembly Print Number 6634, an act to amend the Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1408, by Senator Nozzolio, Senate Print --

THE PRESIDENT: Senator Connor, did you want to explain your vote on the previous bill?

SENATOR CONNOR: No, on this one,

I'm sorry.

THE PRESIDENT: We'll be right with you.

THE SECRETARY: Calendar Number 1408, by Senator Nozzolio, Senate Print 3919, an act to amend the State Law.

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

This bill would designate sweet corn as the state vegetable, and I have a problem with that. And I know it's popular, and I hesitate to vote against it for fear I'll be roasted or creamed or stalked because of it --

(Laughter.)

SENATOR CONNOR: -- but I find there's not a kernel of truth in this bill.

Because as everyone knows, corn is a grain. And I would propose that we make sweet corn New York State's official grain.

And having once been at the Sauerkraut Festival in Phelps, New York, the Sauerkraut Capital of the United States, I would propose we make the cabbage the state vegetable.

So that being said, Mr. President, I'm going to vote no. Thank you.

THE PRESIDENT: Senator Connor, we will accept that as your explanation. We haven't actually gotten to the roll call. But when we do, that will be your explanation.

You may be roasted or creamed, but I doubt you'll be stalked.

(Laughter.)

THE PRESIDENT: The Secretary will 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 Stavisky, to explain her vote.

SENATOR STAVISKY: Yes, I'd like to commend Senator Connor on his corny comments. He's got us all steamed up, and I vote no.

(Laughter.)

THE PRESIDENT: Senator Stavisky will be recorded in the negative on Calendar Number 1408.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1408 are Senators Connor, Dilan, Hassell-Thompson, Huntley, Klein, L. Krueger, Montgomery, Perkins, Sabini, Sampson, Schneiderman, Serrano, Stavisky and Stewart-Cousins.

Ayes, 46. Nays, 14.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1411, by Senator Winner, Senate Print 4426, an act to amend the Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1412, by Senator Griffo, Senate Print --

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1413, by the Senate Committee on Rules, Senate Print Number 4861, an act to amend the Tax Law.

THE PRESIDENT: The Secretary will 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, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1414, by the Senate Committee on Rules, Senate Print Number 5029, an act to amend the Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1415, by Senator Wright, Senate Print 5054, an act to amend the Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1417, by Senator Padavan, Senate Print 93, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1419, by Senator Marcellino, Senate Print 634A, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1420, by Senator Trunzo, Senate Print 886, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1423, by Senator Trunzo, Senate Print 1486, an act to amend the Vehicle and Traffic 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, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1442, by Senator Bruno, Senate Print 6020 --

SENATOR DUANE: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number

1443, by Senator Skelos, Senate Print 6015, an act to authorize and direct the Department of Environmental Conservation.

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, 60.

THE PRESIDENT: The bill is passed.

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

(Brief pause in proceedings.)

ACTING PRESIDENT LITTLE: Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time take up the controversial calendar, starting with Calendar 1442.

ACTING PRESIDENT LITTLE: Thank you.

The Secretary will ring the bell and read Calendar 1442.

THE SECRETARY: Calendar Number

1442, by Senator Bruno, Senate Print 6020, Concurrent Resolution of the Senate and Assembly proposing amendments to the Constitution.

ACTING PRESIDENT LITTLE: Senator Bruno.

SENATOR BRUNO: Madam President, the issue before us relates to the public good, and that being the opportunity for the people of this state to vote on issues that are important to the general public, referred to as initiative and referendum.

We have in this chamber passed this resolution several times. In order for this initiative and referendum to become law of New York State and join half of the other states in the United States that have some form of initiative and referendum, you all know that this resolution would have to pass both houses in two separately elected legislatures and then go before the public on November ballot. And the earliest that that could happen would be '09, in November of '09, given second passage.

Now, we have passed this. The

Assembly has not passed it at all.

This is an important piece of legislation, important to the people of this state because of many issues that are critically important that are never taken up in the Legislature. They're not taken up for whatever reasons -- political reasons, personal reasons on the parts of leaders, members.

The public ought to have a final say on issues like doing away with property taxes, doing away with property taxes in New York State. Now, would that ever come before the Assembly? Senator Fuschillo is shaking his head; he says no. I agree with Senator Fuschillo, as usual. And Senator Bonacic. Do any of you think that would come for a vote? I doubt it.

Now, would it be fair to put this before the public? Just an issue that comes to mind that's critically important. Now, why can't we allow the public of New York State, the majority of the people, to have a vote, to have a say directly on issues that would qualify for referendum? That's the issue

before us.

Many of you have supported this before. And I would -- don't want to guess or assume, but it's good government, it's good judgment, it's the right thing to do. And, Madam President, I would encourage my colleagues to vote in favor of this resolution, which is first passage, first passage that would help if the Assembly will join us, then do it in the next election, get this issue before the voters in November of '09.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Bruno.

Is there any other Senator that wishes to speak on the concurrent resolution before us?

(No response.)

ACTING PRESIDENT LITTLE: The Secretary will ring the bell.

Senator Larkin.

SENATOR LARKIN: Thank you, Madam President. And I want to thank the Majority Leader for putting this on the floor.

We've been hearing for the past two years, people campaigning around this state: We want transparency, we want the people involved, I want to see the people have the opportunity to do this, I want people to be involved, they should be -- everything should be open to the public, the people of this state should have the power to do it.

Well, here's a good example of what we can do. Last year it passed this house 50-something to 10. What are we saying to the people of the State of New York when this house, people won't vote for it, and in the other house they probably wouldn't even print it?

Are they scared of the public? Are they scared of the people that sent them here, that you said, I will go and represent you in Albany, but don't tell me how to do any bills, don't tell me how to do any of this, I know better than you?

And what does it all add up to? It adds up to saying what we preach is not what you believe in. I'm very disgusted when I see people who say initiative and referendum is

not any good. Why isn't it any good?

First of all, you don't want what the public is going to vote on it. But you're going to give them two chances at the bell -- this year, next year. And what we will have to do is clearly say to the people this is the grounds for initiative and referendum.

And I don't know exactly how many states, but there are many across this nation that have it. And I don't hear from any of them that say it's a bad bill. I don't have any of them that says it doesn't work. I would like for somebody on the other side or in the Assembly to tell me why it's a bad bill, why it won't work.

I'll get to you later.

But here's an opportunity to tell the people: You elected me, I'm proud to represent you, and I'm not ashamed to put my name on an initiative and referendum bill. I'm not ashamed because I'm doing what you sent me here to the State Capitol to do.

But all of a sudden, well, you know, it's not transparent enough. Oh, it's this, it's that. You know what it is? You're

afraid to skin. And when I say that I mean you don't have the courage to vote to let your people who sent you to say a message to you. As Senator Bruno said, they may want you to add something or delete something. Why not give them the chance?

This is a chance for bravery. This is a chance for leadership. Either stand up for your people or step down.

ACTING PRESIDENT LITTLE: Thank you, Senator Larkin.

Senator Nozzolio.

SENATOR NOZZOLIO: Madam President, on the bill.

ACTING PRESIDENT LITTLE: On the resolution.

SENATOR NOZZOLIO: On the resolution. Thank you, Madam President.

My colleagues, I rise to support this legislation. It is in fact the type of reform that is talked about in this chamber, in the other chamber, and across this state, in the sense that we want our government to be open and transparent and we want our government to be responsive to the people it

is designed to serve.

My favorite quotation from the United States Supreme Court is that of Justice Brandeis, who said in these United States the highest public office is that of private citizen.

The private citizens of this state and this nation should have all opportunity to directly participate in the democratic process. For the last few weeks we've been celebrating, commemorating the sacrifices of those who shed their blood to provide us the rights that we hold dearly in this democratic society.

But I believe New York is behind the times and behind many states. Virtually half the states of this country have initiative and referendum. New York is the largest state that does not have initiative and referendum. And that we as a Legislature should provide our citizens with that opportunity to directly participate in issues of importance to them.

We need to encourage citizen participation at the ballot box. This is an

excellent way to do it. We need to encourage our citizens to be involved in every aspect of their democracy. Initiative and referendum eliminates or reduces the couch-potato democracy, in the sense that we cannot sit back and let others take care of the government. We need to get citizens off the couch, onto their ballot boxes, into the issues and discussions of the day.

And this procedure in New York State is sorely needed. That's why, Madam President, I support it fully and I will work for its passage.

ACTING PRESIDENT LITTLE: Thank you, Senator Nozzolio.

Could we have it quiet, please, while the Senators are speaking.

Senator Libous.

SENATOR LIBOUS: Are we on the vote now, or are we on the bill still?

ACTING PRESIDENT LITTLE: On the resolution.

SENATOR LIBOUS: On the resolution. Thank you, Madam President.

I want to rise and join my

colleagues and certainly thank Senator Bruno for having the courage to bring this to the floor year after year.

And the frustration that I think many of us have in this chamber because the Assembly fails to take any action, it's the same frustration that our constituents have. It's the same frustration that they have when we're at home in our districts and they wonder why the Legislature can't get a bill passed, why it passes the Senate and doesn't pass the Assembly, why a number of different types of what they call commonsense legislation can't pass in both houses.

This is common sense. This gives the people who sent us here an opportunity to break the gridlock that happens in Albany -- the gridlock, as Senator Bruno said, because of personalities, because of politics.

Certainly we are elected to come here and make decisions, and I think for the most part the public respects that. But there are a number of big issues that are frustrating the people who live in this state, whether it pertains to property taxes, whether

it pertains to where I live and the upstate economy, whether it pertains to the death penalty for cop killers. There are a number of frustrating issues that they would like to see resolved, they'd like to see some action on.

And it's the inaction that take place in the other house that frustrates them. It's the inaction on many of those issues. Because if you follow those issues that I mentioned, or if you follow a whole host of issues that people care about, they're usually addressed in this house, but for whatever reason they go nowhere in the Assembly.

That's why it's time for citizen participation. That's why it's time for the people who elect us to have a say in the government that's gridlocked.

Mr. President, this is a good resolution, and it should pass unanimously because it's common sense.

ACTING PRESIDENT LITTLE: Thank you, Senator Libous.

Senator Oppenheimer.

SENATOR OPPENHEIMER: I just see

this as being so uncommon sense, and let me tell you why.

I don't think any of you have ever experienced what I did, so I think I should relate it. About 25 years ago we in Westchester County decided that we were fed up with Con Ed rates and that we were going to go for a Westchester Power Authority. And we put it -- made it into a referendum and we started to lobby for it, going around to each of our communities trying to engender interest -- we got the interest, but trying to engender some contributions that would help us in our campaign.

Well, we thought that everybody was going to jump on and help us out because this was to their advantage. But then Con Ed got in the game. And the amount of money that flowed from the coffers of Con Ed took away all our citizen participation efforts -- and we had a lot of people who were dedicated to trying to make our own power authority.

So having experienced that, I say if you're up against any of our major corporations, which is very likely would

happen in a referendum, that you are going to be outspent like a thousand to one. And it's hard enough for us as individual candidates to get contributions from the citizenry out there, but just try and do it on an issue -- even an issue that would have really benefited them financially. We were showing we could really cut their power costs.

So having experienced that, and also just looking at California and seeing that there are so many -- there's so many risks in opening this up. And legal rights and protections that have been very long fought for.

So I think it is not common sense, I think it's very uncommon sense. I'll be voting no.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Diaz.

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

ACTING PRESIDENT LITTLE: On the resolution, Senator.

SENATOR DIAZ: You know, this is

one of those bills that I question why they have been put aside. It's a good bill. And then I hear the other side, the Republican side, talking to us like we were opposing the bill.

On June 15, 2005, this piece of legislation came to the floor and we passed it 56 to 5. Last year, on June 6, 2006, the bill came back to us and we approved it 51 to 10. So, you know, this bill has the majority support in this house. We Democrats, we on this side have joined you there to approve the bill. So what are we talking about, lecturing whom?

So I congratulate Senator Bruno. It's a good piece of legislation. But, ladies and gentlemen, you know, when we talk, we might talk praising the sponsor for the great piece of legislation, but it doesn't need lectures. We are supporting the bill. The bill has passed two years in a row in this house. We are for this bill. The majority of us, again, I'm saying we are supporting the bill.

So congratulations, Senator Bruno,

congratulations to all the members. And please let's continue with other issues. This bill has our support.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Robach.

SENATOR ROBACH: Yes, Madam President.

I too join to support this. You know, I've always said it's my honor and privilege to represent the people in my district, and I really -- I mean that sincerely. And I think that this is just the ability to extend that representation to them, to let them have that voice.

And ironically, I couldn't -- I understand the difficulty with decision making, but I couldn't disagree more with my colleague from Westchester. While I may not like the outcome of what people decide, that's clearly their prerogative. And I do understand that there are some pitfalls on who has resources and who doesn't. But ultimately, empowering people on important issues to vote directly is critically

important.

And I know there's been a lot of people in this room who have joined me. It's very concerning to me that we have to deal with more and more important issues or things that government does that impacts lives, whether it's almost becoming fully responsible for healthcare, other issues, things that really affect people's lives. It would seem to me people would think government is even more important.

Yet we know the voting trend is going the opposite way. About half the people that can vote get registered. About half of those turn out on a normal election year. So we have 25 percent of the people feeling their vote is really important or empowering themselves.

I really believe that initiative and referendum gives them even more incentive to be directly involved in the legislative process. It's just one more reason why we should do this.

This is ultimately power to the people. I say right on, Eric Schneiderman.

So I'll be casting my vote in the affirmative. And hopefully we will also get some action in the other house as well.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Connor.

SENATOR CONNOR: Thank you, Madam President.

It's indeed an interesting day when the Republican party in this house abandons republicanism with a small "R" and embraces democracy with a small "D".

I'm going to go along with it. But I think if you look at the history of initiative and referendum, it started in Western states as a democratic revolt against the established powers that controlled the legislatures.

And I on this floor years ago heard members on the other side of the aisle lecture us about New York is a republic and we are governed through elected representatives who use their judgment. And that's the very-small-C conservative system that our

founding fathers, because they were all male, embraced.

And the fact is, watch what you wish for. Because when I go back to my district, people say: The Assembly passed this bill to help tenants or to limit rents and the Senate won't even take it up. Or they say: The Assembly passed this gun control bill, but the Senate won't take it up. Or they say the Assembly has acted on this, that and the other thing, but the Senate won't take it up. So just watch what you wish for, because there are two sides to all these issues.

I can see initiative and referendum, very popular initiative: cut legislators' pay in half. For all the wrong reasons, for all the wrong reasons, the public would run at that. Particularly when the press keeps calling us part-time legislators, when all of us, whether you have some outside occupation or not, spend well more than 40 hours a week doing this job.

So watch what you wish for. If it's going to be direct democracy, you're

going to get it, somebody will want term limits, somebody will want pay cuts, somebody will want to abolish all taxes and leave us with a budget to fashion with no revenue. But if this is what the Republican party in this house embraces, it's democracy. And I'm a Democrat, and I'll vote for it.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, thank you, Madam President. Just briefly on the bill.

I'm going to oppose the bill. I have opposed it in the past. And one of the issues that I take very seriously is the issue raised by Senator Oppenheimer, and that is in many instances -- in fact, in all of the instances that I'm aware of where states, any state or any locality has the option for this kind of open access to change government, the money is what drives the decision.

And even, as Senator Oppenheimer has indicated, even when it is not in the interests of the public, if there is enough

money opposing or supporting whatever it is -- i.e., in the instances that we know of in the state of California, where the issue of the referendum has driven a criminal justice law that is sinking the state to the point where the Governor is asking for some repeal because of the problems raised by the referendum on three-strikes-and-you're-out, and et cetera.

So this is really not government by the people. This is not power to the people, this is screw the people. Because the money is going to make the difference. And so I object to using that word. I know Senator Robach means it in all well-intended, but that's not what's going to happen here, Senator Robach.

And I think you and I know -- in fact, I'm just reading this article, and I never thought how much I would miss Warren Anderson. But I do miss him. This is a wonderful article on him. I would ask my colleagues to take the time to read this. It's in the Times Union. And -- excuse me, I wasn't supposed to say that. But it's a wonderful article. You can look it up and try

to find it.

But I will tell you that Warren Anderson thought this was a bad idea. And I respected him, because he respected the institution.

Yes, we get bottlenecked. I'm frustrated very often. I know all of us are. But certainly it doesn't mean that we should throw democracy to the wind. And that's what I think that we're proposing to do.

Because unless the citizens in my district are able to afford to come up and compete with whatever there is that's going to be on the referendum for this year or next year, whether or not it's Cablevision or it's some other corporation, unless they're able to put the same amount of money in, they're never going to win a referendum on the ballot.

So I'm going to oppose this, and it's because I support my constituents and the voters of this state, not because I'm trying to take democracy away. But I think that this proposal will indeed take the democracy away, especially from constituents that I represent.

So I'm voting no, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Montgomery.

Does any other member wish to be heard on this bill?

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

This has been an illuminating debate. And I appreciate the fact that so many of my colleagues are frustrated -- and I've just written down some of the language used -- with the gridlock. And Senator Libous is obviously the most frustrated of all.

We can't get bills to the floor, we can't get bills to the Assembly, we have problems with the fact that this Legislature in fact is gridlocked, as the good government advocates have accused us of over the years.

Well, I have a suggestion. We don't have to do a constitutional amendment. The fervor for transparency and open government that is breaking out on the other side of the aisle can be resolved and can be addressed and can be satiated if we just simply amend Rule 8 of the Senate Rules to

allow us to get bills that have a majority of members in support to the floor.

Just eliminate this little requirement that the Temporary President is the only person with the power to put a bill on the active list. And then we would embarrass the Assembly into doing the same.

Let's open government. We don't need a constitutional amendment. We don't need to go through this charade of waiting years and deluding the public and saying, Oh, we're with you, we're with you.

Until we amend our rule to allow bills to get to the floor when most members support them -- members representing the people of this state -- let's put down the rhetoric, let's get down from the high horse, let's do something to open government that's within our power. And then we won't need to engage in the debate over this.

As to the people who say that referendum and initiative is such a good thing, I urge you, as some of my colleagues have, visit California when they're going through this process. You will see some of

the ugliest government and some of the ugliest influence of big money in politics that you will ever see in your life.

Thank you, Madam President. I will be voting no.

ACTING PRESIDENT LITTLE: Thank you.

Any other Senator?

The debate is closed.

The Secretary will ring the bell.

On the resolution, the Secretary will 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 1442 are Senators Dilan, Gonzalez, Hassell-Thompson, Huntley, Montgomery, Oppenheimer, Perkins, Savino, Schneiderman, Stavisky and Thompson.

Those Senators absent from voting pursuant to Rule 9: Alesi, Duane, Golden, Winner, and Wright.

Absent from voting: Senator C. Kruger.

Ayes, 43. Nays, 11.

ACTING PRESIDENT LITTLE: The concurrent resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time continue with the calendar in regular order.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 221, by Senator Nozzolio, Senate Print 1453, an act to amend the Correction Law.

SENATOR MONTGOMERY: Explanation.

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

SENATOR NOZZOLIO: Thank you, Madam President.

Madam President, this bill is not new for our consideration, in the fact that we have continued to fight for this measure each and every year for the past ten years.

This measure would require the inmates who are currently incarcerated in New York State correctional facilities to make copayments in the amount of $7 for their

medical treatment.

This I will state at the outset, and will probably have to state a number of times during this debate, that this does not preclude any inmate who is in need of care from receiving medical care.

What this does do is require a modest copayment for the expenditure of healthcare. That many states -- like Arizona, Minnesota, Pennsylvania, Nevada -- all have similar programs. That the Supreme Court of the United States found that as long as medical care was received by the inmates, an adequate or an acceptable reasonable copayment could be charged.

This, Madam President, is a measure that tries to establish equity. Those individuals who are guarding the inmates, the correction officers of our state, have to pay a copayment. The individuals who are teaching the inmates in the correctional facilities have to make a copayment. The plumber, the electrician, those who work in the correctional facilities have to make a copayment.

That's what we're trying to do with this measure, establish equity, establish a sense of fairness, and in so doing help make our correctional facilities more efficient and healthcare within those facilities more effective.

ACTING PRESIDENT LITTLE: Thank you, Senator Nozzolio.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. I would like to ask if Senator Nozzolio would yield for a couple of questions.

ACTING PRESIDENT LITTLE: Thank you.

Senator Nozzolio, do you yield?

SENATOR NOZZOLIO: Yes, Madam President.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR MONTGOMERY: Yes, Senator Nozzolio, I know that you came up with the figure of $7 per-visit copayment. I'm just wondering, how long does it take the inmate to work to get $7? Do you have that figure?

SENATOR NOZZOLIO: Madam President, the question is how long it will take an inmate to work to gain $7. I think it depends whether or not the inmate is in fact working in our correctional facilities.

Work unfortunately is not mandated. That if Senator Montgomery would like to mandate a work requirement for all correctional inmates in our state, I would be glad to support that.

But the fact is inmates work on a voluntary basis. They make license plates, they make trash containers for the metropolitan regions of our state, they make furniture. That is part of their incarceration. In so doing, they are learning metal work, they are learning carpentry, they are learning finishing work, those kinds of -- part of their educational system.

They also are given free room, obviously, and free meals. That is all part of their incarceration. It costs approximately $50,000 a year to house an inmate in our state correctional facilities.

This measure, Madam President,

requires a $7 copay. Senator Montgomery wants to know how long it would take for an inmate to receive $7. It depends on, Senator, what type of work the inmate was engaged in. That if they were working, wages are below minimum wage. I believe they're close in the $3 to $5 range. So I think that that's as much as I can present not knowing any further specific circumstances.

SENATOR MONTGOMERY: Madam President, if Senator Nozzolio would continue to yield.

ACTING PRESIDENT LITTLE: Thank you.

Senator, do you yield?

SENATOR NOZZOLIO: I'll be happy to yield, Madam President.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR MONTGOMERY: Yes, I wasn't clear when I asked the question, so you gave me much more than I actually needed. But thank you anyway.

I wanted to know, how much does -- what's the maximum hourly rate that an inmate

can earn based on any of those various and sundry jobs that you listed -- making the trash bins for local municipalities, making the street signs and the stop signs and the highway signs and all of the other things that they do, including all of the furniture in the state? What's the maximum that they can earn hourly?

SENATOR NOZZOLIO: I do not have the figure of the hourly rate with me, Madam President. I cannot answer that question.

SENATOR MONTGOMERY: All right. Thank you.

Madam President, on the bill.

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

SENATOR MONTGOMERY: Thank you.

Senator Nozzolio indicated in his answer that the work is voluntary. He doesn't have the hourly rate. But as far as I know, it's not as much as $2 an hour. I think it's perhaps $2 a day, or some very, very small amount. It's way below anything close to a minimum. So the issue of whether or not an inmate has $7 to make a copayment with is a

huge question.

I have opposed this legislation because it's not related to the actual cost of healthcare. It doesn't raise funds for that purpose. It is stated in the memo to support the legislation that it is purely punitive, essentially. It's done in order to discourage inmates from utilizing the health facilities, such as they are, in prison.

And in the legislation it says specifically should an inmate not have sufficient funds in his or her account to cover the charges, then the account shall be frozen pending receipt of funds sufficient to satisfy the obligation.

So essentially this is an extreme measure. It is extremely punitive. And in fact, if a person either is not working or is working and certainly does not earn enough to come up with a $7 copay, either they don't access the healthcare or, if they do, they incur a debt which is held against them until they either earn or some family member sends them money to pay.

So it may discourage people from

utilizing the health facilities. There are a large number of inmates who have chronic ailments and diseases. And if those are not treated when they're incarcerated, we know that they come back to their community and very often those diseases come back with them. So we don't want -- this is a public health disaster, especially for certain communities, and it's a health disaster for people who are incarcerated.

So I'm going to continue to vote no. And since this bill has been around since 1996, I believe it says, there is some reason why we have not been able to move this legislation, thankfully. So we'll just continue to see it come by, and I will continue to oppose it.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Diaz.

SENATOR DIAZ: Thank you, Madam President.

You know, anyone that knows me -- and people that know me know that I speak what

I feel, do what I feel, and I am not committed to anything that I believe is not fair to people. When I have to vote with the Republican side because I believe that the bill is good for a community, I always do that. When I have to vote against my Democratic colleagues because I believe that a bill is not so good, I will do that. So it is not -- to me, it is not Democrat or Republican.

But this is one of those bills, this is one of those pieces of legislation that gives the Republican Party a bad name and make me puke. This bill makes me [retching sound], and I'll tell you why.

You know, she called it extreme; Senator Montgomery called this an extreme measure. I would call it meanspirited. That's what I would call this bill. This bill is one of those bills that doesn't show human feeling, doesn't show, you know, passion for people, doesn't show, you know, compassion. It's like litter for you.

Seven dollars to an inmate per visit, and they're in jail. When you get

arrested and you get indicted and you get sentenced, you become property of the state. You are property of the government. The government is responsible for your well-being, for your health, for whatever. You are property of the government.

And an inmate, as Senator Montgomery said, you know, they -- I believe that they make 25 cents a day, if I'm not mistaken, 25 cents a day or something like that. Now the Senator wants them to pay $7 per visit to a doctor, when they have to go to see a doctor.

I mean, sometimes I am criticized by my colleagues, by my friends, and they tell me "Hey, are you a Republican or are you a Democrat?" Because sometimes I vote my conscience. How do you explain something like that to the community? How can you go to bed, how do you go to bed and thinking, Oh, I did something great, I submitted a piece of legislation asking for $7 for inmates when they get sick to go see the doctor. And if they don't have the money, we freeze their account until they get the money.

In Puerto Rico, we say [Spanish], meaning I don't know what.

(Laughter.)

SENATOR DIAZ: But, ladies and gentlemen, come on, stop this meanspirited bill. Stop this. We're supposed to show human feeling. We're supposed to understand suffering. You understand -- we should understand, you know, what is this? Seven dollars. My goodness. My fellow -- my colleagues on the other side, this one, in this one you are giving your party a bad name, a bad, bad name. And that's what in our communities sometimes we think about Republicans, because of this kind of bill.

Madam President, call me in the negative, one, two, twice, fourth time, fifth time, negative. Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator Diaz.

Is there any other Senator wishing to be heard?

Senator Nozzolio, to close the debate.

SENATOR NOZZOLIO: Thank you,

Madam President and my colleagues.

I appreciate hearing the passion exhibited, on behalf of the inmates of this state who are incarcerated, by the other side of the aisle.

I find it so ironic that that other side of the aisle decided just last March to cut $775,000 from the Mercy Rehab Nursing Home in the city of Auburn that would have closed that healthcare facility.

I also see the passion on the other side of the aisle misplaced because you all voted to cut $150,000 from a very fragile healthcare facility called Auburn Memorial Hospital that is on the verge of deciding whether it can stay open. It's fighting hard to stay open, to be the chief healthcare provider not only for the 70-plus-thousand citizens immediately in and surrounding Auburn but also for the 1500 inmates who are in the Auburn Correctional Facility.

This bill says that those incarcerated inmates in Auburn and in every other correctional facility in this state need to put $7 on the table when they go to visit a

healthcare provider. We're not saying that if they don't have that $7 that the healthcare will be denied. And that was where your passion was placed, and that's what this bill says, that you will provide, the state will provide that assistance.

But if you have money in your account -- and inmates in this state, each one of the 63,000 plus inmates in this state have a bank account, a physical bank account managed by the State of New York. And that bank account has assets in it that they are utilizing to buy a lot of things at the commissary. The commissary, by the way, where they can buy things and not pay sales tax. But that's an issue for another day.

The fact of the matter is the inmates of this state should have to participate in their own healthcare, at least a small portion. What is the healthcare copay of the state employees of this state? Those correction officers who are managing those correctional facilities and putting their lives on the line have to pay almost three times a copay than the inmates are being

suggested to pay under this legislation.

So, Madam President, I say this. This measure is to establish equity in our correctional systems. It's to try to make our correctional healthcare provisions more -- not just equitable, but more efficient.

Others in this chamber have said, about healthcare in our prison facilities, go to a prison facility today and you will see a long line of individuals who are out there to get healthcare, at least some of them. Many others are out in the same lines because they have nothing else to do that day and are in effect taking the time away from the physicians, taking time away from the taxpayers, taking money away from the Mercy Rehab Centers and the Auburn Memorial Hospitals that are struggling to keep open to provide assistance, medical care to patients who are law-abiding citizens.

Where's your equity, where's your passion, where's your compassion for those who are facing healthcare crises? Where's your compassion for those who are uninsured?

We need to save funds. This is a

place to save funds to ensure that more patients will have healthcare. Madam President, that's why I'm moving this bill.

ACTING PRESIDENT LITTLE: Thank you, Senator Nozzolio.

The debate is closed.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

SENATOR SCHNEIDERMAN: Yes, Madam President, to explain my vote.

I just want to refer briefly to some of the comments that were made during the debate.

I've checked, and prisoners who do have bank accounts make 35 cents an hour.

We are preparing now for the first meeting of the sentencing commission that the Governor is convening tomorrow morning. One

of the items on our agenda is reentry. And the first principle of reentry is if you let people out of prison with a small stake, they have a better chance to avoid recidivism.

So we are cutting off our nose to spite our face with this bill. It will discourage people who are sick from going to the doctor. It will send people out of prison less capable of reentering society safely. It is a bad bill. And Senator Diaz is correct, it is in fact a meanspirited bill. I would urge all of my colleagues not to take this self-destructive course.

I am voting no.

ACTING PRESIDENT LITTLE: Senator Schneiderman in the negative.

Senator Montgomery, to explain her vote.

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

Yes, I'm voting no. And I want to just say that I'm a little disappointed in my colleague Senator Nozzolio because I feel like he's playing political blackmail with us by

saying that we are for -- we should not be -- we're somehow, as Democrats, coddling the prisoners. And that's not the case. And I don't think that Senator Nozzolio believes that either.

But it's easy to get the citizens of this state riled up and frightened and divided based on these kinds of arguments that somehow, because you believe in a more humane approach to dealing with the criminal justice issues, that you are soft on crime or there's something wrong with you.

I don't like to be put in that position. It's an intimidation tactic to make you feel guilty about what it is you believe. But I won't accept that, and I don't think the citizens of this state accept that.

This is what it is, and that is it's meanspirited, it's a mean thing, and it's very, very bad public health policy. Because we do not want people coming to live in communities with diseases that could have been treated while they were in prison but they were not because they were required to pay a fee.

So, Madam President, I vote no.

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

Senator Diaz, to explain his vote.

SENATOR DIAZ: Yes, I just -- I'm voting no on this bill.

But also I'm glad that Senator Schneiderman clarified the pay rate for the inmates. He said that they get 35 cents per hour.

And then when we talk about inmates, that we are supporting inmates, that they have to pay for their own health, we are not even taking into consideration the thing that the inmates contribute to the state.

You know, they work. And, you know, they make license plates. And you know the millions of dollars that the government makes, the government makes in license plates? And they pay so little money to the inmates to make those license plates. Do you know the money that the government saves painting buildings, cutting grass, doing furniture, repairing vehicles, painting vehicles? You

know all the money that the government, the state saves because of the inmates?

So, ladies and gentlemen, we are not doing a favor to the inmates. If we're going to see exactly the right side of the law, then they're doing the government a favor. They're saving money. And now we want them to pay $7 per doctor visit.

I make $79,000 a year. That's my salary, $79,000 -- 79,500? Okay, $79,500. When I go to the doctor I pay $15, a $15 copay, and the company pays the rest. So if I make $79,000 -- $79,500 a year and I have to pay $15 per visit, you want to take tell the inmate that makes 35 cents an hour to pay $7? Arrr. I don't know -- I don't know what kind of hearts some people have.

But me and my colleagues, we're voting no. Thank you.

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

Senator Sabini, to explain his vote.

SENATOR SABINI: Madam President,

thank you. I just wanted to explain my vote.

I'll be voting in the negative, as I have in the past. I haven't spoken on this before. But I note in my email inbox today there was an email from the New York State Correction Officers, and a correction officer in an upstate prison has contracted a rare form of flesh-eating bacteria which has seriously jeopardized his health.

And I believe that we want to encourage people to see physicians when they need to. I think it's a workplace health issue, in the case of a prison, where disease can spread rather rapidly.

And for many of the reasons my colleagues have stated, I will also be voting no. Thank you.

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

Senator Connor, to explain his vote.

SENATOR CONNOR: Thank you, Madam President.

My colleagues, do the math. If you

make 35 cents an hour and you have to go to the doctor's once, that's 20 hours of your pay.

If Senator Nozzolio were proposing a bill saying an inmate should be charged 50 cents copay, I might have problems with the principle, but the reasonableness of it would be hard to fight with.

Do the math for yourself. Assume you only make the 79,500 that we get paid -- and I know that's not true for everybody. We actually make more. So let's do it more realistically. Assume you're just a ranking minority member on a committee; you make $90,000. Would it be reasonable to say to go to the doctor's you should pay an $820 copay? That's the proportion you're proposing here. Would you think an $820 copay was a reasonable token payment toward your healthcare? That's assuming you work, you know, 40 hours a week.

So this bill, besides being meanspirited, pandering to the public's disdain for convicted criminals, it's just plain out of proportion and unreasonable. You figure it out. Half of your week's wages for

one visit to the doctor? Now, is that reasonable? Would it be reasonable if every time you or your spouse or one of your kids went to the doctor you had to pony up $800 as your copay? I don't think so, Madam President.

This is a bad bill. It's meanspirited, as has been said before, but it's also just not reasonably proportionate to the income of these inmates.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 221 are Senators Connor, Diaz, Dilan, Duane, Gonzalez, Hassell-Thompson, Huntley, L. Krueger, Montgomery, Onorato, Perkins, Sabini, Sampson, Savino, Schneiderman, Serrano, Smith, Stavisky, Stewart-Cousins, and Thompson. Also Senator Breslin. Also Senator Oppenheimer.

Absent from voting pursuant to Rule 9: Senators Golden and Wright.

Absent from voting: Senator C.

Kruger.

Ayes, 34. Nays, 22.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Duane, why do you rise?

SENATOR DUANE: Thank you, Madam President.

Pursuant to Rule 9, I was required to be at a public meeting of the Article 10 conference committee, and I missed voting something. But I'm allowed to do it now, as you know. So I would like to cast my vote for S6020, Calendar Number 1442, in the negative.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you. You will be so recorded, Senator Duane.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could lay aside for the day the balance of the controversial calendar.

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

ACTING PRESIDENT LITTLE: The bills are laid aside for the day.

There is an immediate meeting of the Rules Committee in the Majority Conference Room. The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 5:19 p.m.)

(Whereupon, the Senate reconvened at 5:31 p.m.)

ACTING PRESIDENT LITTLE: Senator Skelos.

SENATOR SKELOS: Madam President, if we could return to the order of motions and resolutions.

On behalf of Senator Flanagan, on page number 26 I offer the following amendments to Calendar Number 740, Print Number 830, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR SKELOS: On behalf of Senator Golden, on page number 37 I offer the following amendments to Calendar Number 952, Senate Print Number 4078, and ask that said

bill retain its place on the Third Reading Calendar.

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

SENATOR SKELOS: Madam President, on behalf of Senator DeFrancisco, on page number 41 I offer the following amendments to Calendar Number 1012, Senate Print Number 2059A, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Skelos.

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

ACTING PRESIDENT LITTLE: Thank you.

The Secretary will read.

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

Senate Print 52, by Senator Maziarz, an act to amend the Vehicle and Traffic Law;

64, by Senator Padavan, an act to amend the County Law;

231, by Senator Larkin, an act to amend the Vehicle and Traffic Law;

328, by Senator Nozzolio, an act to amend the Criminal Procedure Law;

613, by Senator Marcellino, an act to amend the Vehicle and Traffic Law;

888, by Senator Trunzo, an act to amend the General Municipal Law;

921, by Senator O. Johnson, an act to amend the Tax Law;

1483, by Senator Skelos, an act to amend the General Municipal Law;

1532, by Senator Fuschillo, an act to amend the Penal Law;

1590, by Senator Libous, an act to amend the Tax Law;

1618A, by Senator Maziarz, an act

in relation;

1703, by Senator Robach, an act to amend the Criminal Procedure Law;

1757, by Senator Rath, an act to amend the Penal Law;

1843, by Senator Farley, an act to amend the Criminal Procedure Law;

2019, by Senator Larkin, an act to amend the Agriculture and Markets Law;

2036, by Senator Young, an act to amend the Tax Law;

2177, by Senator Lanza, an act to amend the Tax Law;

2334, by Senator Rath, an act to amend the Real Property Tax Law;

2343, by Senator Little, an act to amend the Tax Law;

2420, by Senator DeFrancisco, an act to amend the Penal Law;

2445, by Senator Morahan, an act to amend Chapter 425 of the Laws of 2006;

2554, by Senator C. Kruger, an act to amend the Family Court Act;

2934, by Senator Marcellino, an act to authorize;

3092, by Senator Volker, an act to amend the Executive Law;

3234, by Senator Winner, an act to amend the New York State Urban Development Corporation Act;

3329, by Senator Flanagan, an act to amend the Penal Law;

3551, by Senator Young, an act to authorize;

3759, by Senator Seward, an act to amend the Abandoned Property Law;

3917, by Senator Skelos, an act to amend the Retirement and Social Security Law;

4168, by Senator LaValle, an act to amend the Criminal Procedure Law;

4259, by Senator Wright, an act to amend the Tax Law;

4265, by Senator Bonacic, an act to amend the Executive Law;

4268, by Senator Golden, an act to amend the Criminal Procedure Law;

4860, by the Senate Committee on Rules, an act to amend the Tax Law;

5170, by Senator Morahan, an act to amend the Executive Law;

5315, by Senator Fuschillo, an act to amend the Vehicle and Traffic Law;

5731, by the Senate Committee on Rules, an act to amend the Tax Law;

5926, by Senator L. Krueger, an act to amend the Alcoholic Beverage Control Law;

5945, by Senator Padavan, an act to amend the Real Property Tax Law;

5958, by Senator Saland, an act to amend the Highway Law;

6003, by Senator Griffo, an act to amend Chapter 92 of the Laws of 2001;

1325A, by Senator Lanza, an act to amend the Judiciary Law;

3947A, by Senator Skelos, an act to amend the Tax Law;

4304B, by Senator Fuschillo, an act to amend the Executive Law;

5517, by Senator Fuschillo, an act to amend the Penal Law;

5965, by Senator Little, an act to authorize;

And Senate Print 5974, by Senator Fuschillo, an act to amend the Vehicle and Traffic Law.

All bills ordered direct to third reading.

ACTING PRESIDENT LITTLE: Senator Skelos.

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

ACTING PRESIDENT LITTLE: All those in favor of accepting the Rules report say aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Those opposed.

(No response.)

ACTING PRESIDENT LITTLE: The Rules report is accepted.

SENATOR SKELOS: Would you please recognize Senator Stachowski.

ACTING PRESIDENT LITTLE: Senator Stachowski.

SENATOR STACHOWSKI: Madam President, on behalf of Senator Volker, I'd like to remind all the members -- and hopefully their offices are listening to remind them -- that tomorrow morning is the

service for the deceased legislators at 8:00 a.m. at St. Mary's Church.

ACTING PRESIDENT LITTLE: Thank you, Senator.

SENATOR SKELOS: Thank you, Senator Stachowski.

There being no further business to come before the Senate, I move we stand adjourned until Wednesday, June 6th, at 11:00 a.m.

ACTING PRESIDENT LITTLE: Thank you. On motion, the Senate stands adjourned until Wednesday, June 6th, at 11:00 a.m.

(Whereupon, at 5:35 p.m., the Senate adjourned.)