NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 13, 2007

11:14 a.m.

REGULAR SESSION

SENATOR THOMAS P. MORAHAN, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT MORAHAN: The Senate will come to order.

Will everyone present please rise and join me in repeating the Pledge of Allegiance.

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

ACTING PRESIDENT MORAHAN: In the absence of clergy, may we please bow our heads for a moment of silence.

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

ACTING PRESIDENT MORAHAN: Thank you.

The reading of the Journal.

THE SECRETARY: In Senate, Tuesday, June 12, the Senate met pursuant to adjournment. The Journal of Monday, June 11, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Skelos.

SENATOR SKELOS: Mr. President, on behalf of Senator Farley, I wish to call up his bill, Print Number 849, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 728, by Senator Farley, Senate Print 849, an act to amend the Social Services Law.

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

ACTING PRESIDENT MORAHAN: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

SENATOR SKELOS: Mr. President, I

now offer the following amendments.

ACTING PRESIDENT MORAHAN: The amendments are received.

SENATOR SKELOS: Mr. President, I believe there are substitutions at the desk. If we could make them at this time.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: On page 5, Senator Saland moves to discharge, from the Committee on Rules, Assembly Bill Number 339B and substitute it for the identical Senate Bill Number 1092B, Third Reading Calendar 128.

On page 17, Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 6931A and substitute it for the identical Senate Bill Number 3960A, Third Reading Calendar 592.

On page 21, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 7836 and substitute it for the identical Senate Bill Number 5116, Third Reading Calendar 726.

On page 24, Senator Farley moves to discharge, from the Committee on Banks,

Assembly Bill Number 6490 and substitute it for the identical Senate Bill Number 2747, Third Reading Calendar 819.

On page 34, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 7530 and substitute it for the identical Senate Bill Number 4244, Third Reading Calendar 1064.

On page 45, Senator C. Kruger moves to discharge, from the Committee on Rules, Assembly Bill Number 8096 and substitute it for the identical Senate Bill Number 4550, Third Reading Calendar 1329.

On page 47, Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 6112D and substitute it for the identical Senate Bill Number 5181B, Third Reading Calendar 1377.

On page 49, Senator Wright moves to discharge, from the Committee on Rules, Assembly Bill Number 8173 and substitute it for the identical Senate Bill Number 5055, Third Reading Calendar 1416.

On page 53, Senator C. Kruger moves to discharge, from the Committee on Rules,

Assembly Bill Number 335 and substitute it for the identical Senate Bill Number 2560, Third Reading Calendar 1645.

And on page 54, Senator Winner moves to discharge, from the Committee on Rules, Assembly Bill Number 7885A and substitute it for the identical Senate Bill Number 5248A, Third Reading Calendar 1653.

ACTING PRESIDENT MORAHAN: Substitutions ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could go to the noncontroversial reading of the calendar, please.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 91, by Senator Bonacic --

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 106, by Senator Marcellino, Senate Print 632A, an act to amend the General Business Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 128, substituted earlier by Member of the Assembly Magnarelli, Assembly Print Number 339B, an act to amend the Executive Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 167, by Senator Maziarz, Senate Print 258A, an act to amend the State Administrative Procedure Act.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 385, by Senator Trunzo, Senate Print --

SENATOR SKELOS: Lay it aside temporarily, please.

ACTING PRESIDENT MORAHAN: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 434, by Senator Leibell, Senate Print 3806A, an act to amend the Labor Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 438, by Senator Larkin, Senate Print 349, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 42.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 506, by Senator Larkin, Senate Print 186A --

SENATOR SKELOS: Lay it aside temporarily, please.

ACTING PRESIDENT MORAHAN: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 515, by Senator O. Johnson, Senate Print --

SENATOR SKELOS: Lay it aside temporarily, please.

ACTING PRESIDENT MORAHAN: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 581, by Senator LaValle, Senate Print 930A, an act to amend the Business Corporation Law and the Education Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 17. This

act shall take effect on the first of January next succeeding.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 43.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 592, substituted earlier by Member of the Assembly P. Rivera, Assembly Print Number 6931A, an act to amend Chapter 667 of the Laws of 2006.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 594, by Senator Larkin, Senate Print 423A, an act to amend the Education Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 44. Nays, 1. Senator Marcellino recorded in the negative.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 677, by Senator Golden, Senate Print 3728, an act to amend the Executive Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 722, by Senator Rath, Senate Print 2328A, an act to amend the Public Health Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 365th day.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 726, substituted earlier by Member of the Assembly Gottfried, Assembly Print Number

7836, an act to amend Chapter 738 of the Laws of 2005.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 736, by Senator C. Kruger, Senate Print 4551A, an act to amend the Social Services Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN:

Announce the results.

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 819, substituted earlier today by Member of the Assembly Towns, Assembly Print Number 6490, an act to amend the Banking Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 855, by Senator Seward, Senate Print --

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT MORAHAN: The

bill is laid aside temporarily.

THE SECRETARY: Calendar Number 862, by Senator Young, Senate Print 4904, an act to amend the Public Health Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 866, by Senator Alesi, Senate Print 961, an act to amend the General Business Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 929, by Senator Stavisky, Senate Print 2610, an act to amend the Education Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 966, by Senator Trunzo, Senate Print 3680, an act to amend the Public Health Law.

ACTING PRESIDENT MORAHAN: Read

the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 973, by Senator LaValle, Senate Print 932, an act authorizing the Temporary President of the Senate and the Speaker of the Assembly to commission.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 46. Nays, 1. Senator Montgomery recorded in the negative.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1062, by Senator Maltese, Senate Print 304A, an act to amend the Private Housing Finance Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1064, substituted earlier today by Member of the Assembly Ortiz, Assembly Print Number 7530, an act to amend the Public Health Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1066, by Senator Maziarz, Senate Print 4460A, an act to amend Chapter 547 of the Laws of 1947.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1106, by Senator Skelos, Senate Print 3214B, an act to amend the Retirement and Social Security Law.

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

Read the last section.

THE SECRETARY: Section 5. This act shall take effect January 1, 2008.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1107, by Senator Skelos, Senate Print 3215, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT MORAHAN: There

is a home-rule message at the desk.

Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1231, by Senator LaValle, Senate Print 2680, an act to amend the Penal Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

Senator Montgomery, to explain her vote.

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

I'm voting yes on this. And I'm an enthusiastic supporter. I want to thank Senator LaValle. I know that he has tried, in the last few years, to put forward this legislation.

It would simply require that we utilize chemical castration for second-time violent felony sex offenders as a means of treatment that has been proven to be very, very effective. I think it's much more humane.

And as we can see, we're having more and more difficulty figuring out what to do with repeat violent sex offenders. And this seems to be an option that makes a lot of sense, and it's much more effective as well as cost-effective to utilize. And I think that this is the right time for us to consider this measure.

And in fact, as we see next door, in the city next door, Schenectady, they are

now looking to essentially eliminate all sex offenders from that area. And I don't know where they're going; maybe they'll end up in the woods someplace around. But certainly it's not a solution that we're going to be able to rely on.

So I enthusiastically support this, and I encourage my colleagues to also support this measure.

Thank you, Mr. President. I'm voting yes.

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

Senator Liz Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you.

With all due respect to my colleague and friend Senator Velmanette Montgomery, I'm voting no on the bill. Not because I don't agree with her that in some circumstances the research shows that chemical castration can be an effective model.

The research is also fairly mixed about who it works for and who it doesn't.

And so I'm very concerned that the bill is too broad in any sexual offender on a second felony offense or at a judge's order.

Because there's research showing that while it may be particularly effective for pedophile sexual offenders, that it is not necessarily effective at all for violent sexual predators, who in fact the reason for or the motivation for the sexual attack is not sexual but is driven by violence and rage and other dysfunctions of their brain.

I'm also a bit concerned about the health impacts from some of the drugs that have been used, although I do think New York State could of course carefully monitor. But there have been some issues raised about some of the drugs actually causing cancer. And I think that the State of New York doesn't necessarily, even in the desire to protect our people -- which is our job -- should necessarily go down the road of allowing determinations of mandatory drug treatments that in fact can cause life-threatening diseases.

So if the bill was more carefully

structured and more limited and targeted, I would be able to vote for it. But as it is, I will vote no.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Senator Liz Krueger will be recorded in the negative.

Senator LaValle, to explain his vote.

SENATOR LaVALLE: Thank you, Mr. President.

I want to thank Senator Montgomery for her consistent support on this legislation.

As we all know, this Legislature has looked at the problem of sexual predators from a variety of points of view. This is another tool in our arsenal to deal with the very serious and perplexing problem of ensuring that sexual predators are not on the streets to again and again and again have people as their victims in our communities.

I was very, very touched when we did research on this and my staff spoke to other states that have enacted this. And the

one thing that comes through is that many sexual predators, by their own admission, have said: I simply cannot help myself. I cannot help myself.

So I'm willing to use this because I think it's effective. Is it a hundred percent effective? No, it is not. But once again, it's another tool in our arsenal to protect the people in our communities.

I vote yes, Mr. President.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1231 are Senators Hassell-Thompson, Huntley, L. Krueger and Perkins.

Ayes, 45. Nays, 4.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1233, by Senator Padavan, Senate Print 2883, an act to amend the Penal Law.

ACTING PRESIDENT MORAHAN: Read

the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 51. Nays, 1. Senator Perkins recorded in the negative.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1272, by Senator Young, Senate Print 406, an act to amend the Parks, Recreation and Historic Preservation Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN:

Announce the results.

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT MORAHAN: The bill is passed.

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

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1323, by Senator Bonacic, Senate Print 468, an act to amend the Social Services Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect on the 120th day.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1329, substituted earlier today by Member of the Assembly Wright, Assembly Print Number 8096, an act to amend the Social Services Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MORAHAN: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 1338, by Senator Hannon, Senate Print 4648, an act to amend the Public Health Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1339, by Senator Hannon, Senate Print 4879A, an act to amend the Public Health Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1372, by Senator Robach, Senate Print 3976, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1377, substituted earlier today by Member of the Assembly Brodsky, Assembly Print Number

6112D, an act to amend the Civil Service Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1394, by Senator Leibell, Senate Print 5666A, an act in relation to granting certain retirement benefits.

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

Please read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1401, by Senator Wright, Senate Print 5388, an act to amend the Public Service Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1416, substituted earlier today by Member of the Assembly Aubertine, Assembly Print Number 8173, an act to amend the Tax Law.

ACTING PRESIDENT MORAHAN: Read

the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1465, by Senator C. Kruger, Senate Print 2554, an act to amend the Family Court Act.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MORAHAN: The

bill is passed.

THE SECRETARY: Calendar Number 1534, by the Senate Committee on Rules, Senate Print Number 5717B, an act to amend the Tax Law.

ACTING PRESIDENT MORAHAN: 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 MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1640, by Senator Saland, Senate Print 1467, an act to amend Chapter 472 of the Laws of 1998.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1641, by Senator Fuschillo, Senate Print 1634, an act to amend the Tax Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1642, by Senator LaValle, Senate Print --

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

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

THE SECRETARY: Calendar Number 1643, by Senator Larkin, Senate Print 2082 --

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MORAHAN: The bill is laid aside.

THE SECRETARY: Calendar Number 1644, by Senator Rath, Senate Print 2329, an act to amend the Tax Law.

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

Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Those recorded in

the negative on Calendar Number 1644 are Senators Duane, Hassell-Thompson, Huntley, L. Krueger and Stavisky.

Ayes, 50. Nays, 5.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1645, substituted earlier today by Member of the Assembly Greene, Assembly Print Number 335, an act to amend the General Business Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1646, by Senator Maltese, Senate Print 3417, an act to amend the General Municipal Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MORAHAN: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 1647, by Senator Larkin, Senate Print 38 --

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MORAHAN: The bill is laid aside.

THE SECRETARY: Calendar Number 1648, by Senator Young, Senate Print 4571, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect immediately.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1649, by Senator Leibell, Senate Print 4713, an act authorizing and conferring jurisdiction.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1651, by Senator Alesi, Senate Print 5011, an act to amend the Tax Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Senator Montgomery, to explain her vote.

SENATOR MONTGOMERY: Yes, Mr. President, just very briefly.

I am going to support this legislation. It's a tax exemption to residents for petroleum products.

But I just think that it's important for us to be cautious about this program that we have going here in these last few weeks, and that is giving tax exemptions everywhere for everything without consideration of what it means and what it will mean to our state in the long run.

And on the other hand, I note that

we are also allowing localities to extend their local taxes. So we're sort of taking out of one pocket and putting in the other. And I just think we should be much more careful in how we do this as it relates to both the burden of taxes on our citizens as well as what is going to happen to the revenue stream for the state.

But I'm going to support this legislation.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Senator Montgomery will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 53. Nays, 2. Senators L. Krueger and LaValle recorded in the negative.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1652, by Senator DeFrancisco, Senate Print 5092, an act to amend the Penal Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

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

SENATOR DeFRANCISCO: Thank you, Mr. President.

This bill is modeled after the forfeiture provisions that are currently in law concerning drug offenders, people selling drugs. In situations of drug sellers, currently they not only can be punished criminally, but they can forfeit the property they would otherwise use in the commission of the particular offense. And the theory being that it's just another tool in the arsenal of the public against a very heinous crime, drug dealing.

This bill does the same thing with respect to sex crimes against children. It provides for virtually the identical forfeiture process for forfeiting assets that are used in furtherance of the commission of

that crime against the child, a sex crime against a child.

And the money that's raised in this fashion is to be placed in a fund that's basically used to help children and inform children and to broadcast to the world how important it is certain things that children should be aware of to avoid sex offenses against them.

So it's, I think, a very good bill. Certainly sex offenses against children are as serious as drug offenses that have similar forfeiture provisions. And I would vote aye on this bill.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

Senator DeFrancisco will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 55. Nays, 0.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1653, substituted earlier today by Member of

the Assembly Lancman, Assembly Print Number 7885A, an act to amend the Executive Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect January 1, 2008.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1656, by Senator Morahan, Senate Print 5698, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect July 1, 2009.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN:

Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1658, by Senator Young, Senate Print 5891, an act to amend Chapter 78 of the Laws of 1981.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1659, by Senator Nozzolio, Senate Print 5919, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1660, by Senator O. Johnson, Senate Print 5928, an act to authorize the Commissioner of Transportation.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MORAHAN: The

bill is passed.

THE SECRETARY: Calendar Number 1661, by Senator Saland, Senate Print 5932, an act to amend Chapter 748 of the Laws of 1991.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1662, by Senator Golden, Senate Print 5992, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1663, by Senator Padavan, Senate Print 6022, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1664, by Senator Winner, Senate Print 6049, an act to amend the Executive Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

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

ACTING PRESIDENT MORAHAN: The bill is passed.

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

SENATOR SKELOS: Mr. President, if we could, there were three bills on the noncontroversial calendar that were laid aside temporarily.

If you could call up Calendar Number 385 at this time.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 385, by Senator Trunzo, Senate Print 1260, an

act to amend the Social Services Law.

SENATOR TRUNZO: I'd like to place a sponsor's star on that particular bill.

ACTING PRESIDENT MORAHAN: Calendar Number 385 will be starred at the request of the sponsor.

SENATOR TRUNZO: Thank you.

ACTING PRESIDENT MORAHAN: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could, Calendar Number 506 was laid aside temporarily. If we could call it up at this time.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 506, by Senator Larkin, Senate Print 186A, an act to amend the Public Health Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 53. Nays, 2. Senators Duane and Hassell-Thompson recorded in the negative.

ACTING PRESIDENT MORAHAN: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, Calendar Number 515 was laid aside temporarily. If you could call it up at this time.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 515, by Senator O. Johnson, Senate Print 1287, an act to amend the Executive Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

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

ACTING PRESIDENT MORAHAN: The bill is passed.

Senator Skelos.

SENATOR SKELOS: On the noncontroversial calendar, Calendar Number 855 was laid aside temporarily. If you could call it up at this time.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 855, by Senator Seward, Senate Print 2635, an act to amend the Tax Law.

ACTING PRESIDENT MORAHAN: 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 MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN:

Announce the results.

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

ACTING PRESIDENT MORAHAN: The bill is passed.

SENATOR SKELOS: Mr. President, if you would recognize Senator Saland.

ACTING PRESIDENT MORAHAN:

Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, I would ask, through the courtesy of the house, unanimous consent. I was not in the chamber when Calendar Number 128 passed, and I would welcome the opportunity to explain my vote because of the very unique and unfortunate circumstances that really were the reason why this bill, which has passed in the Assembly now and will go to the Governor, was introduced.

Some two years ago, a couple in my district, Tim and Laura Lentz, came to see me with an extraordinarily tragic story that involved the loss of their 2-1/2-year-old son,

who, on the 1st of May of 2005, had wandered out and wandered onto a property in the area in which the Lentzes live and, unbeknownst to them, late that prior summer these people had built a swimming pool, put up temporary fencing. The temporary fencing unfortunately had gone into disrepair -- in fact, for all intents and purposes, had fallen down and offered absolutely no protection whatsoever to keep a child from wandering into the pool.

And this child, Matthew Lentz, a 2-1/2-year-old child, was found in that pool, on top of a pool cover -- it wasn't a safety cover -- and he died in 2 1/2 feet of water.

Laura Lentz and her husband have labored long and hard to try and ensure that other children be better protected than was her son, their son. And what this bill does it to try to accomplish that.

There are in the residential code certainly provisions for adequate fencing. The problem, however, is that the code does not provide anything with regard to duration of that fencing nor permanency of that fencing. And what this legislation does, it

basically says you've got to get that fence up within 90 days, subject to certain conditions.

And it provides, I think, far greater protection to other toddlers and young children so that their parents and their loved ones, their guardians, will be spared the horrible ordeal that the Lentzes have unfortunately had to endure. But I certainly commend them for their fortitude, their diligence, and their commitment to try to help children of other families.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: You're welcome, Senator Saland.

Senator Skelos.

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

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

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 11:58 a.m.)

(Whereupon, the Senate reconvened at 12:09 p.m.)

ACTING PRESIDENT MORAHAN: Senator Skelos.

SENATOR SKELOS: Thank you, Mr. President.

If we could return to reports of standing committees, I believe there's a report of the Rules Committee at the desk. I ask that it be read at this time.

ACTING PRESIDENT MORAHAN: Reports of standing committees.

The Secretary will read.

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

Senate Print 234, by Senator Larkin, an act to amend the State Finance Law;

2449A, by Senator Golden, an act to amend the Public Health Law;

3202, by Senator LaValle, an act to amend the Tax Law;

3308, by Senator Wright, an act to amend the Tax Law;

4630B, by Senator Saland, an act to

amend the Domestic Relations Law;

4921A, by Senator Lanza, an act to authorize;

5676A, by Senator Young, an act to amend the Agriculture and Markets Law;

5746A, by Senator Stachowski, an act to authorize;

5806, by Senator Flanagan, an act to repeal;

5868, by Senator Padavan, an act to amend the Education Law;

5939, by the Senate Committee on Rules, an act to amend the Tax Law;

5969, by the Senate Committee on Rules, an act to amend the Tax Law;

5975, by Senator O. Johnson, an act to amend Chapter 589 of the Laws of 2000;

5980, by Senator Winner, an act to amend the Correction Law;

5982A, by Senator Wright, an act to amend the Transportation Law;

5985, by Senator Leibell, an act to authorize;

5990, by Senator Golden, an act to amend the Private Housing Finance Law;

6004, by Senator Griffo, an act to amend the Education Law;

6061, by the Senate Committee on Rules, an act to amend the Tax Law.

6081, by Senator Volker, an act to authorize;

6100, by Senator Griffo, an act to amend the Civil Service Law;

And Senate Print 6119, by Senator Bruno, an act to amend the Education Law and the Real Property Tax Law.

All bills ordered direct to third reading.

ACTING PRESIDENT MORAHAN: Senator Skelos.

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

ACTING PRESIDENT MORAHAN: On the motion to move the report of the Rules Committee, all in favor say aye.

(Response of "Aye.")

ACTING PRESIDENT MORAHAN: Opposed, nay.

(No response.)

ACTING PRESIDENT MORAHAN: The report is accepted.

SENATOR SKELOS: Thank you, Mr. President.

For the members that are not in the chamber, we're now going to take up the Senate Supplemental Calendar 60A, noncontroversial. If you wish to register a no vote, you should be in the chamber.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 1666, by Senator Larkin, Senate Print 234, an act to amend the State Finance Law and the Military Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1668, by Senator LaValle, Senate Print 3202, an act to amend the Tax Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 7. This act shall take effect on the first day of a sales tax quarterly period.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1669, by Senator Wright, Senate Print 3308, an act to amend the Tax Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

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

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1670, by Senator Saland, Senate Print 4630B, an act to amend the Domestic Relations Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 10. This act shall take effect on the 90th day.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1671, by Senator Lanza, Senate Print 4921A, an act to authorize the City of New York to discontinue.

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

Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1672, by Senator Young, Senate Print 5676A, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1673, by Senator Stachowski, Senate Print 5746A, an act to authorize the Town of Cheektowaga.

ACTING PRESIDENT MORAHAN: 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 MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number

1674, by Senator Flanagan, Senate Print 5806, an act to repeal the Community Facilities Project Guarantee Fund Act.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1675, by Senator Padavan, Senate Print 5868, an act to amend the Education Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 54. Nays, 2. Senators Hassell-Thompson and L. Krueger recorded in the negative.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1676, by the Senate Committee on Rules, Senate Print 5939, an act to amend the Tax Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1677, by the Senate Committee on Rules, Senate Print Number 5969, an act to amend the Tax

Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MORAHAN: The bill is passed.

Senator Bonacic, to explain his vote.

SENATOR BONACIC: Thank you, Mr. President.

I think the number-one issue on the people's minds in many parts of the state of New York is to eliminate the rising school property taxes. What is happening in our state is that the cost of owning a home is escalating and that people's wages are not keeping up with the rising taxes and the rising interest rates.

People have to choose between saving their house and voting on school budgets. We continue in this house to take steps --

SENATOR LaVALLE: Mr. President, what bill number are we on?

ACTING PRESIDENT MORAHAN: We're on Calendar Number 1677, Bill Number 5969, by Rules, regarding a sales tax issue for Delaware County.

SENATOR LaVALLE: Thank you, Mr. President.

SENATOR BONACIC: Mr. President, it was my error. I thought that the bill before us was Bill Number 1687, by Senator Bruno, on school property taxes.

I will reserve my remarks for when that comes up. And I apologize to the members of the chamber.

ACTING PRESIDENT MORAHAN: Apology accepted. Thank you very much, Senator Bonacic.

The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1678, Senator O. Johnson moves

to discharge, from the Committee on Rules, Assembly Bill Number 8304 and substitute it for the identical Senate Bill Number 5975, Third Reading Calendar 1678.

ACTING PRESIDENT MORAHAN: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1678, by Member of the Assembly Englebright, Assembly Print Number 8304, an act to amend Chapter 589 of the Laws of 2000.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1679, by Senator Winner, Senate Print --

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MORAHAN: The bill is laid aside.

THE SECRETARY: Calendar Number 1680, by Senator Wright, Senate Print 5982A, an act to amend the Transportation Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1681, by Senator Leibell, Senate Print 5985, an act to authorize John P. O'Leary to apply for retroactive membership.

ACTING PRESIDENT MORAHAN: A home-rule message is at the desk.

Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1682, by Senator Golden, Senate Print 5990, an act to amend the Private Housing Finance Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MORAHAN: The

bill is passed.

THE SECRETARY: Calendar Number 1683, by Senator Griffo, Senate Print 6004, an act to amend the Education Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1684, by the Senate Committee on Rules, Senate Print Number 6061, an act to amend the Tax Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 1687, by Senator Bruno, Senate Print 6119, an act to amend the Education Law and the Real Property Tax Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

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

SENATOR SALAND: Thank you, Mr. President.

Mr. President, over the course of certainly my service in this house, and even before that, the Senate has always been in the

forefront of trying to deal with the issue of both real property tax relief and real property tax reform, certainly in the context particularly of school tax relief and school tax reform.

Back as recently as a couple of years ago, in December of '05, we announced what was the precursor of the STAR rebate program. Yesterday this house, with near unanimity, passed another school property tax relief proposal which would have the state pick up the employer's share of the teacher's retirement system payments and require that those dollars be used to reduce local tax levies or, in the case of City of New York, local tax levies and the PIT.

What's before us today is a comprehensive or omnibus bill which attempts to deal as broadly as possible with a number of different components of the school tax reform issue.

On the one hand, there's a measure which proposes -- the measure in part proposes to provide an optional system whereby school districts, through acts of their local

residents and taxpayers, could opt in for a state takeover of the local property tax portion on primary residences, a measure that would phase in over a period of five years after which, assuming all 670 or so independent school districts opted in, would result in an expense to the state of approximately $9 billion to $9.5 billion, offset by anticipated revenues of some $33 billion over that same period.

This measure would not require the state to be responsible for capital costs. Assuming schools wanted to build Taj Mahal-type buildings, or school boards or school superintendents, local taxpayers would be the check on that. At the end of five years, there would be a CPI increase.

This is certainly a measure which would afford and respond to the constant clamor that we hear from virtually every suburban and rural school district throughout the state. And there are certainly any number of hot spots, particularly including the region in which I live, which are clamoring for real property tax reform.

In addition, there are components of this bill that reflect measures that have been seen in this house as introduced by Senator Little, and I'm sure she may well want to comment on those; the blue ribbon commission that this house has done previously; mandate relief, which I have offered in this house on more than one occasion, which would remove the burden of unfunded mandates from local districts; and certainly senior citizen property tax relief, something that's been of great interest to many and of interest particularly to Senator Little and Senator LaValle.

This proposal is really where it's at. Many people talk about tax reform, real property tax reform, school tax reform. The Governor has identified it as a priority. There are people in the Assembly who speak of the importance and the critical need for school tax reform. And yet words without action tend to be empty.

We are here today advancing this bill and saying to the other parties -- the Governor, the Assembly -- if you have

something, the time for talk has long since expired. Put it out there, let us see it, engage us. If it's as important as you claim it is, there has to be some alternative that you would propose.

We are the only game in town, have been the only game in town for a number of years. And it's time not merely to talk the talk, it's time to walk the walk. And we invite both the second floor and our cotenants here on the third floor to do something -- not sit on their hands, not engage in idle rhetoric, do something. Tell people that you really have a plan.

Let's provide more than lip service. If you don't like what we have, show us something better. We're eager to see it. But for God's sake do something. People are desperate for reform. Seniors are forced to sell their houses. Young people can't afford to buy a house. People in between struggle with critical decisions to make as to how they're going to fund their budgets.

Please do something. The pain is at the point of where it's unbearable. We,

with this comprehensive package, are doing our best to advance this and hope that somebody would have the intestinal fortitude to engage, whether it be the second floor or, as I said, our friends in the Assembly.

Thank you, Mr. President. Needless to say, I'm very much in support of this bill, as are my colleagues on this side of the aisle.

ACTING PRESIDENT WRIGHT: Thank you.

Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. President.

I'd like to start by thanking Senator Saland, Senator LaValle, Senator Larkin, Senator Little, who have all stepped up with legislation, including myself, to try to address the escalation in property taxes. It affects all segments of our population, in the Island, the Hudson Valley, the Adirondacks, our seniors, our middle class families, and our young people.

And right now we're about 53 percent above the national average when it

comes to the amount of our school taxes. And we pay about $14,000 per pupil, the highest in the nation. And we've given, the last two years, record increases in school aid. Yet what's happening to property taxes? In my district, the Hudson Valley, they went up 5, 6 percent this past time, when we gave $1.8 billion.

This house has acted responsibly. They have recognized that this is the number-one people's issue, school property taxes. And yet we can't get the Assembly to act. The Assembly seems to talk a good game, but they don't move any legislation at all.

Some of the stuff they've done -- and by the way, they've passed 629 bills as of yesterday in that house. Things such as corn as a state vegetable, which we talked about a little bit; defining an electric-assisted bicycle; directing the DEC to update their brochures; permitting wine tastings between 4:00 and 10 o'clock. Making the phrase "I Love New York" the official state slogan, as opposed to the unofficial state slogan "I love New York, but I hate the high taxes."

So don't you think that the Assembly would at least address -- I know in Westchester, the Hudson Valley, I know in Nassau and Suffolk, it's affecting all of our constituents very, very badly. I ask my Senate colleagues to reach into the other house, make it a priority to address school property taxes. We have provided a solution. The Assembly has done absolutely nothing.

And all of this legislation is for referendum. Let the people decide whether they want to eliminate school property tax and look to the state for added sources of revenue. We empower the people to determine whether they want to keep the status quo or start phasing out school property taxes.

So I again thank every colleague in this house for supporting our efforts, and we ask the Assembly do something.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: Thank you.

Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

In the past year, I've attended a number of groups that have formed within my district, and they're all taxpayer groups. Because they know and they believe -- and it's true -- New York State has the highest property taxes in the country.

And when I go to these groups, the people are saying to me, Stop taxing our property. We are reaching a point where we have to make a decision as to whether we can stay in our home or whether we need to move to another state which has lower property taxes. They are fearful when they go to their mailbox to see what is the value of my house this year, what are my taxes going to be this year.

We have rising property values in New York State. There are several proposals in here that we have proposed throughout the past several years. But we've put them together in a package that we're calling New York Stop. New York, stop taxing our property. And I think that this is a cry that just about everybody in New York State can make.

Not only are we calling again for

that commission -- and we do have a bill and a sponsor in the Assembly. It could easily pass through the Assembly. If it was on the floor, I'm sure it would pass. That commission would look at all these bills and come up with a consensus to change the way we raise taxes and how we tax property in New York State and reform the whole property tax system.

A second proposal that's in here that I know, I know would be very, very helpful to the people in my district and to the people in your district, whether you're in New York City, in Buffalo, Long Island, in the Adirondacks, the Hudson Valley. It says that for a 65-year-old person with an income less than $100,000, we will freeze their taxable value. Their assessment will stay at that value for what they have to pay.

So their assessment, when they're 65, is this. The assessor continues to assess their property, and it's going up. Regardless of what they do to the property, the value increases. And the state will make up the difference. The assessor applies to the state for the county, school, and town property

taxes that this 65-year-old no longer has to pay. That in itself would address the issue of people not having the ability to pay their property taxes.

I have a gentleman who is head of one of our taxpayer groups who is in a home that his family owned for years. It is on a lake, so the value has gone crazy. But his taxes are like $17,000 a year, and his income is less than $70,000 a year. I mean, he thought he had a good income. He hasn't added anything to his house. It's just that the value keeps going up.

So his choice, sell the house and move elsewhere. In order to stay there, he is not going to have the income to pay the property taxes.

This bill freezes taxable value at 65 and lets the state pay the difference. And then when he sells or moves, the house goes up to its market value and you collect the taxes from the next owner. Who, by the way, would not buy that house if they didn't have the income to go with it.

It's for our people who live in a

house they've lived in for a long time, they're doing nothing to it, but the market is increasing so much that they no longer can afford to pay those taxes.

That's one of the bills. The bill that Senator Saland spoke about, Senator Bonacic's bills. Senator LaValle has proposals in here.

We have to do something. You cannot sit back and talk about a myriad of other issues when our constituents are talking about nothing but property taxes.

I vote aye on this bill. I thank everyone who has participated in putting it together. And I really hope that this will be a unanimous vote. Thank you.

ACTING PRESIDENT WRIGHT: Senator Little will be recorded in the affirmative.

I would remind the members that there are time limits on explanations of their vote.

Senator LaValle.

SENATOR LaVALLE: Thank you, Mr. President.

This body has repeatedly been a

voice crying out in the wilderness. But as you have heard from the speakers in our districts, the voice of the people that we represent is a constant, steady one, one of cries, one of cries of "help."

And so I want to thank our Majority Leader, Senator Bruno, for being so focused. And I believe that in our term we are not going to leave this Capitol without significant real property tax relief.

This bill does something very, very significant, something we've talked about with our constituents over the years. And that is reducing the pressure and the tax on school real property taxes and moving that to the broader-based taxes, which we do using the sales tax, the income tax, the business taxes when we use state aid to education. And this is a very thoughtful bill and will bring a great relief.

There are members here who have their entire careers been focused on this issue. I am convinced, as I am standing here today with our Majority Leader -- and we should hear what Senator Little said, this

bill should pass unanimously so that everyone in this Capitol hears that this body is united in passing real property tax relief.

I vote in the affirmative, Mr. President.

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

Senator Rath.

SENATOR RATH: Thank you, Mr. President.

I too rise to support this bill and congratulate the sponsors of the several pieces of legislation that are included in the bill.

It occurs to me, as we are hoping to pass this unanimously, that we need partners, our partners not only in this chamber but our partners in the Assembly and our partner who sits on the second floor.

When I came to this Legislature a number of years back, I came with the intention of helping to reduce taxes. We have worked mightily in this Senate on reducing taxes in a variety of ways. The STAR program has been helpful. Could we get a tax cap or a

spending cap at that time when we put STAR through? No, we couldn't. Spending is still out of control in many places. The rebate, is that helpful? Yes, the rebate dollars that go back directly to the taxpayers, those are helpful.

But it's still not real reform. This is real reform of the way New York State taxes and produces services, in partnership with our school boards. Can we get the school boards and the people in the school districts to vote in favor of that? The people have a chance here. They can do a petition, 25 percent of the people that voted in the last school board election or people that voted in the last election in the big five school districts.

Here are our partners. And do you know how I know they're going to be our partners? Because they're looking at us right now as the camera is trained at me and on my colleagues, as we voted a long time ago and now have these sessions televised.

So I'm imploring not only my colleagues here in the chamber to vote

unanimously for this, but for our constituents out there throughout New York State: Call your Assemblyman, call the Governor. Say you want to be able to get this on the ballot in your school district next year. You want a chance to be able to eliminate school district property taxes on primary residences.

It's real reform. I vote aye, Mr. President.

ACTING PRESIDENT WRIGHT: Senator Rath will be recorded in the affirmative.

I would remind the members that conversations should be held outside the chambers.

Senator Morahan.

SENATOR MORAHAN: Thank you, Mr. President.

I too rise to support this important legislation. Over the past year, back home in my district, I have met with all the school board and school superintendent -- school board presidents, school board superintendents, as a group, talking about mandates. One of the biggest mandates they spoke of is the pension costs.

Yesterday Senator Saland's bill -- our chair of education -- addressed that issue, with the state assuming that responsibility in the future should the Assembly and the Governor join with us.

I also met with all the union heads of all the districts about some of the things that we do, we mandate, that takes time from them, from their students, and makes educating students even more expensive than it is. And we have integrated their input.

We also met with business leaders on the issue of fairness of the whole property tax issue and where should we shift and how should we shift the cost of education. And the idea of a local referendum, the idea of giving control back to the school districts and the people within the school districts, rang true with my constituents.

In addition, there's a particular problem in one of my school districts wherein two major plants, through a court certiorari, won a $200 million settlement that the school board, one school board, now has to pay to those plant owners, escalating our property

taxes beyond anyone's comprehension just a few years ago.

We can't lose sight, however, when we talk about property tax, of the other taxes. Our concentration here obviously is on the school tax, but we have town taxes, village taxes. And we're always concerned if some other entity or municipality will slide into the vacuum that we may create, as we have created with STAR, with the rebate program.

This is a universal bill. This is a comprehensive bill. This is one that really takes on the education of our children, off the back of the local property taxpayer, gives them options, and continues our efforts to find a fairer way, a more just way to cover the cost of educating our children.

But this one issue, property taxes have reached a confiscatory level, it is the hottest issue in the Hudson Valley area and I'm sure throughout Long Island and other suburban counties and upstate New York as well, and even in the City. It has gotten beyond what it is we can do. It has gotten beyond what the people can pay.

So I congratulate Senator Bruno for bringing all of us together, all the proposals that we've had on the table of various bills, to make a universal bill, if you will, to get this issue moving in the right direction.

And hopefully the Assembly will join us on meaningful legislation. We're prepared to meet with them. We're prepared to conference with them. We're prepared to work with them so that on behalf of all of our taxpayers and the industry, if you will, of New York and our job creation, all that is related to property tax can get resolved in an equitable and fair way.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: Senator Morahan will be recorded in the affirmative.

Senator Leibell.

SENATOR LEIBELL: Thank you, Mr. President.

As you've heard from many of my colleagues today explaining what is occurring in their districts, I will also echo those comments.

You cannot walk down a street in my

home district without someone coming over and speaking to you about this issue of property taxes. In the course of my years both in the Assembly and now in the Senate, I have never seen an issue that has galvanized our constituents like this one has.

And the reason is really quite simple. The reason is people are being forced out of their homes, they're making determinations on moving out of New York State, of leaving their businesses because of this onerous tax.

I can see here today, up in the gallery, many young people. And I can assume that most of them are probably from New York State. I would hope that as their future unfolds they would wish to go to school here, get higher education here, be employed here and continue to live their lives in New York State.

However, if we don't come to grips now, right now, with this problem of property taxes, we will make this state a tale, if you think of the book title "A Tale of Two Cities," a tale of two states. And it will be

a state of the very wealthy and possibly the very poor, but the middle class will look for the exit sign.

We are financing education today through what I believe to be an archaic system that long ago outlived its usefulness. We have a package of legislation that's been put before this house, and I compliment all the sponsors for their work -- and the staff -- that has gone into this. I believe that if enacted, these bills will go a long way towards addressing the problem of property tax relief that is so necessary for New York State.

My colleagues, we have to act. We have no choice. The time is now. And we can only hope that our colleagues in the other house will do the same and that the Governor, that the Governor will recognize the importance of this issue to the future of the Empire State.

Thank you, Mr. President. I vote aye.

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

the affirmative.

Senator Larkin.

SENATOR LARKIN: Thank you, Mr. President. I rise in support of this legislation.

You know, when you get as old as Tom Morahan and I, you have to look at the future and you have to say, how long can I stay here. The number-one issue wherever I go in my district is when, when are you people in Albany -- the Assembly, Senate and the Governor -- going to sit down and do something so that we won't have to vote with our feet. Because that's what's happening to our state.

Earlier in a press conference today we talked about how many United States Congressmen we had at one time: 45. We're down to 29. And in the next census, we'll probably be down to 25, 26, or 27. Because people are voting with their feet. They cannot afford to stay in the state.

When you start asking young people to reside with their parents and live near their parents, they'd love to. If their parents are rich like Neil Breslin -- I woke

you up, huh? -- they'll be able to stay here. But if they're ordinary New Yorkers, they're going to find it's a problem, because we tax and tax and tax. When do we start to think about doing something?

Well, this bill does something. You know, there's two issues on this bill -- and there's many that everybody should read, but there's two things when you talk about someone age 65 or over, with an income of $100,000 or less. People tell me that in New York City, that's a drop in the bucket. But that's where you start. Should we maybe change it later on?

Senator Lanza said we should review it. Senator Marcellino says you have to understand what it means out on Long Island to us. It means the survival of the state.

Are we going to be the last one to put the lights out when we leave this state? I hope not.

We come to Albany to do something, to tell the people back home we are there for you, we're your representative. And their answer is very clear: Then when are you going

to do something that will enable me to survive?

Survival is the issue. It isn't something that people say I can do it. I visited about a hundred senior citizens in the past two months at their home. And when I went in, the first thing they said is, Help us. Help me. Let me stay here so I can watch my children, my grandchildren and my great-grandchildren rise up and be future parts of this state. Don't force me to sell and move thousands of miles away where the property is cheaper.

One county in North Carolina, a three-bedroom home, 2 1/2 baths, two-car garage, sits on three-quarters of an acre in a cul-de-sac. Total taxes -- garbage, water sewers -- $923 a year. You know how I know it? It's mine.

And when I look around in my area that I live in, young people can't afford it. The taxes for just school in our area is $16,000 to $20,000. What young person coming out of college, trying to start a family or just be a worker, where can they go when

they're paying that kind of taxes? They can't live near their families.

So what are they doing? Goodbye, mom. Goodbye, dad. Call me. We're going to Arizona, the Carolinas, someplace else.

Why don't we get here together, pass this bill -- it should be passed unanimously -- and then tell the Assembly and the Governor, join the people of the State of New York, give them an incentive to stay in New York and raise their family. Give the seniors that incentive to say I'm proud to be a New Yorker.

Let's not just turn around and put some more garbage out there that we're going to do this and we're going to do that. Now is the time to act. Read this bill and make sure you vote today. Vote for today, vote for the future of New York tomorrow.

Thank you.

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

Senator Hannon.

SENATOR HANNON: Thank you,

Mr. President.

ACTING PRESIDENT MORAHAN: To explain his vote, which usually takes a couple of minutes.

SENATOR HANNON: Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: You're welcome.

SENATOR HANNON: I appreciate the ability to rise and explain my support for this important legislation. I thank Senator Bruno and Senators Little, Bonacic and Saland for bringing this to the floor.

Stopping the rise in property taxes, a freeze for assessments for seniors, a blue ribbon commission, and mandate relief are important items to add to our legislative agenda.

As I was negotiating a piece of legislation for a company that's in my district for needing a foreign trade zone extension, I was talking to the young CFO of that company, someone who has left a Big Five accounting firm, and he explained to me that while he could have located in my district or

in North Carolina, that he chose to locate in North Carolina and commute. Because the taxes were a difference between under $1,000 a year and $9,000 a year.

I can't think of having a system that is a bigger deterrent to the future of this state than the way we have allowed our property tax system to evolve. And it's worse and worse because the federal government, with their alternate minimum tax, no longer allows the full deduction for property taxes that we used to have.

So putting this freeze in, allowing the opportunity for a local school district, by petition, to opt into this, making it voluntary for them but also making it more predictable for where the costs will be to a school district in the future is something we need to do.

Thank you. I vote in the affirmative.

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

Senator Volker, to explain his

vote.

SENATOR VOLKER: Mr. President, very quickly.

I do not want my silence to be interpreted as to the fact that we upstaters and way-upstaters don't feel the pinch of real property taxation. We certainly do.

We realize, I think -- well, a lot of my constituents probably don't realize that downstate New York has probably the highest taxation in the United States of America, or certainly close to it. And certainly it's not the state's total fault by any means. But whoever is at fault for it, we desperately need to move on the issue of taxation.

For 12 years this body probably passed more tax-cut legislation than anybody in the United States of America. And the result of that was that New York cut more taxes on a state level than any state in the union ever has.

Now, people like the Business Council and a lot of people, particularly in downstate New York, frankly paid almost no attention. To this day I tell people, you

know, We cut an enormous amount of taxes. They say: Oh, that's nice, good job. We're now, I think, sixth or seventh in the country in per-capita state taxes.

However, what people are telling you, and it's correct, that if you put everything together, particularly from Syracuse east, you have the highest taxation in the United States of America.

But even though, you know, our taxes are not as high -- we have a situation in Buffalo where the assessments are some of the lowest in the Northeast. And the people basically don't pay any school taxes, because the State of New York gives about 80 percent of the aid and the federal government another 10 percent. People in Buffalo really don't realize.

And I had some public official say, "Well, we don't care about school taxes in Buffalo." I said, "I know you don't. Because we take care of it."

But then as soon as you move across the line into the suburbs and you get out into my district, in Erie, Livingston, Wyoming and

Ontario -- and those are the four counties that I represent -- now you're in a whole other issue. And what's happening is the assessments are now starting to rise.

My town very quietly has become one of the fastest-growing towns in the state of New York. The local newspaper is ignoring it; that's fine. But it's getting big. But the problem is, so are the assessments. And as the assessments get bigger, yeah, the town is collecting some taxes, but the school district, quite obviously, is going to have -- is raising their taxes.

We must deal with this issue, not just because it's a terrific issue in terms of people staying in this state and dealing with the State of New York's situation, but also because psychologically it's creating a huge problem for us. It's a problem where people are saying, Well, I don't know if we want to stay here anymore. Let's go someplace else.

Is this bill the perfect answer to everything? Of course not. Nobody says it is. But we've got to get started dealing with this issue.

It was a big issue in the gubernatorial campaign. And as you see, it's kind of fallen off the table. And the reason is it's not easy to deal with. I think Governor Spitzer probably didn't realize how tough it is to deal with.

But we've got to deal with it. This bill moves a long way toward dealing with the issue of school property taxes and, frankly, property taxes in general. We need to pass this bill, and we need to get the Assembly to follow suit.

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

Senator Marcellino, to explain his vote.

SENATOR MARCELLINO: Thank you, Mr. President.

As has been said many times today, we need partners. This house has continuously passed legislation. We did it yesterday relative to pensions. We're doing it again today on property taxes. We need partners. The silence in the other chamber is deafening.

The lack of action in the other chamber is just unexplainable.

I had a resident come up to me during the recent school board votes and said, "Senator, we have a great school district here. And we thank you for bringing back a lot of state aid. But the property taxes are driving me out. What's the point of having a great school district if I can't afford to send my children there, if I can't afford to live here and take part in that great district? It doesn't help me one bit."

We are paying to educate our young people, and they are leaving. They're taking their brains, they're taking their knowledge and they're moving to other states where they can earn a living and buy a home, because the property taxes are not so difficult there.

We need partners in the other house. We need partners on the second floor. We need help.

As has been said here by my colleague Senator Volker, these bills are not perfect. Nobody claims they are. But let's get the discussion started. Nothing is coming

out of the other chamber. Nothing has come from the Governor's office on this issue.

We need partners. We need the discussion to begin so we can come to a real solution.

This is the most important problem we will ever deal with, the fact that we're driving our people -- senior citizens who can't afford to stay in their homes, in the communities they helped to build, and young people who do want to live there and make the communities better -- they're leaving us. The state cannot sustain the loss that we are taking in both the seniors and our youth.

This has got to change. This bill hopefully will stimulate the discussion. But we need partners. Let the word go forth to the other house, come on, come to the table. Let's sit down and talk. This is the most important issue.

I vote aye, Mr. President.

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

Announce the results.

THE SECRETARY: Ayes, 57. Nays, 0.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Excuse me. In relation to Calendar Number 1687, ayes, 56. Nays, 1. Senator L. Krueger recorded in the negative.

ACTING PRESIDENT MORAHAN: The bill is still passed.

Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

Now may we have the controversial reading of the calendar.

ACTING PRESIDENT MORAHAN: The Secretary will read.

And please ring the bells and bring our members to the house.

SENATOR WRIGHT: Let's, if we may for a minute -- before we start the controversial, while we're ringing the bill, would you recognize Senator Bonacic for motions, please.

ACTING PRESIDENT MORAHAN:

Motions and resolutions.

Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. President.

On behalf of Senator Fuschillo, I wish to call up his bill, Print Number 5050B, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 755, by Senator Fuschillo, Senate Print 5050B, an act to amend the General Business Law.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

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

ACTING PRESIDENT MORAHAN: The amendments are received.

SENATOR BONACIC: Mr. President, on behalf of Senator Morahan, on page 38 I offer the following amendments to Calendar Number 1177, Senate Print Number 125, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR BONACIC: Thank you, Mr. President.

On behalf of Senator Hannon, on page number 21 I offer the following amendments to Calendar Number 719, Senate Print Number 599, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR BONACIC: Thank you, Mr. President.

On behalf of Senator LaValle, on

page number 7 I offer the following amendments to Calendar Number 248, Senate Print Number 2426, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR BONACIC: Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: You're welcome, Senator Bonacic.

Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

If we may, could we take up Calendar Number 1679, Print Number 5980. We will restore that to the noncontroversial calendar.

ACTING PRESIDENT MORAHAN: The Secretary will read.

SENATOR WRIGHT: And we will take that bill up. Thank you.

THE SECRETARY: Calendar Number 1679, by Senator Winner, Senate Print 5980, an act to amend the Correction Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

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

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

I'm going to be voting against this. This is a bill that has sort of a strange notion of creating a drug dealer registry. It lumps together people who are serious criminals with people who may be young people engaged in third-degree criminal sale of a controlled substance, which is a lot of people who we don't want to burden for five years of having to report on every place they go and everything they do.

We have seen limited success from the sex offender registry, and we know it imposes a very severe burden on the Division of Criminal Justice Services, on local

probation departments, and on the families of these offenders.

So I think, you know, this is an interesting idea. It's a new idea. We haven't really looked into it and looked into what's happening in other states. No state has ever done this. There are a couple of states that are looking at it. But I would urge a little more homework before we go about setting up as what some people have described as essentially a Zagat's guide for drug users, whereby they can tell through the 1-800 call where their drug dealer has gone to after he got out of prison.

So under the circumstances, I'm going to vote no, with the hope that we can take a harder look at this in next year's session. Thank you.

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

Senator Winner, to explain his vote.

SENATOR WINNER: Thank you, Mr. President.

I agree that this is a unique proposal, Senator Schneiderman. But I also agree that this is something that is very much favored by the law enforcement community, who feel, particularly in areas such that I represent, that it is very useful for the protection of communities to know where people who have been previously convicted of drug dealing offenses may reside.

And therefore, in the event that you know where they reside and you know their real names and not aliases, that you'll know to be able to be vigilant for the activity that necessarily surrounds one that would be engaged in the business of dealing drugs.

So under those circumstances, the law enforcement communities and law enforcement officials in the areas that I represent are very enthusiastic about this bill because they feel that it will be a very, very effective tool in order to protect their communities.

I do not believe this is an undue burden on someone who would be convicted of a Class C felony or above involving the illegal

sale of dangerous drugs in order to be on this registry. In fact, I think it would probably act as a rather large deterrent as against future behavior in that regard, due to the fact that there are many, many other types of downside problems that will be facing individuals who would be forced to register in those circumstances.

So for those reasons I think this is a very, very important tool and very unique tool that can be utilized to protect our communities, and I vote aye.

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

Senator Montgomery, to explain her vote.

SENATOR MONTGOMERY: Thank you, Mr. President.

Mr. President, I'm obviously going to be opposing this legislation. And I am looking for -- I have not found any indication that there are organizations supporting this approach. I don't believe that DCJS supports this approach. And in fact, I think that one

of the main concerns and involvements of the DCJS at this point in time, as I have had conversations with the commissioner over there as well as the commissioner of parole and probation and Department of Corrections and those people who are intimately involved in this issue.

And with people in this category, there is a very, very focused and committed attempt to look for alternatives so that we can redirect people and hopefully change people in a way that they become positive contributors to society. So I don't know where this idea comes from.

In addition, I just want to mention, Mr. President, that when we look to establish this kind of punitive approach where people can never hope to regain their contribution, their ability to contribute to society, it falls most heavily on certain communities in my district, and specifically certain people in my district. Specifically, young males of color.

And I absolutely object and oppose this approach, because I know that people do

change. People can change, especially young people. So we should not continue down this path of throwing out the lives of people because they may have made a mistake.

I want to say to you that I'm all in favor of using alternatives and rehabilitation and recovery as a focus for people who have become involved in using drugs, selling drugs, very often selling drugs in order to support their drug habit. I am in favor of any attempt to rehabilitate people. I am in favor of all attempts to try and correct behavior and give people a different alternative and opportunity.

If we do this, there are many other groups of people that we're going to be establishing a registration for. This is not the only group.

So, Mr. President, I think this is the wrong direction to take. It does not address the problem of drug sales in our state. And certainly I think it will have very, very major, negative collateral consequences as a law if we ever got such a law implemented.

I vote no.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1679 are Senators Montgomery and Schneiderman. Also Senator Parker. Also Senator Perkins. Also Senator Duane. Also Senator Huntley.

Ayes, 51. Nays, 6.

ACTING PRESIDENT MORAHAN: The bill is passed.

Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

Now may we have the controversial reading of the calendar, commencing with the first, Calendar Number 1643.

ACTING PRESIDENT MORAHAN: The Secretary will read.

The Secretary will ring the bells.

SENATOR OPPENHEIMER: Mr. President.

ACTING PRESIDENT MORAHAN:

Senator Oppenheimer, why do you rise?

SENATOR OPPENHEIMER: I'm just waiting for the bill to be called up.

THE SECRETARY: Calendar Number 1643, by Senator Larkin, Senate Print 2082, an act to amend the Education Law.

SENATOR OPPENHEIMER: Mr. President, I think there's an amendment at the desk. I ask that reading of the amendment be waived, and I'd like to be heard on the amendment.

ACTING PRESIDENT MORAHAN: Reading is waived, and you may be heard on the amendment, Senator Oppenheimer.

SENATOR OPPENHEIMER: This amendment sounds like something that may be very small, maybe even trivial. But it isn't, and I want to explain why.

This bill has the laudable goal of trying to achieve efficiencies in local government to reduce costs for property tax taxpayers. Unfortunately, the bill as written could result in taxpayer abuse. The bill as written would allow the Commissioner of Education to approve contracts between a BOCES

and a library district or library system for high-speed telecommunications or PR services, if such an agreement was economical for the BOCES or the library district -- not both entities. It would be one or the other entity.

When the Education Committee approved the bill on May 22nd, committee members from both sides discussed the need to amend the bill to protect taxpayers before the bill was brought to the floor for a vote. But no amendment was made. We move now to replace the word "or" with the word "and," to ensure that such an arrangement must be cost-efficient for both the BOCES and the library district. This would ensure that library taxpayers are not subsidizing the BOCES and vice versa.

Years ago, after outrage that a district superintendent on Long Island received an enormous golden parachute, the Legislature cracked down on BOCES expenditures to protect taxpayers. The district superintendents' salary cap was put in place. The Legislature required that some BOCES

services had to be economical without BOCES aid before they could undertake such services.

To reject this amendment would be a step backwards, because it would allow the Commissioner of Education to approve a contract that is economically beneficial to the library but not to the BOCES.

And hence that's why the amendment wants to substitute the word "and" for "or." It should be economically beneficial to both the Board of Cooperative Educational Services -- i.e., BOCES -- and to the library district. One should not have to pay for the other.

Thank you.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

Senator Larkin, on the amendment.

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

And I appreciate Senator Oppenheimer's comments with her proposed amendment, but I don't think it's necessary. If you will look, you will find that this is an appropriation or an appropriate action

that's been on the list of our bills since the 29th of January this year.

This bill in its present form is supported by BOCES throughout the state. The State Education has the final action on saying what's there. The libraries -- not only in my district, but every library that I've reached out to -- enjoys this bill in its present form. And anything that's going to be done has to be approved by the State Education.

So I would like to remind you that this amendment is not necessary.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

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, C. Johnson, Klein, L. Krueger, Montgomery, Onorato, Oppenheimer, Parker, Perkins, Sabini, Savino, Schneiderman, Smith, Stachowski, Stavisky, Stewart-Cousins, Thompson and Valesky.

ACTING PRESIDENT MORAHAN: The amendment is not agreed to.

Any other Senator wishing to be heard on the main bill?

Then debate is closed. The Secretary will ring the bells, please.

Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Senator Oppenheimer, to explain her vote.

SENATOR OPPENHEIMER: I'm going to be supporting this bill --

ACTING PRESIDENT MORAHAN: A little quiet in the chamber, please.

SENATOR OPPENHEIMER: But I still do not understand why a school district BOCES property taxpayer should be forced to subsidize the public relations services for a library. That library might not be located anywhere near where the BOCES is.

I think it should be beneficial to

both sides. But I am going to be supporting the bill. I'm voting yes.

ACTING PRESIDENT MORAHAN: Senator Oppenheimer will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 57. Nays, 0.

Absent from voting on Calendar Number 1643: Senators Connor, C. Kruger, Sampson and Serrano.

ACTING PRESIDENT MORAHAN: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1647, by Senator Larkin, Senate Print 3830C, an act to amend the Tax Law and the Racing, Pari-Mutuel Wagering and Breeding Law.

ACTING PRESIDENT MORAHAN: Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

I'm going to waive an explanation, but if the sponsor would kindly yield for some

questions.

ACTING PRESIDENT MORAHAN: Senator Larkin, will you yield for a question?

SENATOR LARKIN: Most certainly, Senator Krueger.

ACTING PRESIDENT MORAHAN: The Senator yields, Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

So as I understand this bill, we're allowing some of the harness racetracks to increase the amount of the monies they keep for their purposes, lowering the amount of money we get for the education of our children. Could you tell me how much money we would not be getting for our schools if we implement this law?

SENATOR LARKIN: Well, the determination is going to be how many are playing.

But the point about this whole bill is we have had now, for the last five or six years, six or seven or eight bills floating around here, this to do that, this to do the other. And we've discussed this. And what

our thought was, how do we best put this bill together so it achieves the goal that we've been looking at to increase money to go into education.

One of the things that we looked at when we looked at all of the states that do have VLTs is that we are behind everybody else. Their fee license, with the money that they will come out with, we were zero on marketing. So we put part of the bill in to say that we will have, over an eight-year period, $5 million. We'll allow them to use this money.

And everybody that's talked to us that audits racing and wagering say that in the first year, year and a half, you will have a problem because you're generating dollars and after that you will move out of it.

Our machines that we have right now today in New York, every one of them are drawing less money than was anticipated when this operation was conceived in October 2001.

So what we're trying to do now is very clear. We spelled it out in the bill. And not just my staff but a lot of other

people, including your side of the aisle, have looked at this bill, and we find out that this is the best way to achieve our final goal of getting additional revenue for education.

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

ACTING PRESIDENT MORAHAN: Senator Larkin, will you continue to yield?

SENATOR LARKIN: I'd be delighted.

ACTING PRESIDENT MORAHAN: The Senator yields.

SENATOR LIZ KRUEGER: Thank you very much, Mr. President.

So as the Senator explained, this is an attempt to fix a problem that evolved based on what we thought we did correctly in 2001 but hasn't come out correctly.

And to be honest, my questions are driven by the fact that I am often confused about what we are doing with racing and racinos and our policies around gambling, because we keep revising bills over and over again.

But I'll respect your answer that we need to do this to hopefully make them profitable.

My next --

SENATOR LARKIN: May I interrupt you, please?

SENATOR LIZ KRUEGER: Certainly.

SENATOR LARKIN: Not profitable, but --

ACTING PRESIDENT MORAHAN: Senator Larkin, are you asking the Senator to yield?

SENATOR LARKIN: I don't like to use the word "profitable," because then somebody will come up and say gambler's addiction. My friend Frank Padavan will come up with that.

But what we've tried to do is make this so it will be a facility that can add on to its basic facility and be something of a tourist destination, thereby generating revenue, not profit.

SENATOR LIZ KRUEGER: Thank you.

Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT MORAHAN: Senator, will you continue to yield?

SENATOR LARKIN: Yes, Mr. President.

SENATOR LIZ KRUEGER: Thank you.

All right, so we want them to draw revenue in. And we hope to draw money into our education fund when they are revenue-producing. And so we're making adjustments, if I am repeating you correctly.

This will allows them to -- again, it varies by racetrack, and I have the chart. And I do have quite a bit of information. But it allows them, at least at some racetracks, to increase the share they are keeping and decrease the amount they are giving to the education budget of the State of New York.

I understand that it also increases their marketing percentage they can keep for spending on marketing. I understand that.

It also, though, allows them to put money into a capital investment for facilities to spur capital improvements. Where does that money go? I'm sorry, my question is, it provides an additional 4 percent for capital

investments at facilities which will hopefully increase attendance at both the track and the racino. I'm wondering where those monies are going to go, how is that going to be distributed.

SENATOR LARKIN: First of all, if they feel that they need something to be done, they can apply to the Lottery Division. Because all of these machines will be interconnected at the Lottery.

And then they'll have to apply for what they're specifically going to do out of the pot, and it will be monitored how much they're getting, why they're getting it, and how they're using it. You know, in the construction of facilities or whatever else it might be.

But it isn't just going to be a bunch of money we're going to throw at you. As I mentioned to you before, you're going to have to justify what you are requiring the funding for.

ACTING PRESIDENT MORAHAN: Senator Krueger.

SENATOR LIZ KRUEGER: Mr.

President, if the sponsor would yield for an additional question.

ACTING PRESIDENT MORAHAN: Senator Krueger wants to know if you'll continue to yield, Senator.

SENATOR LARKIN: Yes, ma'am.

SENATOR LIZ KRUEGER: Thank you. My one final question.

There's been some concern raised in the state, if I remember the history. We agreed to go with VLTs at racetracks in order to encourage greater participation at racetracks to support the racing industry, as you said, to bring tourism into areas of the state that have racetracks.

But there's been some concern -- Yonkers, for example, where they stopped racing and were just doing racino, but no more -- well, they're racing again. But --

SENATOR LARKIN: Your colleague there in front of you will tell you that's not so.

ACTING PRESIDENT MORAHAN: Senator Krueger, please continue.

SENATOR LIZ KRUEGER: My question

is, is there any scenario under this legislation where these joint track-racinos could stop being tracks and just be racinos?

SENATOR LARKIN: No, there isn't. As a matter of fact, if you'll talk to somebody on the second floor, they're talking about separation of having somebody run the tracks -- right, John? -- and somebody run the gaming aspect of it.

This whole package, and I think Senator Sabini knows it because we've worked together on it -- is to revise this and get it on the right track -- am I correct? I'm using these words he's saying. That we wanted to stop this annual business of putting a dollar here and a dollar there. It's like putting a finger in a dike.

What we're saying is that we wanted a model as -- looking at all of the other states, when you see their fees going up and their marketing, Pennsylvania has got $25 million for marketing. They only started theirs in '04. They're ahead of us. They're building on the border. My good friend John Bonacic sees them every day, building over

there.

We need to do this so that we can control what's going to happen in the racing industry. And when we finish this, John and I and a few others in here hope we'll be able to help the Governor on NYRA.

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

ACTING PRESIDENT MORAHAN: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: I appreciate the sponsor's thoughtful answers to my questions. And I admit my growing confusion, continued confusion over how we make decisions around racetracks and racinos and gambling in the State of New York. I don't think I'm alone with my confusion.

My concern is that we have to be clear about what we're doing when we pass laws around racing and racinos and potential casinos and that we keep telling the public this is all to draw money into new revenue into our public school funding base, but we keep changing the deal on people. And it makes, I think, voters cynical about what

we're really doing around our policies in gambling.

So I do appreciate that the sponsor is saying we're trying to fix problems that have been created. I don't know if we're fixing problems. We're changing the rules, and we're changing the math formula and we're switching who gets the dollars. And fewer of those dollars, at least for now, will go to the schools because more of them will be held by the racetracks and the VLT vendors.

But I understand the sponsor's point that the hope is to make these more attractive facilities where more revenue comes in and therefore we're paying back our school money.

And so I will vote for the bill, because I admit my continued confusion and want to accept the arguments that have been made to me by colleagues on both sides of the aisle that we need to make this fix. But frankly I'm not sure the State of New York really does know what it's doing when it comes to our policies on racetracks, racinos and casinos.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator Krueger.

Senator Sabini.

SENATOR SABINI: Thank you, Mr. President. On the bill.

I must say that based on our track record -- pardon the pun -- the whole Capitol is confused on what we do with racing and gaming policy and how it pertains to our revenue. We pass bill after bill that are seemingly at cross-purposes, so Senator Liz Krueger is right in that respect.

But I will say this, that this may not be a perfect bill but I don't believe that the net effect of this bill will be one less dollar for education. In fact, I think if we don't pass this, in the short run we'll actually lose money on education because I believe that the facility in Tioga will probably close and the facility at Vernon Downs will probably close. So that will mean no money for education out of those facilities.

Why will they close? Well, Tioga

was closed -- and I guess Senator Libous can correct me if I'm wrong -- for about 15 years. So it just recently reopened with racing and the VLTs and with a large capital investment. And it has attracted some customers, but they are also faced with facilities in Pennsylvania, just down I-81 from them, that are spending a lot more on marketing and have a lot more sizzle to them than perhaps Tioga does. And I suspect that Tioga will not survive if we don't pass this.

The facility at Vernon Downs is right next to the Oneida reservation, Turning Stone Casino. Which we get no revenue from that particular casino, because we don't have a compact with that tribe. And the facility at Vernon, you know, yes, you can argue that the casino is nothing new there, they knew that when they reopened Vernon Downs.

But again, the facility was reopened, lots of money was poured in to renovate the facility, the state agreed to put in the VLTs. Not doing very well. But by increasing the ability of the facility to market itself, it will stay in business and

the jobs at Tioga and at Vernon will stay in place.

So I don't believe that we're going to give less money to education in the -- my honest belief is that we'll wind up giving more. If it winds up being less, then we should revisit this. But I really believe that if we don't pass this bill, at least those facilities, those two will probably close in a very short time.

So it's not a perfect piece of legislation. I share the concern that we might be drifting out of the racing business. Folks in the Governor's office have floated a balloon about doing VLTs at Aqueduct without racing, which would require legislation to pass both houses and be signed by the Governor. And I think that's an issue we're going to be taking up, I suspect.

But the original reason for establishing these racinos is (A) to raise revenue for the state's educational system, and (B) to help the racing industry. If we start separating the racino from the race, we get a casino. And we might as well as just

have casino gaming then and pass a constitutional amendment to allow it and get all the revenue from it instead of allowing folks in tribal facilities to gain the revenue -- and, if we have a compact with them, then get some revenue; if we don't, get none.

So I'm going to support this bill. I would like to see, as the chairman has suggested in committee, that we have an overall summit of racing interests throughout the state that involve horsemen, breeders, trainers, equine agriculture, track owners, OTBs. Because our racing revenue is a pocket that a lot of people have their hands in right now. And the smallest hand seems to be the taxpayers of the State of New York. And the amount of money in that pot is shrinking every year.

So we really need to put an overall fix in, I think, in racing. These Band-Aid bills may be good in the short run, but I think racing needs a bigger fix than that. I'll be voting aye with the hope that we approach a more holistic and comprehensive

approach to this.

Thank you.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

Senator Griffo.

SENATOR GRIFFO: Thank you, Mr. President.

I want to thank Senator Larkin for his efforts, because we know there are many concerns, challenges and issues that have to be addressed relative to racing and wagering in this state.

In my home district, Vernon Downs is one of the facilities. And I think Senator Sabini accurately portrayed this, the concerns we have that many of these facilities are struggling. And as a result of that problem, if they cease to exist, they would be generating no revenue to support the educational system.

But equally as important when you look at statistics and you see that the blended VLT vendor fee here in this state is one of the lowest, it forces us to make a decision, once we have gone into this

business, how do we sustain the jobs that are attached to this business and the benefit that is derived to the communities that are hosting these facilities.

And in Vernon particularly, we have a number of people that work there, and it is a very important part of the economy right now, and the ancillary businesses that have arisen as a result of the investment in Vernon.

So I think this is a -- at this point in time addresses the issue as it needs to be addressed. I thank Senator Larkin again for his leadership and urge the Senate today to support this measure.

ACTING PRESIDENT MORAHAN: Thank you, Senator Griffo.

Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

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

SENATOR LIBOUS: Thank you, Mr. President.

I want to also thank Senator Larkin for introducing this legislation.

And I want to go back to a couple of the questions that Senator Krueger asked. And they're very good questions, actually, Senator, and I think I have some of those same concerns.

But what I'm hoping here happens -- and Tioga is in my district. And it's very important that we keep the track open and viable. It does employ 400 people. It is paying property taxes. It is sharing revenues with the Town of Nichols in the County of Tioga, which --

ACTING PRESIDENT MORAHAN: Can we have some order in the chamber. Take your conversations outside or don't have them at all.

SENATOR LIBOUS: Thank you, Mr. President.

But I too hope that eventually, even though there might be a slight dip in dollars that go to the education fund, as you

promote this, that more people will be involved in participation at the tracks; therefore, more revenues will come in and that pot will grow.

And that's I think what we're trying to do here. There is no exact science to this. It is something that --

ACTING PRESIDENT MORAHAN: Excuse me, Senator, please.

SENATOR LIBOUS: Yes, sir.

ACTING PRESIDENT MORAHAN: Could we have the courtesy of the floor and have some quiet in the chamber. And if you have some conversations, take them outside. Thank you.

Senator Libous.

SENATOR LIBOUS: Many successful businesses, in promoting themselves, have an allocation of a percentage of their gross sales to a marketing budget. Therefore, they hope that that marketing produces additional sales for the corporation. In this case, it would be for the various tracks that we have around the state.

So I think that we have no choice

at this point than to pass this legislation, to give incentives to the tracks so that they can bring additional people to come in. As I said, over the long term I would hope over the next couple of years we would see an increase of money that would then go to our schools as it's split up from the lottery.

So, Mr. President, I again want to say thank you to Senator Larkin. This is very badly needed. This will keep the track in my district open. This will keep 400 people employed. And I vote aye.

ACTING PRESIDENT MORAHAN: Senator Oppenheim, to explain her vote.

SENATOR OPPENHEIMER: Oppenheim-er.

ACTING PRESIDENT MORAHAN: Oppenheim-er.

SENATOR OPPENHEIMER: I will be voting yes on the bill. But this is a trend that I think we will have to watch very closely in the future.

I understand what we're trying to do at these two racetracks. And I know this is not a problem that exists in Yonkers,

because we don't have to give the additional funds to the vendors. They're just going to increase by 1 percent the amount that's going to them.

But the money at Vernon Downs that's going to education is now going to be only 34 percent. That's down 16 percent from the original formula. And it is worrisome. And I am hopeful that this increased publicity and funding will be helpful, but this is a trend that is certainly worrisome.

And I hope that this bill will improve the revenues and will improve the percentage that will go to education, so I'm voting yes.

ACTING PRESIDENT MORAHAN: Senator Oppenheimer will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1647 are Senators Duane and Padavan.

Absent from voting: Senator Connor.

Ayes, 58. Nays, 2.

ACTING PRESIDENT MORAHAN: The bill is passed.

Senator Skelos.

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

ACTING PRESIDENT MORAHAN: There is some business.

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, on behalf of Senator Griffo I wish to call up Print Number 3657, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 1074, by Senator Griffo, Senate Print 3657, an act to amend the Education Law.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

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

ACTING PRESIDENT MORAHAN: The amendments are received and adopted.

SENATOR NOZZOLIO: Mr. President, I wish to call up, on behalf of Senator Morahan, Print Number 1897, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 280, by Senator Morahan, Senate Print 1897, an act to authorize the Commissioner of General Services.

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

ACTING PRESIDENT MORAHAN: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

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

ACTING PRESIDENT MORAHAN: The amendments are received.

SENATOR NOZZOLIO: Mr. President, on behalf of Senator Libous, on page number 37 I offer the following amendments to Calendar Number 1150, Senate Print Number 1589B, and ask that said bill retain its place on Third Reading Calendar.

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

Senator Skelos.

SENATOR SKELOS: Mr. President, there being no further business to come before the Senate, I move we stand adjourned until Thursday, June 14th, at 11:00 a.m.

ACTING PRESIDENT MORAHAN: On motion, the Senate stands adjourned until Thursday, June 14th, at 11:00 a.m.

(Whereupon, at 1:47 p.m., the Senate adjourned.)