NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 12, 2007

3:23 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.

I would ask all to please rise and join me in reciting the Pledge of Allegiance to our Flag.

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

THE PRESIDENT: Our invocation is a magic moment for me. It's an opportunity to introduce a sage to governors, advisor to presidents, friend of the Senate, and a generally good human being: Father Peter G. Young, of Mother Theresa Community of Albany.

REVEREND YOUNG: May we join in prayer.

In New York City, at George Washington's inauguration as President, he placed his hands on the Bible on April 30, 1789, to serve with integrity his nation.

Our Senators in this chamber are called to the same dedication to leadership, as Your elected and dedicated public servants. Therefore, we ask You to bless them, Lord, in Your name, so they can carry out their most

important work for all of our citizens in New York State.

We ask You this now and forever. Amen.

THE PRESIDENT: What color suit was the President wearing that day, Father?

REVEREND YOUNG: Blue.

(Laughter.)

THE PRESIDENT: The reading of the Journal.

THE SECRETARY: In Senate, Monday, June 11, the Senate met pursuant to adjournment. The Journal of Sunday, June 10, 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.

On the motions, Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

On behalf of Senator LaValle, I wish to call up Print Number 5526, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1530, by Senator LaValle, Senate Print 5526, an act to amend the Social Services Law and the Correction Law.

THE PRESIDENT: Senator Nozzolio.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

THE PRESIDENT: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

On behalf of Senator LaValle, I

offer the following amendments.

THE PRESIDENT: The amendments are received and adopted.

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, I wish to call up, on behalf of Senator Larkin, Print Number 1046, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

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

THE PRESIDENT: Senator Nozzolio.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The chair recognizes Senator Nozzolio.

SENATOR NOZZOLIO: I now offer the following amendments.

THE PRESIDENT: The amendments are received.

SENATOR NOZZOLIO: Mr. President, on behalf of Senator DeFrancisco, I wish to call up Print Number 4116, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1128, by Senator DeFrancisco, Senate Print 4116, an act to amend the General Municipal Law.

THE PRESIDENT: Senator Nozzolio.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: Senator Nozzolio.

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

THE PRESIDENT: The amendments are received.

SENATOR NOZZOLIO: Mr. President.

THE PRESIDENT: Senator Nozzolio.

SENATOR NOZZOLIO: I move the following bills be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Print Number 1966, by Senator Volker.

THE PRESIDENT: So ordered, Senator Nozzolio. Thank you.

Senator Leibell.

SENATOR LEIBELL: Mr. President, are there any substitutions at the desk?

THE PRESIDENT: Yes, there are, Senator.

The Secretary will read.

THE SECRETARY: On page 40, Senator Marcellino moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 8211 and substitute it for the identical Senate Bill Number 5814, Third Reading Calendar 1206.

And on page 40, Senator Marcellino moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 8206 and substitute it for the

identical Senate Bill Number 5815, Third Reading Calendar 1207.

THE PRESIDENT: Substitutions ordered.

Senator Leibell.

SENATOR LEIBELL: Would the desk recognize Senator Fuschillo for motions.

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

Amendments are offered to the following Third Reading Calendar bills:

Sponsored by Senator Seward, page number 42, Calendar Number 1260, Senate Print Number 4617;

By Senator Maziarz, page number 53, Calendar Number 1590, Senate Print Number 5906;

By Senator LaValle, page number 55, Calendar Number 1616, Senate Print Number 898;

By Senator Fuschillo, page number 19, Calendar Number 626, Senate Print 2970;

By Senator Skelos, page number 19, Calendar Number 636, Senate Print Number 4058;

By Senator Padavan, page number 31, Calendar Number 959, Senate Print Number 5422;

By Senator Volker, page number 43, Calendar Number 1283, Senate Print Number 4142;

By Senator DeFrancisco, page number 44, Calendar Number 1299, Senate Print Number 1268;

By Senator Bonacic, page number 17, Calendar Number 588, Senate Print Number 3970;

By Senator Volker, page number 32, Calendar Number 983, Senate Print Number 4029;

By Senator Morahan, page number 11, Calendar Number 381, Senate Print Number 2586.

I now move that these bills retain their place on the order of Third Reading Calendar.

THE PRESIDENT: Thank you, Senator Fuschillo. The amendments are received and adopted. The bills will retain their place on the Third Reading Calendar.

Senator Leibell.

SENATOR LEIBELL: May we please adopt the Resolution Calendar.

THE PRESIDENT: All those in

favor of adopting the Resolution Calendar please indicate so by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Resolution Calendar is adopted.

Senator Leibell.

SENATOR LEIBELL: Would you recognize Senator Farley, please.

THE PRESIDENT: The chair recognizes Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

Resolution 2712 is one that asks Governor Spitzer to proclaim October 21st through 27th Friends of Libraries Week in the State of New York.

There wasn't time to circulate this. I'm offering it up to the entire Senate. Normally everybody has cosponsored it.

If somebody does not want to sponsor it, please approach the desk, if that's all right with the leader.

THE PRESIDENT: On the resolution, Senator Farley has kindly opened up the resolution for sponsorship by the entire body. We'll put the names of all the members on the resolution. Anyone who would not like to be part of it can please indicate so at the desk.

Senator Smith.

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

Members and colleagues, I rise to speak on Resolution 2736, where we were fortunate, absent of knowing this young lady, to reap the benefits of some of what she has done for an individual.

This young lady, who had been knighted by the Queen, was named Dame Lois Browne-Evans. She began a series of firsts when she became the first woman called to the Bermuda bar. She also, in 1953, won election to the Parliament in the Devonshire North seat, the first black woman to be elected an MP.

She also was the first woman to become the party leader in the British

Commonwealth and also was the first to become the attorney general as well in Bermuda.

Mr. President, what distinguished and what makes this young lady, Dame Lois Browne-Evans, so important to me and so important to others in this room is a product which she produced, a product which became a very close person to me, someone who I knew for a very long time, and someone who now is my chief of staff. This young lady, Dame Lois Browne, was the aunt of Mortimer Lawrence -- who is now my chief of staff -- and passed away recently. And also they declared, in Bermuda, a state holiday because of this young lady.

I am proud today, Mr. President, to know that we are pausing to present this resolution on behalf of Dame Lois Browne-Evans. I say this to my good friend and chief of staff Mortimer Lawrence, and his family, that we in the State of New York are very noteworthy of her accomplishments, and I'm happy that we are pausing today to bring forth this resolution.

I would also ask that it be opened

to all members of the Senate, and any of those who do not want to have their name on this resolution can so do so by bringing their name forward to the desk.

Thank you very much, Mr. President.

THE PRESIDENT: Senator Smith has kindly opened the resolution honoring the knighting of Dame Lois Browne-Evans by the Queen of England to cosponsorship by all the members of the body.

We will put all the members on the resolution. And anyone who does not wish to be on it can come up to the desk, and maybe we'll have you knighted by the Queen.

Thank you, Senator Smith.

Senator Leibell.

SENATOR LEIBELL: 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 will read.

THE SECRETARY: Calendar Number 200, by Senator Seward, Senate Print 2634, 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: The Secretary will call the roll.

(The Secretary called the roll.)

THE PRESIDENT: The Secretary will announce the results.

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 209, by Senator Saland, Senate Print 1091A, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: The Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect nine months after it shall have become a law.

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 525, by Senator Leibell, Senate Print 3647, an act to --

SENATOR LEIBELL: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 548, by Senator Wright, Senate Print 3141, an act in relation to authorizing and directing the Office of Real Property Services.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

565, by Senator Maltese, Senate Print 4357, an act to amend the Civil Service Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 587, by Senator Bonacic, Senate Print 3968, an act to amend the Private Housing Finance 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 589, by Senator Bonacic, Senate Print 4115, an

act to amend the Private Housing Finance 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 682, by Senator Nozzolio, Senate Print 4118B, an act to amend the Correction Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 703, by Senator Seward, Senate Print 3964A, an act to amend the Insurance Law.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 785, by Senator Wright, Senate Print 3984, an act to amend the Public Service Law.

THE PRESIDENT: 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, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 861, by Senator Hannon, Senate Print 4459, an act to amend the Public Health 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 956, by Senator Padavan, Senate Print 5246A, an act to amend the Administrative Code of the City of New York.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 968, by Senator Hannon, Senate Print 4992, an act to amend the Public Health 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 981, by Senator LaValle, Senate Print 5328A, an act to amend Chapter 61 of the Laws of 2006 relating to the Shoreham-Wading River Central School District.

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 987, by Senator Fuschillo, Senate Print 5047, an act to amend the General Business Law and the Correction 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, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1043, by Senator Saland --

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1080, by Senator Saland, Senate Print 5669, an act to amend the Education Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 27. This act shall take effect July 1, 2008.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 1114, by Senator Maziarz, Senate Print 516, an act to amend the Real Property Law.

THE PRESIDENT: 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, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1206, substituted earlier today by Member of the Assembly Alessi, Assembly Print Number 8211, an act to amend the Environmental Conservation 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 1207, substituted earlier today by Member of the Assembly Gunther, Assembly Print Number 8206, 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 1328, by Senator C. Kruger, Senate Print 4547, an act to amend the Social Services Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 1340, by Senator Hannon, Senate Print 5015, an act to amend the Public Health Law and the Vehicle and Traffic Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1341, by Senator Hannon, Senate Print 5429, an act to amend the Public Health Law and the Social Services Law.

THE PRESIDENT: Last section.

THE SECRETARY: Section 7. 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 1397, by Senator Saland, Senate Print 5752, an act to amend the Retirement and Social Security Law.

THE PRESIDENT: Last section.

SENATOR LEIBELL: Lay it aside for the day.

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

The Secretary will read.

THE SECRETARY: Calendar Number 1517, by Senator Stachowski, Senate Print 2127, an act to authorize the Town of Hamburg, County of Erie.

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

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, 56.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 1580, by Senator Lanza, Senate Print 4485, an act to amend the Correction Law and 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, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1586, by Senator Wright, Senate Print 5762A, an act in relation to making certain findings and determinations.

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

The Secretary will 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, 58.

THE PRESIDENT: The bill is passed.

That completes the noncontroversial reading of the calendar, Senator Leibell.

SENATOR LEIBELL: Thank you, Mr. President. Now may we have the controversial reading of the calendar.

THE PRESIDENT: The Secretary will conduct the controversial reading of the calendar.

Ring the bells so that the members outside can come in and vote.

The Secretary will read.

THE SECRETARY: Calendar Number 1043, by Senator Saland, Senate Print 3740A, an act to amend the Criminal Procedure Law.

SENATOR DUANE: Explanation.

THE PRESIDENT: Senator Saland, an explanation has been requested by the Acting Minority Leader, Senator Duane.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, this bill is a

departmental bill at the request of the Division of Criminal Justice Services, DCJS. It is, however, similar in many if not most respects to other similar bills that we have had the opportunity to debate in this house over the course of the past several years.

The purpose of this bill is to afford the opportunity to someone who has been the victim of a sex offense under Article 130 to make application to the court to have her or his assailant be subjected to HIV testing.

We have in here a probable cause standard which basically says there would have to have been an indictment or a Superior Court information. We provide -- and incidentally, the current law only applies in those instances in which there has been a conviction that's already been obtained. That's been on the books here probably for somewhere in the area of a dozen years now.

The applicant would have the ability to seek this relief within 48 hours after indictment or the filing of the information. And the applicant would have to show, among other things, that she or he was

in fact the victim of the offense and had been offered pre-HIV test counseling as well as post-HIV test counseling by a public health officer.

Also the applicant would be advised of the limitations on the information to be obtained through the test as well as current scientific assessments of the risks of transmission of HIV from the exposure he or she may have been experienced.

In addition, the application would also show the need for the applicant to undergo HIV-related testing to definitively determine his or her HIV status.

This is a measure which complies with current federal requirements under the existing federal law. We have a measure that is a same-as with a bill that's currently in the Assembly, which Assemblywoman Mayersohn is sponsoring and which is on third reading in the Assembly.

The bill seeks to ensure confidentiality by ensuring that the data or the information that is received by way of this application process is not available to

anybody in any civil or criminal proceeding and basically is an effort to empower a victim with the ability to ensure that she or he, if they so desire, has the ability with, in effect, some informed counseling which will have been received during the course of the process as a prerequisite to the application, to seek to have the court require this HIV testing.

I came to this issue a number of years ago primarily based on a couple of reports I had seen; one was in a legal periodical, the other was in a newspaper account where defendants had refused to submit to HIV testing and attempted to use their refusal to secure a better plea deal.

And some folks may recall the matter of a few years ago by now, perhaps, a situation which received much attention in the City of New York where I believe a taxicab driver, a woman taxicab driver was the victim of a sexual assault and very much wanted to have the perpetrator tested and under the law at that time was not able to do so because the law only provided for such testing on

conviction.

Thank you, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Saland, for that explanation.

Senator Duane.

SENATOR DUANE: Thank you, Madam President.

I believe there's an amendment at the desk. And I ask that the reading of the amendment be waived, and I ask to be heard on the amendment.

ACTING PRESIDENT YOUNG: The reading is waived, and you may be heard on the amendment.

SENATOR DUANE: Thank you, Madam President.

Let's first all agree that being the victim of a sex crime is horrible. Horrible. A time of awful mental anguish, anxiety, physical pain. Unimaginably horrible. Horrible. Horrible. I think there's no doubt in anyone's mind here but that that is the situation for a person who has been the victim of a sex crime.

Also, I don't think that anyone

would question that what the victim needs is counseling, support. Answers, really; answers to why such a horrible thing could have happened to them.

But if we really care about the victim of a sexual assault, the most important thing that we can do for that victim is to ensure that they immediately, immediately, immediately get prophylactic treatment and care for everything, all STDs, including HIV, and all STDs. That is the most important thing.

And the window is about two hours to 36 hours. That's the window. That's when the victim's health can be protected. That's when the victim needs to get prophylactic treatment. And that's what my amendment would do.

My amendment would mandate that as soon as the victim has contact with anyone in law enforcement -- a police officer, a DA, whoever it is -- that he or she be immediately told that they are entitled and actually encouraged to get full prophylactic treatment. Because that is the thing that will protect

them from being infected from anything. Anything.

Two hours to 36 hours, that is the most important time. And you know who should pay for it? We should pay for it. No one should have to worry about who is going to pay for this prophylactic treatment that protects them from any transmitted disease. Any transmitted disease. Two hours to 36 hours, you're in touch with the police officer, a DA, immediately. You get free prophylactic treatment and counseling. And counseling. That's what my amendment would do.

Now, we're going to talk about other parts of the bill after this amendment passes. And I can't understand, if you support victims, how you could not support free prophylactic treatment. So after we agree that we're going to take care of the victim and pay for it and make sure that she's all right, that she won't get any disease as a result of that assault, then we can debate the rest of the bill.

But for now, I urge you all in the strongest possible terms that if we care about

victims -- and I believe that we all do -- that we pass my amendment. That we pass my amendment. Because no matter what you think about the bill, this is the one thing that will protect the victim physically and to provide her with peace of mind.

So I urge you all to vote yes.

Thank you, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Duane.

Senator Adams, on the amendment.

SENATOR ADAMS: Yes, Madam President. Would Senator Duane yield for a question? Is that allowed?

ACTING PRESIDENT YOUNG: Senator Saland, do you yield?

SENATOR SALAND: May I suggest, Senator -- I'll be more than happy to -- that we deal with the amendment. And then I'll be more than happy to yield to any of your questions.

SENATOR ADAMS: Okay. My question --

SENATOR SALAND: Oh, your question is of Senator Duane or --

SENATOR ADAMS: Yes.

ACTING PRESIDENT YOUNG: Senator Adams, you're talking on the amendment; right?

SENATOR ADAMS: Yes.

ACTING PRESIDENT YOUNG: Your questioning is on the amendment; is that correct?

SENATOR ADAMS: Yes.

SENATOR SALAND: And it's a question of me or of Senator Duane?

SENATOR ADAMS: Senator Duane.

ACTING PRESIDENT YOUNG: Oh, Senator Duane. I'm so sorry.

Senator Duane, do you yield?

SENATOR DUANE: Yes, Madam President.

SENATOR ADAMS: Through you, Madam President. Senator Duane, is there a window that it is requested a victim receives treatment?

SENATOR DUANE: Through you, Madam President, yes. Within two to 36 hours, but -- the treatment needs to be made available. But at the moment of contact with anyone in law enforcement, the law enforcement

person is required, mandated, to tell the victim that this prophylactic treatment is not just available but that she should take them up on it, and it will be free, there will be no charge for the entire regime -- regimen, excuse me, of the prophylactic treatment.

ACTING PRESIDENT YOUNG: Senator Adams.

SENATOR ADAMS: Madam President, will he continue to yield?

ACTING PRESIDENT YOUNG: Senator Duane, do you yield still?

SENATOR DUANE: Yes, Madam President.

SENATOR ADAMS: Of your understanding, how much time passes before an indictment is handed down?

SENATOR DUANE: Rarely -- through you, Madam President. In the case of a sexual assault, rarely before at least 10 days, and sometimes much longer. Usually much longer.

ACTING PRESIDENT YOUNG: Senator Adams.

SENATOR ADAMS: Madam President, would he continue to yield?

ACTING PRESIDENT YOUNG: Senator Duane, do you continue to yield?

SENATOR DUANE: Yes, Madam President.

ACTING PRESIDENT YOUNG: Thank you.

SENATOR ADAMS: If I understand you correctly, you're stating that the window of taking the drugs is 36 hours. And if the bill passes as it stands, then the individual will wait possibly almost up to 10 days, when the window that's recommended to take the drugs has surpassed that.

SENATOR DUANE: Through you, Madam President, the window for the best result of the prophylactic treatment is between two and 36 hours to begin that prophylactic treatment. Although the first, if you will, treatment is the most important. Or the first treatments. But really the first one, and then subsequent very important as well.

But my amendment mandates that the offer be made, the encouragement made. And of course because there's the mandate for

counseling, the counselor would also say, No matter, you know, when we go in for you to be examined for evidence surrounding the assault, for healthcare emergency room treatment around the assault, you will also be entitled and you should take the prophylactic treatment.

Whether there's an indictment or there isn't an indictment. It does not matter with my amendment.

And my amendment also will warn the victim, if you will, that no matter what the result, if they find the perpetrator -- if and when they find the perpetrator, if and when they indict the perpetrator, if and when the perpetrator is given an HIV test -- that will in fact give no information to the victim of use. And in fact, if they discuss it further, will find out that that information could indeed be detrimental for her safety and long-term health.

But in the legislation which I'm amending, no, there is no mandate for the law enforcement officer -- DA, whoever -- to say prophylactic treatment, it's free, you should do it, here, talk to a counselor about it.

SENATOR ADAMS: On the amendment, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Duane.

Senator Adams, on the amendment.

SENATOR ADAMS: I don't think any crime probably devastates a family more than experiencing a victim of a sex crime, a sexual assault. And I believe in our desire to ensure that justice is properly administered, the first order of business is to ensure the safety of the person involved.

And we often sometimes focus on the victim being a woman. But there are many sick individuals who prey on our male children as well. And I think that we should support this amendment, because it allows us to first deal with the immediate need.

And from my understanding of what Senator Duane stated, that the immediate need, there's a window of opportunity. And that window of opportunity can actually conflict with the slow wheels of justice. If we wait 10 days prior to demanding law enforcement officers give just some simple instructions to

the victim, then we open the opportunity that that victim can wait 10 days or five days or six days, and they lose the first treatment.

So I don't think it's a conflict in ensuring that a person is punished for victimizing someone through a sex crime, I think that we are ensuring that that victim is protected, that victim receives the necessary treatment.

Because after responding to so many rapes and so many incidents where a person was sexually assaulted, there's a level of traumatization that settles in. And a victim needs a soothing voice with clear direction. And that's why one of the requirements that many of the police agencies will have, that when a victim is a victim of a sex crime, that they will have either a female officer that's present or they will have a female doctor in the office, in the atmosphere, to allow the person to get over that difficult period.

Instructions are important at that time, very specific instructions, something simple as not taking a shower right away so a sexual kit can be prepared so we can collect

DNA and be able to catch the person who carried out such an act.

In order to make sure this is done correctly, I think police departments should and must be required to give very clear, specific directions to a victim. This would allow that victim to understand that there are free services that are available not only with the medical treatment but with the counseling.

I will be supporting this amendment.

ACTING PRESIDENT YOUNG: Thank you, Senator Adams.

Senator Saland.

SENATOR SALAND: Thank you, Madam President.

Madam President, there has been certainly at least one federal report dealing with very subject that Senator Duane has raised, the importance of prophylaxis as contemporaneously as possible to this absolutely horrid event that someone may be victimized by. Certainly the two-hour number they agree to.

This federal report by Health and

Human Services uses an outside number of 72 hours, which is neither here nor there, but differs from your 36.

But let me suggest to you that perhaps one of the most underreported crimes known to this state or any other state is rape or sexual assault. And let me suggest to you further that standard operating procedure when a police officer is investigating, assuming there is a police investigation, is to take the victim to an emergency room.

And right now, by regulation, by protocol, which was arrived at by collaboration between the Health Department and the AIDS Institute, anybody who is brought into an emergency room on a sex offense is going to get that prophylaxis, the PEP that your amendment talks about.

So if it's unreported, nobody knows unless the person goes to the emergency room. And the person will be advised or counseled about the importance of that immediate prophylaxis.

If the police intervene and there is a report and they take that person for the

emergency room, that person, when they get to the emergency room -- which assumedly will be in a relatively short period of time, a matter of, if not minutes, then a matter of hours -- will similarly be advised of the importance of undergoing this prophylaxis.

There may be insurance coverage. It may be covered by the Crime Victims Compensation Board. The range of the cost of the tests, depending upon the duration, suggested to be 28 days.

And I must tell you, the federal report is a little more equivocal than the characterization provided by Senator Duane. I mean, it certainly recommends it, but a little more equivocally as to what the final outcome may be in terms of receiving the treatment.

So there is a mechanism that's already on board. And again, the AIDS Institute and the Department of Health have done this in a fashion that every emergency room -- the likely point of entry for someone who is proceeding with respect to a criminal complaint or for someone who chooses not to report and decides that they merely want to go

to an emergency room and seek help -- that's where they're going to find it.

If they don't do that within that narrow window, whether it's 36 or 72 hours, the issue that Senator Adams raised is correct. You're not going to have an indictment. You're not going to have a Superior Court information within that period of time.

So yes, there's a mechanism there. There is a mechanism there. I thank Senator Duane for borrowing from my 1067A, which is not the subject that we're currently dealing with, that particular provision was not included, but the rest of the provisions are substantially taken from that bill.

I certainly share his concerns, as we all do, about victims and would certainly hope that when this finally has concluded, we will have advanced the cause of victims who are horrendously and sometimes irreparably traumatized by these types of heinous acts.

Lastly, not unlike posttraumatic stress syndrome, we have recognized for a number of years now -- the Court of Appeals

did it probably back in the late '80s perhaps, mid to late '80s, the idea that sometimes a victim is so traumatized that they simply will not report or they will fail to identify their perpetrator, notwithstanding the fact that they may see the perpetrator in a lineup, and they're not ready to go there.

So is this a perfect solution? No. Does this empower a victim? Yes.

Thank you, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Saland.

Senator Schneiderman, on the amendment.

SENATOR SCHNEIDERMAN: Thank you.

Through you, Madam President, would Senator Duane yield for a question on the amendment?

ACTING PRESIDENT YOUNG: Senator Duane, do you yield?

SENATOR DUANE: Yes, Madam President.

SENATOR SCHNEIDERMAN: Senator Saland has raised some points about this federal study that don't necessarily, in my

view, argue against your amendment. But I was wondering if in fact you are familiar with this study and have any response to what Senator Saland has now raised.

SENATOR DUANE: Through you, Madam President.

ACTING PRESIDENT YOUNG: Senator Duane.

SENATOR DUANE: Yes, I am familiar with it. And in fact, I had considered using 72 hours, but the -- in an effort to just try to simplify -- and let me just also say I'm also familiar with the report from our New York State Department of Health from several years ago -- or not several, but a few years ago, which addresses the protocol for HIV prophylaxis, which also includes prophylaxis which also includes other sexually transmitted diseases, in cases including sexual assault. So I'm also very familiar with that report.

But my intention, and what the amendment does, is simplify everything, is just to say that every victim, from the moment of their first contact with law enforcement,

is to be told that they are entitled to free prophylaxis treatment and counseling. And I would hope and believe that the counselor will also encourage the victim to take that treatment. And that it's free.

How long do you wait for your insurance company to tell you whether you're going to get payment for a treatment? How many times do you have to appeal it? Many of us have the same insurance carrier. I practically spend more hours on filling out my forms and appealing denied than I do on my legislative activities.

So why would we make a victim do that? Let's just pay for it. Let's just assuage her fears that it's going to be hundreds and maybe thousands of dollars. Because it's not just the treatment between those first hours, it's over the whole period of taking the prophylaxis treatment. Right? Which may be very expensive. Right? And who knows what the reimbursement is for that? Right?

You know what? I take HIV drugs. I pay out-of-pocket. My insurance company

doesn't pay for all of it. And it's a lot of money. I have a health savings thing, so I put some of my money in so I don't have to pay taxes on that, and it goes towards my drugs.

Why would you put a victim through that? Let's pay for it. A horrible thing has already happened to her; right? Why would we threaten her with having to spend hundreds, maybe even thousands of dollars? Let's just pay for it. So if you really believe that we should be helping victims, let's pay for the treatment.

I'd be glad if the sponsor wanted to take the bill away today. I'll negotiate it out so that we can put this in. Although frankly I think this stands on its own no matter what happens with the bill, which of course I'm opposed to. And I'll explain to you why.

He withdraws the bill, I'll withdraw the amendment, I'll put in this as its own -- well, it is a freestanding bill, and we'll pass it. I don't even care if my name is on the bill. I just want to protect the victim.

And I don't want the victim to have to pay for the treatment or to worry about whether the treatment is going to get paid for. And you know what? If the government wants to go to the insurance company and try to get some money reimbursement, fine. Great. But I don't want the victim to have to do that.

ACTING PRESIDENT YOUNG: Senator Schneiderman.

SENATOR SCHNEIDERMAN: I'd like to thank Senator Duane for his answer and speak on the amendment, Madam President.

ACTING PRESIDENT YOUNG: On the amendment.

SENATOR SCHNEIDERMAN: I think that we've finally had something of a breakthrough here in terms of this debate. And I've been around for the debate on this bill for quite some time.

I think that Senator Duane's amendment not only demonstrates what we should do, which is to immediately have every victim of sexual assault take the appropriate prophylactic treatment immediately, to make

sure that there's no delay for someone who's not sure if they want to pay or not, to make it available and to make counseling available immediately.

But it also shows us, quite frankly, the deficiencies in the underlying bill. And we're going to debate the bill later. But ladies and gentlemen, anyone who supports helping victims of sexual assault avoid sexually transmitted diseases, you must support this amendment.

The underlying bill, quite honestly, looks ludicrous in comparison to what Senator Duane is proposing -- that we're going to wait for an indictment, then the defendant, through their counsel, in writing, has to request to the judge who then has to rule on an application to test someone. Does anyone here in their right mind think that's going to happen within 72 hours?

Let's do what helps victims. Let's pass this amendment. In fact, let's get rid of the underlying bill and let's make this amendment the legislation we move forward in this house. I urge everyone to vote yes.

Thank you, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Schneiderman.

Senator Diaz, you had previously said you wanted to speak. You don't want to now?

SENATOR DIAZ: No.

ACTING PRESIDENT YOUNG: Senator Saland.

SENATOR SALAND: Thank you, Madam President.

Madam President, the other bill that I had made reference to a bit earlier is a bill which provided that the payment for this type of prophylaxis would be paid for by the state, notwithstanding that there were a number of people on the other side of the aisle, including the sponsor of the amendment, who voted against the bill.

I would welcome -- I would welcome the Division of Criminal Justice Services providing an appropriation with this bill. And I would very strongly suggest that you take every step to speak with the Governor, the Division of Criminal Justice Services --

this is a departmental bill -- to get them to provide an appropriation, and we do a chapter amendment and provide that funding.

Certainly there's no reason why anybody would not want to do that. And as I said, this house has already provided for payment in a prior iteration of this bill.

Thank you.

ACTING PRESIDENT YOUNG: Thank you, Senator Saland.

Senator Adams, on the amendment.

SENATOR ADAMS: Yes, Madam President. I just wanted to discuss something that the sponsor of the bill stated, that currently we have protocols in place.

And just in the real universe of policing, protocols, they break down often when you have those informal arrangements and informal agreements. And what happens in many of these cases involving sexual assaults, the victim of that crime will come in, sometimes they don't want to tell who the person is who sexually assaulted them -- because in many cases the person is known.

And if the police officer at the

time of preparing the report will also instruct that person about counseling, about medical treatment, that would take us a long way. Because often not only does it take a while before an indictment is handed down, but in many cases it takes a while before a victim actually acknowledges who is the person that victimized them in the first place.

And there are so many parameters that are in place that a victim is leery about moving ahead in the process. They may believe that the medical treatment is too costly. They may believe that nothing could be done and the person will never be caught. And, you know, they were already victimized and no one really cares.

So by allowing the police department not only to deal with the protocol or to deal with the informal arrangement but to have it as a law, that they are required to give the victim those simple instructions, I think it takes us a long way. And I believe that it's in target of what we want to do to make sure that victim receives the treatment that is necessary.

Thank you, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Adams.

Senator Savino.

SENATOR SAVINO: Madam President, on the amendment.

In the relatively short period I've been a member of the State Senate, we've made some great strides in protecting women, particularly women victims of sexual assault. Just last year we eliminated the statute of limitations on first-degree rape and sodomy. We closed the incest loophole. We were able to pass legislation that enacted civil confinement to protect past victims and future victims.

But this is an opportunity right now, if we pass this amendment, to provide immediate protection to victims before they're able to name their accuser, before that person is found, before that person is indicted. This would be a simple way of providing women -- particularly women, but also men and small children -- with some immediate justice, that they can get the treatment they need so

that they are not exposed to either a life-threatening illness or a sexually transmitted disease.

We can do that right now if we pass this amendment and we pay for this treatment. We don't have to wait for the person to come forward after they've been traumatized.

As we know, as Senator Adams has pointed out and many of us who have worked in law enforcement know, sometimes people can't come forward right away. But for those who can, who have the courage to come in, to seek treatment, we should provide them immediate access, free access to the prophylaxis treatment that they need. We can do that.

And I support this amendment. Thank you.

ACTING PRESIDENT YOUNG: Thank you, Senator Savino.

Senator Krueger, on the amendment.

SENATOR LIZ KRUEGER: Thank you, Madam President.

Well, I also want to thank Senator Duane for the amendment. It's so obvious that we need to make sure that the victims of

sexual assault get the prophylactic drugs that they need ASAP and that they need not to pay for them.

And of course if we were really having a serious discussion about what we need to do for victims of sexual assault, we'd also be talking about all the underfunding for counseling, for emergency room services, for training of police officers in forensic investigation and counseling of victims of sexual assault.

But I do have a question for Senator Duane on his amendment, if he would allow me to do so.

ACTING PRESIDENT YOUNG: Senator Krueger, I do want to remind you that there's a half-hour allotment for amendments, so we are getting very close or over the half-hour time. So if you could make it brief, that would be appreciated.

SENATOR LIZ KRUEGER: Very briefly, then. Thank you.

ACTING PRESIDENT YOUNG: Senator Duane, if you also could be brief.

SENATOR LIZ KRUEGER: Thank you.

Senator Duane, absent your amendment, which is new, why have you voted against this bill in the past?

SENATOR DUANE: Through you, Madam President. Because that legislation was, again, alleged-perpetrator-testing driven. And there are other flaws. It's an A print. It was flawed in other ways. It wasn't a good bill.

Thank you, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Duane.

Senator Volker, did you wish to speak on the amendment?

SENATOR VOLKER: Madam President, I just wanted to remind my good friend in front of me here, Senator Duane, the nurses asked me to -- they were going to come down here for just a couple of minutes, because they were afraid you might have a heart attack. They just advised me that you should probably quiet down just a little bit, because they were very concerned about you. I just want to tell you.

But they were watching on the TV,

and they said, "Senator Volker, would you just tell Senator Duane to take it easy?" I said, "Okay, I will go there and I will tell him." I just wanted to tell you that, okay? For the good of the order.

Thank you.

ACTING PRESIDENT YOUNG: Thank you, Senator Volker.

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

THE SECRETARY: Those recorded in agreement are Senators Adams, Breslin, Diaz, Dilan, Duane, Gonzalez, Hassell-Thompson, Huntley, C. Johnson, Klein, L. Krueger, Montgomery, Onorato, Oppenheimer, Perkins, Sabini, Savino, Schneiderman, Smith, Stachowski, Stavisky, Stewart-Cousins, Thompson and Valesky.

ACTING PRESIDENT YOUNG: The amendment is not agreed to.

Any other Senator wishing to be heard on the bill?

Senator Duane.

SENATOR DUANE: Thank you, Madam

President. On the bill, Madam President.

ACTING PRESIDENT YOUNG: On the bill.

SENATOR DUANE: You know, this is my ninth year here in the State Senate. And I'm -- you know, oftentimes behind anger there's sadness. And that's how I -- that's where I am now, Madam President.

You know, it used to be that -- and it still may be that I would have to -- and I don't want to upset the sergeants or my colleagues -- I'd go to my desk drawer, because this isn't my desk, but I think under the rules I'm allowed to go to my desk. I want to pull out something which I have which I've read on the floor many times.

ACTING PRESIDENT YOUNG: Senator Duane, I want to remind you that props are not allowed.

SENATOR DUANE: I'm sorry, Madam President?

ACTING PRESIDENT YOUNG: Are you using props? Is that what you're doing?

SENATOR DUANE: No, Madam President, I'm not pulling out the New York

Post or anything like that.

I'm pulling out the guidelines from the New York State Department of Health, AIDS Institute. I'm not going to read them. Although I have to say that still there is a lack of understanding among my colleagues on how it is that HIV is spread and how it's not spread.

And, I mean, I'm torn because I really believe that the only reason that -- and I'm not going to talk about this house or the other house or the Executive -- but in this house, that if people really understood how HIV is transmitted and what it is that we do to treat people who are HIV-infected or at risk of being HIV-infected -- it's interesting, Senator Saland raised the issue of a taxicab driver who was sexually assaulted. Which is terrible. Terrible.

But one of the reasons that I had to read how it was that HIV is transmitted is because some of you thought you could get it by casual contact in the course of just a regular job where there was no risk of exposure by blood saliva or sharing needles or

breast-feeding or anal intercourse or vaginal intercourse. Right? Remember? And so if you really understood, we wouldn't be talking about this bill.

Testing. Testing someone tells the victim nothing. Nothing. Nothing. In fact -- in fact, it may be harmful. In fact, you might tell a victim, Negative, came up negative, it's the wrong person. And she stops taking the prophylactic drugs. Why would we do that?

Positive tells nothing. Doesn't say whether she became positive, especially not if she takes prophylactics right away. And it may be the wrong person. Forget about the defendant. Forget about that person. Yeah, I don't think you should be just testing people, because that's wrong. But forget about that. I'm not even arguing on that.

I'm arguing on what is most helpful to the victim. And testing an alleged perpetrator -- or the actual perpetrator, for that matter -- is not helpful. Not helpful. Maybe it sounds good. But that's because you don't know how it's spread.

If we are helping the victim, this bill is a mirage. A mirage. You can keep grasping at it, right, but it doesn't give you what you need. Does not give you what you need. Looks good to a thirsty person; right? A mirage of a stream, a lake, looks good, but it's not going to help you. This bill is not going to help victims.

Forget about the AIDS groups, forget what they say. Right? Forget that. What about the groups who deal with women who are sexually assaulted? They're against it because they know it is unhelpful and in fact might be harmful. I don't know -- I mean, I don't know what else -- how else I could convince you, except on the merits.

Vote no. Vote no. You want to help victims? Vote no. You want to make sure people don't misunderstand about HIV transmission, let alone the criminal justice system? Vote no. Well, forget about that. Forget that. Forget that. You want to help victims; right? Vote no. Vote no. Help the victims, vote no.

Thank you, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Duane.

Senator Maltese.

SENATOR MALTESE: Madam President, while I respect very much the concern of my good colleague and the passion and the intensity of his remarks, I have consulted with Senator Saland, and I believe he's entitled to a great deal of credit for his legislation.

I have further spoken to Assemblywoman Nettie Mayersohn, whose courage and bravery in this general area is very notable and has been recognized in the past.

The fact of the matter is that this empowers the victim, gives a choice to the victim. If the perpetrator or the alleged perpetrator tests negative, she is advised is that she could consult with her physician. And she ultimately has the choice as to whether she continues treatment.

Madam President, I vote aye.

ACTING PRESIDENT YOUNG: Thank you, Senator Maltese.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

Senator Duane talked about being here for nine years. I've been here for seven of those nine. And each time we have had a discussion about how do we deal with the issues involving persons who are or potentially are infected or affected by HIV, we always come to this impasse.

And I am positive -- not HIV-positive, but I'm positive that there cannot be the level of -- I want to avoid the word "ignorance" -- but there cannot be the level of uninformed participants on that side of the aisle that you pretend that there is. Even if you have never had any experience, you must have read some of the literature. You had to have had advocates come and talk with you.

And while I have an appreciation for the fact that we're trying to be eligible for more federal funding, which is really at the heart of this whole thing, this is not the answer.

Prior to coming to the State

Senate, I was a nurse working with patients with HIV and AIDS and, over a period of 25 years, had worked with persons who were addicted to drugs. And many of those people, at the end of their lives and at that phase of my career, had developed HIV and AIDS.

But as Senator Duane continues to say over and over and over again, each one of them, were they here, would tell you that they did not get HIV by riding in the back of a cab or by -- the cab driver would not have become infected because they were riding in the cab. But yet we've had bills that have come asking us to give benefits to people who drive cabs.

It becomes important that we understand, from a health departmental -- you know, this perspective, and as legislators -- and we don't have to understand all the nuances. But the nuance that we do have to understand is that we have an obligation to be sure that we are well-informed and that the legislation that we put forth demonstrates that kind of knowledge.

You cannot believe that under those circumstances, if you've heard anything,

believe anything, you cannot believe that this bill will do what you say it will do.

And the thing that we fail to do when we pass legislation of this type is that we fail to protect the people who are victimized. Because that's who we commit to protect. That's who we say we commit to protect. This will not do anything for victims.

We didn't pass the amendment. And that makes me even sadder than it makes you, Tom. Because there's intelligence -- whether the bill is a good bill or not, there's an intelligence that we fail and a sensitivity that we fail to have when we look at how we pass legislation in this place. Particularly in this house. I don't take responsibility for what happens in the Assembly. I take responsibility for how we behave here.

And if we continue to pass a bill year after year, wouldn't you think that that meant that there was something flawed about the way in which we expect other people to respond to what we do in this house?

I will vote no on this bill, I will

continue to vote no, because it speaks to an arrogance that we have that we are not getting down to the basic level of humanity that we need to understand what we are doing.

And as much as I know we need federal funds and as much as I want us to be eligible for any funds that come into this state and that support this state, that's the last reason that we should be using as a rationale for why we do what we do.

There are women, particularly -- most specifically women -- who are victims every day of rape. And if we really are in tune to what is happening out there on our streets and to the people in our districts, we would have passed this amendment. But we certainly would put this bill on the side, take a look at the kinds of things that are missing in it, and bring back a bill that better reflects an understanding of who people are where we find them, and not who we think they ought to be based on some formula that is meaningless when you've become a victim.

Thank you, Madam President.

ACTING PRESIDENT YOUNG: Thank

you, Senator Hassell-Thompson.

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President.

Well, Senator Hassell-Thompson is right, we've debated this bill every year I think since I've been here, for five years.

And just to disagree slightly with my colleague, if this bill just did nothing for survivors, maybe I should chalk it off to any number of bills that passed this house where I think it's not going to do anything. But I would argue this bill is bad for survivors of sexual assault.

And it's not my opinion, it's healthcare professionals' opinions it's the opinion of the New York State Coalition Against Domestic Violence and the New York State Coalition Against Sexual Assault, organizations who work every day with people who are in fact the victims of sexual assault and who will tell us, straight up, that when you are the victim of sexual assault, you're often in shock. You have been traumatized physically and psychologically, brutally.

You walk into an emergency room -- hopefully, you walk into an emergency room. Hopefully you get the right kind of services and counseling. Hopefully the police have been trained to handle your case correctly. And then you are confronted by someone saying you need to start prophylactic drug treatment immediately and you need to keep taking those drugs for 28 days.

And that is the right medical-science advice that you should do that. But again, you've been traumatized and you want to put this all behind you. And you want to be in denial, perhaps. Or you just are angry and you don't want to have to deal with yet another problem to take drugs for 28 days -- which, as Senator Duane already pointed out, you might end up having to pay for.

And so if this bill gives you some false hope that some tests can be done on someone accused of being your rapist who might or might not have been your rapist, with a possible positive or negative outcome to the test that can be accurate or false, and you

see and hear that information and you think, Okay, one less issue to deal with, I don't have to take those drugs, I don't have to take the full course for 28 days, I have escaped that problem for myself -- that is the worst thing that the victim of sexual assault could do, to make that decision.

And every medical professional will tell us that that would be the worst decision for a victim of sexual assault to make, to not take the drugs or to stop the course of treatment before completion. Because the data shows that while it's not a guarantee, if you take the prophylactic drugs, that you will not end up with a sexually transmitted disease, HIV or other, that your chances of ending up with that disease are much, much lower if you complete the course of the prophylactic drug treatment.

So this bill can do serious harm and, frankly, double abuse a population of victims of sexual assault who have already been so abused and mistreated.

And so I have to vote no for this bill. And I have to urge my colleagues to

stop making arguments that can do further harm to people in the state who unfortunately, no matter how hard we try, we have yet to come up with the magic pill that prevents anyone from ever being sexually assaulted. But we can use good medicine and good science and good facts and not doubly harm them through a piece of legislation that would lead them to believe that maybe they are the one who doesn't have to take those drugs.

I vote no. Thank you, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Krueger.

Senator Diaz, you're next.

SENATOR DIAZ: Thank you, Madam President.

You know, sometimes I decide if I should speak or not, because I tend to say whatever is in my heart. And that sometimes makes people angry.

And many times I disagree with Senator Duane. Other times, I might agree with him. Today I agree with him and I also disagree with him. I want to tell you first

why I disagree with him.

I disagree with him today because I come from the hood. I'm from the hood. I grew up in the street. I was orphaned when I was nine years old. And in the hood I learned that to be a bully, you just raise the voice. And that might be an intimidation tactic.

If I didn't know Tom Duane, his fight, his struggle, I would say today he's using intimidating tactics, the way he puts the passion that he put. So I would say that because I come from the hood, to me it doesn't work, that kind of intimidating tactic. Because in the hood they say, you raise your voice, I will raise it more. You point your finger, I will point it back. That's the hood.

But I know Tom Duane. And I know his struggle. And I know why he becomes that passionate. So I would say that that is not an intimidating tactic, even though I come from the hood.

You understand what I'm saying? Sometimes you raise your voice and you think, people, ooh. Doesn't work on me. But Tom

Duane wasn't doing that. Because he has been struggling.

Now, what is it that I agree with him? I agree with him because I also -- this is my fourth year here. And I'm praying -- I'm a pastor. I'm a minister. I'm a preacher. And I'm praying for the day when both sides, Republican and Democratic sides, we agree to help, really, the community, to help, really help the people.

There are occasions where that side -- many occasions where that side, the Republican side, submits good bills, good bills, bills this would benefit our community. And because it is a Republican bill, this side goes against the bill. There are other occasions where this side, the Democratic side, submits some bill that's good for the community, good for the people, and because this is the Democratic side, that side doesn't support it.

And today Senator Tom Duane has submitted one of those magnificent, beautiful, wanted, needed amendments to help the community, to help a woman that has been

raped.

You all know me, I am against the morning-after pill and I'm against the Plan B. But when a woman gets raped, to get free services, to get free medical attention, and to take all -- to get all of the things that this amendment that Senator Duane proposes for the woman, that is a godsend. And I agree on that.

And today are one of those days where we are -- where we have lost, we have missed the opportunity to do something very good. Because it is a Democratic amendment, submitted by a Democratic Senator, that side decided not to support it. And that's what I'm praying for. I'm praying for the day when we all come together and it doesn't matter if it's Democrat, it doesn't matter if it's a Republican bill, let's support it when something is good that benefits the community.

What's best for a woman that has been raped, to get free services, free attention, free medication, and do all these things. What's best for the woman, not only for a black woman, not only for Hispanic, for

everybody in the state. That's why I'm saying we lost a good opportunity today to support something good.

I'm not always supporting Tom Duane. I'm not always supporting what he proposes. Today I am so sad that we missed a good opportunity to support a good bill. Senator Duane, I don't know if you could put that in a legislation, in a bill, and try to pass it as a bill, but that was a good thing.

So, Madam President, I am voting yes on the bill and I voted yes in the -- on Tom Duane's amendment. So I'm voting yes on both. Thank you.

ACTING PRESIDENT YOUNG: Thank you, Senator Diaz.

Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: Thank you, Madam President. Very briefly.

I think the debate on this issue is changing. And I would urge my colleagues on the other side of the aisle to take a look at the statements submitted to us by the groups that deal with sexual assault every day, that are people who spend their lives working to

help the victims of sexual assault, who oppose this bill.

This is not just a benign bill. This is not just a neutral bill. Ladies and gentlemen, you are passing a bill that will hurt some victims -- not all, perhaps, but some. And this bill I think comes into the category of willful ignorance. This is against science. This is against health policy.

Once again, every lawyer in this room knows that the provisions of this bill provide no relief of any meaningful kind for any victim of sexual assault. The notion that someone who is traumatized by a sexual assault then must submit a request in writing, after having waited for an indictment, and then notice has to be given to the defendant, the defendant has an opportunity to respond, that this will do anything positive for a victim -- it won't.

What it will do, it provides the possibility that a victim may wrongfully seize on this as a false hope. This is the "false hope for victims of sexual assault bill." You

want to vote for that? You want to give people false hope?

How many people are you going to hurt with this bill if it became law? How many people will delay taking the treatment we know they need immediately with the false hope that, Oh, maybe I don't have to go through all that, maybe I don't have to pay for it because perhaps the victim will test negative. How many people will be hurt because the victim tests negative but that victim is in the window period?

HIV tests do not test for the virus, it tests for the antibodies the body produces. And there are people who have HIV but haven't started to produce the antibodies yet, and that group are the people in which the virus is the most virulent.

How many victims are going to get HIV because of this bill? I don't know. But even one is too many.

This is a bad bill. This is not a benign bill. This gives false hope. It is against science. It is against public health policy. It is opposed by the people who are

working every day to help the victims of sexual assault.

I think you should withdraw this bill, and I say this knowing that the sponsor is someone who believes in education, who believes in science, who believes in good public health policy. It tells you nothing to wait this long and get a test, but this holds out the hope for a traumatized victim: maybe you can avoid the treatment, maybe you can avoid dealing with the fact that you might have HIV.

Some victim is going to get HIV if you pass this bill and it becomes law, and it's our fault.

I urge everyone to vote no.

ACTING PRESIDENT YOUNG: Thank you, Senator Schneiderman.

Any other Senator wish to be heard?

Senator Stavisky.

SENATOR STAVISKY: Let me just comment very briefly on the bill.

I commend Senator Duane for his amendment, and I truly hope that someday we will be smart enough to enact such a measure.

What bothers me listening to the debate here today is the stigma of the terrible AIDS and HIV crisis that we have. I believe we have more people suffering from HIV/AIDS in New York City, somewhere in the neighborhood of a hundred thousand people, than anywhere else the country.

And yet it should be treated, as far as I believe, like any other disease. It's a disease, period. It's a disease that we've got to prevent and we've got to treat.

I too voted for Senator Duane's amendment, and I commend him for the amendment. And I truly wish that were the choice we had today. But that's not it. Unfortunately, we have a choice to make here, and I'm going to vote for the bill.

And I commend Assemblywoman Nettie Mayersohn, with whom I share a district, for the work that she has done over the years, to work this -- and, believe it or not, Tom, the same concern for victims. Because they're my concern also, the victims of abuse as well as the victims of every dreaded disease.

Thank you, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Stavisky.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. I rise to speak on the legislation.

This obviously, HIV testing and AIDS and HIV infection, people affected with this disease are really -- this is really the major health issue in my district, parts of my district in certain communities. And HIV testing is extremely important. It's an issue that we talk about all the time.

We've tried to get ministers in our churches to become involved in the issue, urging people to be tested. We've tried to talk to our communities about the fact that we should not view AIDS testing as a stigmatized process.

I have personally offered, along with my city councilwoman, along with other women's organizations, to go ourselves, deliberately, publicly to be tested so as to encourage other people to be tested, to use ourselves as an example. And so this is

really a very serious issue.

But what this legislation does unfortunately is connects testing with a criminal act. And this is very unfortunate, because it sets us back in our effort to destigmatize this process. It is a normal health exam that people should receive -- not because they've committed a crime, but because we want to intercede and to prevent, to provide early intervention with this disease.

So I'm very saddened that we have used this legislation to in fact hinder the progress that we've made in the area of HIV testing and AIDS prevention.

Now, I note in this bill -- and maybe I'm misreading it, but it says, on page 2, line 4: "Any request made by the victim pursuant to this section must be in writing, filed with the court, within six months of the date of the crimes charged."

So the way that I understand this is that in order for us to require this test, you know, you wait six months, you have to do it in writing, you present it to the accused person. And if the accused person, you can't

find them, you submit it to the lawyer, the attorney or whatever.

So I'm not sure what this is trying to do. I'm not sure who this is trying to help. And I certainly know that if this is the bill that gets publicized and people see in the paper where this process, this HIV testing is associated with a criminal act, it's going to set our progress back in terms of trying to get people to feel good about being tested.

So I must oppose this, because it goes against everything that we've tried to do in communities that most need universal HIV testing, access to it, and treatment. So I will oppose this legislation, Madam President.

Thank you.

ACTING PRESIDENT YOUNG: Thank you, Senator Montgomery.

Any Senator wishing to be heard?

Then Senator Saland, to close.

SENATOR SALAND: Thank you, Madam President.

Madam President, I've certainly listened intently to the debate, including the

debate which we engaged in on the amendment. I heard lots of things that have been said, certainly some of them very passionately and certainly reflecting deep-seated beliefs.

Let me suggest to you that I've been here longer than five years, longer than seven years, longer than nine years. I've been here for some 27 years. And during that time there's been one continuous thread through all the legislation that I have dealt with, both in this house and when I served previously in the Assembly, and it was a constant concern for the rights of victims, whether they be women, whether they be children. It probably reflects the fact that when I was practicing as a lawyer I had the misfortune of having to handle child abuse cases, on occasion, for my county.

Some of the characterization of this bill certainly I find to be -- I'll give it credit for being earnest, but I certainly would respectfully disagree with the logic. Passion doesn't necessarily replace logic.

Probably about an hour and a half ago I went through an explanation of this

bill, at which time I believe I pointed out that this is about giving people the opportunity to make choices, intelligent choices. This is about not ignoring a victim who has been subjected to the most heinous and vile of acts, who has a desire, rightfully or wrongfully -- some of you believe wrongfully -- to have his or her, and almost invariably her, assailant tested.

I would just like to call your attention, this is about choice. This is -- much of what I heard basically went to the issue of the intellectual capacity, the intelligence quotient, of people who are victims. That somehow or other these were mindless people who could easily be deluded or deceived into believing that they were going to be placed at greater risk by taking advantage of the provisions of this bill.

I find that incredulous, to be perfectly honest with you. And I find it particularly incredulous coming from some of the members from whom I heard it.

Now, let me remind you again that there is a procedure here and that procedure

takes great pains to ensure that the victim will have an informed or intelligent choice. I call your attention to Section 5 of the bill. I won't bore you with it. Ah, you know what? Let me bore you for a moment or two.

That section deals with the application that the victim must make. And among other things, what it says -- and I believe some hour and a half ago I probably made this part of the record -- that the applicant -- and I'll use "her" application -- must state that she has been offered pre-HIV test counseling and post-HIV test counseling by a public health officer, in accordance with Article 27F of the Public Health Law, and has been advised in accordance with any guidelines that may be issued by the Commissioner of Health of, one, the limitations on the information to be obtained through an HIV test on the proposed subject; two, current scientific assessments of the risks of transmission of HIV from the exposure he or she may have experienced; and, three, the need for the applicant to undergo HIV-related testing to definitively determine his or her

HIV status.

The very same federal report that I made reference to a bit earlier mentioned that significant numbers of people, notwithstanding the wisdom of undergoing this prophylaxis, choose to opt out somewhere along the line. It may well be side effects, it may well be potential toxicity. But some of them choose to opt out.

These are decisions that you or I may disagree with, but these are decisions that were made without this bill even being on the books, without this bill being law. People make decisions. All you can do is give them the opportunity to make intelligent choices. This bill enables people to make intelligent choices. This bill enables the victim of the vilest type of violation, where she or he wishes to, to have the opportunity to have that assailant tested.

If, based upon the information they receive, they decide they don't want to pursue it, they don't have to. If, based upon the information they receive, they decide they want to pursue it, why would anybody want to

deny them that opportunity? You'd rather they wait years until after a conviction? Let me figure out the wisdom of that.

Thank you, Madam President. I certainly vote in favor of the bill, which I obviously am the sponsor of. Thank you.

ACTING PRESIDENT YOUNG: Thank you, Senator Saland.

The debate is closed.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Senator Duane, to explain his vote.

SENATOR DUANE: Thank you, Madam President.

I just -- you know, the victims that we're talking about are all the same victims. They're all smart. They're all traumatized, but they're all smart, and

they're able to make the best decisions for themselves.

You know, I wish that when I got infected in the late '70s, early '80s, that a prophylactic existed at all that I could have taken within 36 hours so I wouldn't be in the fix that I'm in now. No matter who my partner was. I don't care. They didn't do it on purpose to me. But I wish I could have not seroconverted.

And I know there are some people -- and I hope, and, you know, I don't think it's anyone here -- think that I'm here to protect the HIV-positive predators, that that's my job. But that's not why I'm here. I'm here to stop the transmission of HIV. I mean, that's a big part of my life's work. That's why I disclosed -- that's why, frankly, I'm probably sort of unemployable and uninsurable if I leave here.

So I'm here so that less people get into the same fix that I'm in, and that those who are get treatment as fast as possible.

I'll be voting no, Madam President.

ACTING PRESIDENT YOUNG: Thank

you, Senator Duane.

Senator Montgomery, to explain her vote.

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

I first want to thank Senator Duane for his passion on this. But I want to send a message to all of those ministers that I've tried to convince and influence to be involved in getting our churches and parishioners and citizens involved in testing.

Because while the sex offense -- the victims of sexual abuse and rape are extremely important, it's important for us to address that, I have thousands and thousands of other victims, not of rape, but of having encounters with people who are HIV-positive and they don't know it. It's consensual, Madam President. It's those people who engage in consensual relationships where they do not know, they do not have the knowledge of the status of their partners. Those are the victims that I speak to.

I do not want any leader in my district, my community, to back away from the

fact that everyone should be tested. It should not be a matter of whether or not you've committed a crime. It should be a matter that we want to stem this disease for which we have no cure.

So I'm voting no. I do not want you to think that I'm voting against victims of rape. I am voting for the victims who are victimized simply because they do not know the status of their partners.

I vote no.

ACTING PRESIDENT YOUNG: Thank you, Senator Montgomery. You will be recorded as a no.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1043 are Senators Breslin, Dilan, Duane, Gonzalez, Hassell-Thompson, Huntley, L. Krueger, Montgomery, Oppenheimer, Parker, Perkins, Sabini, Schneiderman and Smith.

Absent from voting: Senators Connor and C. Kruger.

Ayes, 44. Nays, 14.

ACTING PRESIDENT YOUNG: The bill

is passed.

That completes the controversial calendar, Senator Libous.

SENATOR LIBOUS: Madam President, could we please return to motions and resolutions.

Senator Griffo has Resolution Number 2815 at the desk. And could we have the title read, please.

ACTING PRESIDENT YOUNG: Motions and resolutions.

The Secretary will read.

THE SECRETARY: By Senators Griffo, Bonacic, Larkin, Libous, Seward and Valesky, Legislative Resolution Number 2815, urging the New York State Congressional Delegation to repeal or modify certain provisions of the Energy Policy Act of 2005, and opposing the designation of national interest electric transmission corridors.

ACTING PRESIDENT YOUNG: Senator Griffo, on the resolution.

SENATOR GRIFFO: Madam President, we all know that there's a great importance to development of a comprehensive energy policy,

and we're hopeful that the Governor will give that his attention and focus his resources to help to craft a comprehensive energy policy.

As a result of that right now being somewhat missing, we have a number of different proposals which really can cause problems across this state. We in an eight-county area are suffering with a proposal that would have a negative impact economically, environmentally and from a health perspective.

This resolution essentially talks about the Energy Policy Act of 2005. What should be of most concern is it allows the federal government in many instances to override what our own Public Service Commission would be doing relative to transmission in other areas once the area is designated as a national interest corridor.

So today, to give you an example, my concern is that there seems an arrogance on the part of the federal government. Today they hold a hearing outside of the area impacted by this particular proposal that we are confronting right now, and they will allow

people only two minutes to speak. So to me, it's a sham. It doesn't really indicate that there's a willingness or a responsiveness to understand and heed the concerns of the people that will be impacted by this type of a proposal.

So what we are requesting here, and hopefully we will have people join us, is that we revisit the Energy Policy Act of 2005, that we look at the areas that are really infringing upon states' rights. And I think that's really important and essential that we ensure that states' rights are protected and we work very hard to continue to focus our energies on the creation of a comprehensive energy policy that will serve the interests of this state from a variety of means, from alternative energy, from conservation, from generation and a number of other factors.

So I hope that we can gain support. I know there are a number of other of my colleagues who are also impacted by this.

Thank you, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Griffo.

Senator Bonacic, on the resolution.

SENATOR BONACIC: Thank you, Madam President.

I too join with Senator Griffo to protest the NYRI line that flies in conflict with the will of the people in eight counties. The county legislatures have voted no against this line. The constituents that live in the eight counties, close to 2 million people, almost unanimously have voted no.

The Public Service Commission of the State of New York has rejected the NYRI application as incomplete. This Legislature has voted to take away NYRI-like transporter companies, their right of eminent domain, which Governor Pataki signed into law.

Having said all of that, NYRI goes, with their high-powered lobbyists and lawyers, to Washington, and they get a designation of a national corridor. And inherent in that designation, these are the things that happen.

Number one, they tell the State of New York that they do have the right of eminent domain and they can roll the State of New York and trample the rights of the

constituents and of this body in forcing this power line through eight counties.

By the fact that the Department of Energy declared that this was a national corridor, it created an energy tax on 2 million people, by raising the energy rates upstate by 5 to 7 percent if this project goes forward and lowering the rates in New York City to bring more power.

This is bad public policy. We in this Legislature and the government in this Legislature and the Governor have the vision and the responsibility to meet the energy demands of the whole state, including the City of New York. And we believe that the best way to do that is the Article X siting process where you put the plants closer to the areas where the demand is.

In addition, the independent power grid has indicated that New York City will not need the increased power for at least a decade. And there's four or five other projects out there, coming from Pennsylvania, Jersey and other parts.

But no, NYRI, a bunch of foreign

investors, arrogant, motivated by greed, doesn't care about the will of the people, wants to jam us with this project.

What this resolution says is we will stand together. Pennsylvania has said no. We are saying no.

And you know, the irony, the Department of Energy held two hearings, one in Manhattan and one today in Rochester. Not one in the affected area, from Utica up including the eight counties into Orange County. They don't dare come in and have a public hearing and face the people to hear the people's concerns. To me, they don't want to hear.

So I join with Senator Griffo, Senator Libous, Senator Larkin, Senator Valesky, and Senator Seward. We are one to fight this line, and we will continue to fight it. And this Majority in this house has put up a million dollars so far, as well as the counties have put up money. Individual people whose lives and property are affected have contributed to this war chest.

So if our federal officials cannot get it done in stopping this line in

Washington, I think at some point we're going to have to step up and increase the war chest and have a lawsuit in the federal court to declare Washington's Energy Act unconstitutional as it tramples states' rights.

So the fight continues, and we are committed to stopping NYRI kinds of lines that contaminate our environment, hurt our property values, raise our rates upstate, and are questionable as to health hazards.

For all those reasons, I thank Senator Griffo for bringing this forward, and I vote yes.

Thank you, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Bonacic.

Senator Seward, on the resolution.

SENATOR SEWARD: Thank you, Madam President.

I join with Senator Griffo and my other colleagues in supporting this resolution and speaking out against the NYRI line and also speaking out against the federal involvement in what should be a state issue.

For the past 15 months or so, those people in the eight counties that are impacted by this proposed NYRI line have truly been under assault, because this proposal has all negatives for those eight counties and the people that call those eight counties home. It impacts the aesthetics and the environment of our area and also negatively impacts our economy.

And we have a perfectly good process at the Public Service Commission right here in New York State. We have been directing efforts at the state level to fight this line. The PSC has heard our pleas. They have in fact declared the application of NYRI incomplete.

But the NYRI group, as Senator Bonacic says, of foreign investors, they're making an end run around New York State and our process here. They've gone to the federal government to have this area declared one of these federal energy transmission corridors. This is an end run around the people of these eight counties and the people of New York State.

But the federal law allows that, and this is why this resolution is so critical. Because in this resolution we are asking our Congressional delegation to change the federal law to bring back the --

ACTING PRESIDENT YOUNG: Excuse me, Senator Seward.

Could we have some order in the chamber, please. What the Senator is saying is very important.

SENATOR SEWARD: Thank you, Madam President.

We're asking our federal representatives to change the law so as to bring back our right as a state and as a people to determine our own energy future and make these decisions right here in New York State.

Because there are better ways than building this transmission line. Conservation, new generation, a route for a line that does not so negatively impact so many people. There are many other routes to go.

So this resolution is critically

important to eight counties, but it could happen anywhere in New York State. We are all under, potentially, assault by this federal law. We need to see the law changed.

With this resolution, Pennsylvania has passed an identical one, so we are looking to join with other states to stand up to the federal government and say we will make energy decisions for ourselves and we're perfectly capable of doing so on behalf of our people.

So, Madam President, I'm fully supportive of this resolution. It's very, very important to our people. And I urge its passage.

ACTING PRESIDENT YOUNG: Thank you, Senator Seward.

Senator Valesky.

SENATOR VALESKY: Thank you, Madam President. On the resolution, a couple of observations.

First of all, I want to thank Senator Griffo for bringing this resolution for the floor and thank my colleagues Senator Bonacic, Senator Seward, Senator Libous, Senator Larkin.

This is an example -- and there's certainly no need for me to repeat the myriad of reasons to support this resolution and to oppose the power line proposal. Let me observe that this is a perfect opportunity to stress what bipartisan cooperation can do at all levels of government, local and state. Elected officials coming together, working on behalf of their constituents to fight a project that would be devastating to communities throughout this region.

Let me also state for the record the effort and support that grassroots organizations throughout these eight counties have done in fighting the NYRI project. It is truly remarkable, and they need to be applauded at every turn.

And finally, I want to speak just for a moment on the process of bringing this resolution to the floor. Because as we all know, each week we consider resolutions that honor individuals for significant achievements, congratulate couples on milestone wedding anniversaries, salute and honor New Yorkers who deserve special

recognition. And of course that becomes an official part of the record of the State of New York.

But what we do not do often is take up a resolution like this on the floor, a resolution that memorializes Congress to take action. And I think that's appropriate. I think that we should save that type of a resolution for instances that are so egregious or actions from the federal government that are so egregious that states such as the State of New York, the State of Pennsylvania, see fit to memorialize their members of their Congressional delegation to overturn that type of action.

And that is exactly what we are doing today. We are urging the federal government to right a wrong that they made a couple of years ago. This proposal, the regional interconnect proposal, is wrong. And the fact that the federal government could step in and overturn what the State of New York does is wrong as well.

So again, thank you, Senator Griffo, for bringing this resolution to the

floor. And I know that my colleagues will continue to work together, and we will continue to take whatever action is necessary to fight this project.

Thank you very much, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Valesky.

Senator Duane.

SENATOR DUANE: Thank you, Madam President.

I very much agree with what all of my colleagues have said about this resolution. It's absolutely true that the interference in New York State on the part of the federal government is wrong and outrageous.

And I also want to make the point that this is not, should not be, and cannot be upstate versus downstate. Because we're actually one state, one state that has power needs and one state which needs to protect its economy and its rights. And in fact, there are other ways to bring power, to the extent that it's needed in New York City, to New York City. Which, as is so often the case, have

not been adequately addressed and which would provide appropriate avenues to bring power to New York City.

So I commend the authors of this resolution. It is right on target. And I want to say that if the roles were reversed, that as many of us who are standing with our colleagues from upstate are standing with them now, so too am I sure that they would stand with us.

Thank you, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Duane.

Senator Libous.

SENATOR LIBOUS: Thank you, Madam President.

I too want to congratulate and thank Senator Griffo and join with my colleagues in this resolution.

And I don't want to repeat everything that they have said. But I guess my concern deals around the arrogance of the federal government and the Department of Energy. It goes back to what some of my colleagues said.

To have two hearings on this issue, to have one in New York City and one in Rochester, which is outside of the corridor, where there are people who are within the corridor who have legitimate concerns that have been expressed by a number of hearings that this body has held -- and again, as Senator Valesky has said, they have been bipartisan. They have been with members of both sides of the aisle. They have been with members of the Assembly and both political parties.

And it is an issue where I can't find anyone who's in favor of this except for the people from NYRI and the investors who stand to make millions of dollars.

And I think one of the hidden things -- and maybe it was mentioned by one of my colleagues -- but what happens to upstate and the Hudson Valley under this is that our utility rates, our rates will go up if this project goes through. And we have some of the highest utility rates right now in the state. We can't afford individuals to pay any more than they already do when it comes to

utilities in this state.

So, Madam President, again, I stress on the arrogance of big government, the federal government in this case, the Department of Energy, who would snub their noses at our constituency and dare have a hearing on an issue -- it would be like us having hearings on a piece of legislation and going to the state of Pennsylvania as they affect New York State.

That's what they're doing to us. They're going outside of the area so that tonight in Rochester people from my district and my colleagues' districts cannot attend, making it inconvenient to hear -- and then as Senator Griffo mentioned, they have two minutes to testify. Two minutes to testify on such an important issue. Unheard of.

So it is with great enthusiasm and anger that I support this resolution with my colleagues and send a message to Congress, send a message to the Department of Energy and to anyone who will listen in the federal government: Please, don't be arrogant on this issue. It affects many citizens within the

corridor, people that we represent, people that can't pay higher utility rates, people that are fed up with the arrogance of big government.

ACTING PRESIDENT YOUNG: Thank you, Senator Libous.

Senator Marcellino, on the resolution.

SENATOR MARCELLINO: Thank you, Madam President.

I also rise to support this resolution. We in the downstate region -- it was mentioned earlier that we shouldn't be pitting upstate versus downstate. I agree. In the downstate region we're fighting a proposal by the federal government to put a floating liquified natural gas facility in the middle of Long Island Sound, called Broadwater.

This is a situation where the federal government is imposing its will on the locality. They simply don't want to talk to us, they simply will not talk to us, they simply are ignoring the wishes of the region and simply saying, We need alternative energy,

we need to do this, therefore you locals, you're all NIMBYs, you're all going to say no anyway, you're not going to give us alternatives, you're going to say no, so therefore we're going to push it down your throats whether you want it or not, whether you have viable alternatives or not.

This is what is going on right now. You see it here in the upstate region. We are facing it in the downstate region. This is due to the simple lack of a cohesive energy policy on the part of this government. The federal government does not have a cohesive energy policy.

The liquified natural gas, by the way, that they're trying to impose upon the downstate area to relieve us of fossil fuel reliance is fine liquified natural gas. So far from relieving us from the reliance of other sources, it's putting us more dependent upon outside sources for energy. It's not a good thing for this country, and it's not a good thing for the region.

This resolution telling our federal elected officials to go back to the table and

make an energy policy that is meaningful, one that works, one that includes the wishes and the desires and the concerns of the localities -- because believe it or not, the locals know best what goes or what should go into their areas and into their communities. We need this resolution to be taken seriously.

A unanimous vote in support of this resolution will go a long way to tell our federal representatives and to tell the federal government it's time, enough is enough, it's time for them to develop a cohesive energy policy in this country. We need one desperately.

Thank you, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Marcellino.

Senator Larkin, on the resolution.

SENATOR LARKIN: Thank you, Madam President.

You know, there are people saying that -- and Senator Duane said New York City needs power. But I never see New York say: Build the generators in my backyard.

We're past that "my backyard."

I've got correspondence from the Secretary of Energy's office where in fact he's just kind of said, Don't worry about it, we'll do what we want and you'll have to live with it.

That's our trouble. There was just a major meeting in Washington on this, and a Congressman from our area couldn't get his Democratic Congressmen to help him pass the bill. Senator Serrano's father said this is a bigger issue than upstate New York. Well, I don't think it's a bigger issue.

The issue we're talking about -- then you heard Carl Marcellino talk about his issue. When do we sit down and tell the federal government, with our Congress, who said we're now in the majority, let's do something? Let's get down to facts and say what we're going to do to help the people.

My colleague John Bonacic testified at a hearing last week, and I thought John just put his head out the window. Because when I heard it, John just made no bones about it. You know, get off our back and do something.

This is a serious issue. And, you

know, you want us to help you in Washington? We want you to help us here. This is a matter of utmost importance to us not in just the Hudson Valley, but it comes from Utica down and it comes into my territory after it passes John's. And the attitude is, you know, you're just helping New York City.

No, you're not. Because if you want to help New York City, then let the City Council come up and say to us, We want to build systems in New York City. That's what they want, I'll support it.

I want every one of you on that side of the aisle to join with us. Because it's serious for us. Because today it's us; tomorrow it will be you. And then you'll be asking us for help. Just remember '75 and the bailout. Upstate hung together and helped New York City on their bailout.

This is a bailout. This is telling the federal government we are not going to be pushed around. We have an issue that involves our health, it involves our cost of energy, and it also calls a little bit of rumbling over us. The Energy Department, they could

care less.

And when you think that we had a resolution in Congress and we couldn't get our members in the majority to rally around one of their own members, and they let something very precious to us be defeated. So I would hope that you in this chamber would stand up and join us and say, unanimously, we support this resolution.

Thank you, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Larkin.

The question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT YOUNG: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT YOUNG: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Could we, Madam President, return to motions and resolutions. I believe we have some housekeeping. And call on Senator Farley, please.

ACTING PRESIDENT YOUNG: Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

On behalf of Senator Nozzolio, I wish to call up his bill, Print Number 5000, recalled from the Assembly, and it's now at the desk.

ACTING PRESIDENT YOUNG: The Secretary will read.

THE SECRETARY: Calendar Number 1079, by Senator Nozzolio, Senate Print 5000, an act in relation to legalizing.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

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

ACTING PRESIDENT YOUNG: The amendments are received.

Senator Libous.

SENATOR LIBOUS: Madam President, would you recognize Senator Duane, please.

ACTING PRESIDENT YOUNG: Senator Duane.

SENATOR DUANE: Madam President, would you recognize Senator Dilan.

ACTING PRESIDENT YOUNG: Senator Dilan.

SENATOR DILAN: Madam President, there will be an immediate meeting of the Minority conference in the Minority Conference Room, Room 315.

ACTING PRESIDENT YOUNG: Immediate meeting of the Minority conference in the Minority Conference Room, Room 315.

The Senate will stand at ease.

Or no, I'm sorry. Senator Libous.

SENATOR LIBOUS: I think, Madam President, you're doing an outstanding job. Would you go ahead and call as you -- the Senate will stand at ease temporarily.

ACTING PRESIDENT YOUNG: The Senate will stand at ease.

(Whereupon, the Senate stood at

ease at 5:43 p.m.)

(Whereupon, the Senate reconvened at 6:31 p.m.)

ACTING PRESIDENT MAZIARZ: The Senate will come to order.

Senator DeFrancisco.

SENATOR DeFRANCISCO: May we please have the reading of the noncontroversial supplemental calendar.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 376, by Senator DeFrancisco, Senate Print 2067, an act to amend the Judiciary Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 376 are Senators Duane, LaValle, Maltese, Padavan, Rath, Saland and Volker.

ACTING PRESIDENT MAZIARZ: Senator DeFrancisco.

SENATOR DeFRANCISCO: To explain my vote.

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

SENATOR DeFRANCISCO: Back about ten years ago, there was an end of an experiment for a temporary cameras in the courtroom period of time. And at the conclusion of that experiment, a report was issued which indicated that the recommendation was for this to continue.

It hasn't continued over the last ten years. And in that ten years, many things have happened with respect to openness of government. The proceedings that we have here in chambers are all open to the public and televised. The same is true of the Assembly. The leaders' meetings that are public are televised, as are many of the joint conference committee meetings.

This is another step towards the openness of government. It is also a bill that protects those who need to be protected.

But it gives no one a veto power over cameras in the courtroom. It's up to the sound discretion of the judge. And it lists various factors that the judge must consider.

And in fact, sensitive witnesses and undercover agents and the like, they will have protection by either obscuring the view of their faces or turning off the audio that may be all that's being done in the course of that proceeding.

So this I believe is a very good bill. It's in the discretion of the judges. In addition, it calls for training for judges. And it also calls for monitoring by the Office of Court Administration to make sure it is working as intended.

I vote aye.

ACTING PRESIDENT MAZIARZ: Senator DeFrancisco will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 52. Nays, 7.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1598, by Senator Larkin, Senate Print 1919, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1599, by Senator Little, Senate Print 4083B, an act to amend Chapter 80 of the Laws of 2000 amending the Education Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number --

ACTING PRESIDENT MAZIARZ: Senator DeFrancisco.

SENATOR DeFRANCISCO: May I just explain my vote.

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

SENATOR DeFRANCISCO: This is 1599; correct?

ACTING PRESIDENT MAZIARZ: Yes.

SENATOR DeFRANCISCO: I just wanted to explain, in that I voted yes and it's a very good vote. And I think it's a good bill.

However, as I said the last time we extended this particular bill, the three-year waiver of citizenship, I made the same comments. We should provide for more veterinary schools so that we are in a position to have people go to vet school.

It's one of the most difficult things that you can get into. In fact, it's

more difficult than med school, in many instances. We have many people that are disappointed in our country because they can't get into a veterinary school because they don't have enough spaces.

So hopefully this will be the last extension and we'll do what we should have done many, many years ago, provide more opportunities for our residents to become veterinarians, especially the residents who truly want to do it but are unable to because of the lack of space.

Thank you.

ACTING PRESIDENT MAZIARZ: Senator DeFrancisco will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 59. Nays, 0.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1600, by Senator Libous, Senate Print 4321, an act appointing certain individuals.

ACTING PRESIDENT MAZIARZ: There

is a home-rule message at the desk.

Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1601, by Senator Nozzolio, Senate Print 5450, an act to amend the Correction Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1602, by Senator Young, Senate Print 5684, an

act to amend the Agriculture and Markets Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1605, by the Senate Committee on Rules, Senate Print 5798, an act to amend the Tax Law.

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

Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MAZIARZ: The

bill is passed.

THE SECRETARY: Calendar Number 1606, by Senator Golden, Senate Print 5911, an act to amend Chapter 642 of the Laws of 2004.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1607, by the Senate Committee on Rules, Senate Print 5925, an act to amend the Tax Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1608, by Senator DeFrancisco, Senate Print 5967, an act to amend the Surrogate's Court Procedure Act.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1609, by Senator Leibell, Senate Print 5984, an act to amend the Waterfront Commission Act.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 4. This act shall take effect upon enactment into law

by the State of New Jersey.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1610, by Senator Skelos, Senate Print 6038, an act to authorize Gibson Meeting Halls, Inc.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 57. Nays, 2. Senators Larkin and Rath recorded in the negative.

ACTING PRESIDENT MAZIARZ: The

bill is passed.

THE SECRETARY: Calendar Number 1611, by Senator Alesi, Senate Print 6039, an act to amend the Highway Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1612, by Senator Larkin, Senate Print 428, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

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

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1613, by Senator Flanagan, Senate Print 687, an act to amend the Education Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1614, by Senator Breslin, Senate Print 800, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1615, by Senator Maltese, Senate Print 808, an act to amend the Public Officers Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1617, by Senator Fuschillo, Senate Print 1529, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1618, by Senator Rath, Senate Print 1866, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1619, Senator Alesi moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 2953 and substitute it for the identical Senate Bill Number 1914, Third Reading Calendar 1619.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1619, by Member of the Assembly Schimminger, Assembly Print Number 2953, an act in relation to directing.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1620, by Senator DeFrancisco, Senate Print 2878, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1621, by Senator Rath, Senate Print 2962, an act to amend the Tax Law.

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

Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1621 are Senators Duane, Hassell-Thompson, and L. Krueger.

Ayes, 56. Nays, 3.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1622, by Senator Maziarz, Senate Print 3104, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1624, by Senator Lanza, Senate Print 3574, an act to amend the Tax Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1625, by Senator Leibell, Senate Print 3650, an act to amend the Executive Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1626, by Senator Seward, Senate Print 3944, an act to amend the Tax Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1627, by Senator Winner, Senate Print 4325, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1628, Senator Skelos moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 7451 and substitute it

for the identical Senate Print Number 4482, Third Reading Calendar 1628.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1628, by Member of the Assembly Farrell, Assembly Print Number 7451, an act to amend the Tax Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1629, by Senator Skelos, Senate Print 4488, an act to authorize Young Israel of West Hempstead.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 57. Nays, 2. Senators Larkin and Rath recorded in the negative.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1630, by Senator Padavan, Senate Print 4639A, an act to amend the Tax Law.

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

The Secretary will read the last section.

THE SECRETARY: Section 5. This act shall take effect on the first day of a sales tax quarterly period.

ACTING PRESIDENT MAZIARZ: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1632, by Senator Seward, Senate Print 4791, an act to amend the Tax Law.

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

Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: In relation to Calendar Number 1362, those recorded in the negative are Senators Duane, Hassell-Thompson and L. Krueger.

Ayes, 56. Nays, 3.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1634, by the Senate Committee on Rules, Senate Print Number 4859, an act to authorize the City of Olean.

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

Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Returning to Calendar Number 1633, by Senator Saland, Senate Print 4829, an act to amend the Town Law.

ACTING PRESIDENT MAZIARZ: There

is a home-rule message at the desk.

Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

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

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1636, by Senator Trunzo, Senate Print 5859, an act in relation to authorizing the Village of Bellport.

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

Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1638, by Senator Saland, Senate Print 5998A, an act to amend the Education Law and others.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 21. This act --

ACTING PRESIDENT MAZIARZ: I'm sorry. Senator Saland, why do you rise?

SENATOR SALAND: To explain my vote.

ACTING PRESIDENT MAZIARZ: Senator Saland, to explain his vote.

Read the last section.

THE SECRETARY: Section 21. This act shall take effect July 21, 2008.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ:

Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, this is a very important real property tax relief measure, a measure which accomplishes not only tax relief but relieves school districts throughout New York, from New York City to the Adirondacks to Buffalo, from an unfunded mandate that they have long complained about, which is a requirement for them to pay a portion of their revenues to help fund the employer share of the retirement system, a number that varies from year to year and a number over the course of the past several years that has been considerably higher than a few years ago.

What this measure does is to provide for a phase-in over a period of three years whereby the state will relieve that onerous responsibility from the backs of local school districts. It will mean somewhere in the area, based on current numbers, of about $2.6 billion in tax relief. When fully phased in, the City of New York will see its real

property tax and PIT similarly reduced in proportion that they bear to each other.

And this measure is certainly one that builds on the STAR tax rebate proposal that I had announced back in December of '05. And the combination of the two, when fully phased in, would amount to some $4 billion in tax relief, a sizable amount.

The dollars that were saved by the state picking up the contribution that would have otherwise been made by the local school district would be required to be used to reduce the local tax levy. So that that amount of money that would amount to the employer contribution would be required by law to correspondingly reduce the local tax levy, and therein provides the means by which there will be relief in every school district in the state.

Thank you very much, Mr. President. And obviously I am most supportive of this bill.

ACTING PRESIDENT MAZIARZ: Senator Saland will be recorded in the affirmative.

Announce the results.

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

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator DeFrancisco, that completes the reading of the supplemental active list.

SENATOR DeFRANCISCO: Would you recognize Senator Leibell, please.

ACTING PRESIDENT MAZIARZ: Senator Leibell.

SENATOR LEIBELL: Thank you, Mr. President.

I was out of the chamber, pursuant to Rule 9, at a conference committee, on Calendar 376, Senate 2067, cameras in the courtroom. I'd like to be recorded as in the negative.

ACTING PRESIDENT MAZIARZ: The record will so reflect.

SENATOR LEIBELL: Thank you.

SENATOR DeFRANCISCO: Never mind. Don't recognize him.

(Laughter.)

ACTING PRESIDENT MAZIARZ: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, there will be an immediate meeting of the Rules Committee, at which time various bills will be taken up. And the report will come back here, and they will be dealt with tomorrow.

And before we leave for the Rules Committee, would you please recognize Senator Schneiderman.

ACTING PRESIDENT MAZIARZ: Senator Duane was actually up first, Senator DeFrancisco.

Senator Duane.

SENATOR DeFRANCISCO: I didn't see him.

ACTING PRESIDENT MAZIARZ: How could you miss Senator Duane, Senator DeFrancisco?

The chair recognizes Senator Duane.

SENATOR DUANE: Mr. President with the excellent eyesight, on page 54 I offer the following amendments to Calendar Number 1604, Senate Print 5745, and ask that said bill retain its place on Third Reading

Calendar. And it's on behalf of Senator Stachowski.

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

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

Pursuant to Rule 9, I was required to be at the conference committee, along with my esteemed colleagues Senator Leibell, Senator DeFrancisco, and others. And I would like to cast my vote in the negative on Calendar 376. I was going to vote yes, but then you recognized Senator Duane before me, so . . .

(Laughter.)

ACTING PRESIDENT MAZIARZ: The record will so reflect.

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, I wish to call up, on behalf of Senator Robach, Print Number 2616A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 624, by Senator Robach, Senate Print 2616A, an act to amend the State Finance Law.

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

ACTING PRESIDENT MAZIARZ: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

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

ACTING PRESIDENT MAZIARZ: The amendments are received and adopted.

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, on page number 53, on behalf of Senator Golden, I offer the following amendments to Calendar Number 1569, Senate Print Number 5729, and ask that said bill be placed on Third Reading Calendar.

ACTING PRESIDENT MAZIARZ: The

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

Senator DeFrancisco.

SENATOR DeFRANCISCO: Is there any more housekeeping?

ACTING PRESIDENT MAZIARZ: No, Senator.

SENATOR DeFRANCISCO: The Senate will be at ease until the Rules Committee completes its meeting and bring in its report.

ACTING PRESIDENT MAZIARZ: There will be an immediate meeting of the Rules Committee in the Majority Conference Room, Room 332.

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 6:54 p.m.)

(Whereupon, the Senate reconvened at 7:01 p.m.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT STACHOWSKI: Senator Skelos.

SENATOR SKELOS: If we could return to reports of standing committees, I

believe there's a report of the Rules Committee at the desk. I ask that it be read at this time.

ACTING PRESIDENT STACHOWSKI: Reports of standing committees.

The Secretary will read.

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

Senate Print 1467, by Senator Saland, an act to amend Chapter 472 of the Laws of 1998;

1634, by Senator Fuschillo, an act to amend the Tax Law;

1842A, by Senator LaValle, an act to amend the Tax Law;

2082, by Senator Larkin, an act to amend the Education Law;

2329, by Senator Rath, an act to amend the Tax Law;

2560, by Senator C. Kruger, an act to amend the General Business Law;

3417, by Senator Maltese, an act to amend the General Municipal Law;

3830C, by Senator Larkin, an act to

amend the Tax Law;

4571, by Senator Young, an act to amend the Real Property Tax Law;

4713, by Senator Leibell, an act authorizing;

4858A, by the Senate Committee on Rules, an act to amend the Tax Law;

5011, by Senator Alesi, an act to amend the Tax Law;

5092, by Senator DeFrancisco, an act to amend the Penal Law;

5248A, by Senator Winner, an act to amend the Executive Law;

5425A, by Senator Padavan, an act to amend the Tax Law;

5654A, by Senator Leibell, an act to amend the Town Law;

5698, by Senator Morahan, an act to amend the Real Property Tax Law;

5753A, by the Senate Committee on Rules, an act to amend the Tax Law;

5891, by Senator Young, an act to amend Chapter 78 of the Laws of 1981;

5919, by Senator Nozzolio, an act to amend the Agriculture and Markets Law;

5928, by Senator O. Johnson, an act to authorize;

5932, by Senator Saland, an act to amend Chapter 748 of the Laws of 1991;

5992, by Senator Golden, an act to amend the Real Property Tax Law;

6022, by Senator Padavan, an act to amend the Retirement and Social Security Law;

6049, by Senator Winner, an act to amend the Executive Law;

And Senate Print 6079, by Senator Volker, Concurrent Resolution of the Senate and Assembly.

All bills ordered direct to third reading.

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

ACTING PRESIDENT STACHOWSKI: All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT STACHOWSKI: Opposed, nay.

(No response.)

ACTING PRESIDENT STACHOWSKI: The

Rules report is accepted.

Senator Skelos.

SENATOR SKELOS: Mr. President, is there any further business at the desk?

ACTING PRESIDENT STACHOWSKI: No further business at the desk.

SENATOR SKELOS: Thank you, Mr. President.

There being no further business, I move we stand adjourned until Wednesday, June 13th, at 11:00 a.m.

ACTING PRESIDENT STACHOWSKI: On motion, the Senate stands adjourned until Wednesday, June 13th, at 11:00 a.m.

SENATOR SKELOS: Thank you.

(Whereupon, at 7:04 p.m., the Senate adjourned.)