NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 18, 2007

3:15 p.m.

REGULAR SESSION

LT. GOVERNOR DAVID A. PATERSON, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

I would ask all those in the chamber to please stand and join me in observing our Pledge of Allegiance.

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

THE PRESIDENT: In the absence of clergy, we will observe a moment of silence.

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

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Sunday, June 17, the Senate met pursuant to adjournment. The Journal of Saturday, June 16, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

I wish to call up my bill, Senate Print Number 3555, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 340, by Senator Fuschillo, Senate Print 3555, an act to amend the General Business Law and others.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

SENATOR FUSCHILLO: I now offer

the following amendments.

THE PRESIDENT: The amendments are received.

SENATOR FUSCHILLO: On behalf of Senator Lanza, I wish to call up Senate Print Number 1325A, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read Senate Print 1325A.

THE SECRETARY: Calendar Number 1485, by Senator Lanza, Senate Print 1325A, an act to amend the Judiciary Law and the Executive Law.

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

THE PRESIDENT: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

SENATOR FUSCHILLO: I now offer the following amendments.

THE PRESIDENT: The amendments are received.

SENATOR FUSCHILLO: On behalf of

Senator Lanza, I wish to call up Senate Print Number 4260, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 837, by Senator Lanza, Senate Print 4260, an act to amend the Lien Law.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

SENATOR FUSCHILLO: I now offer the following amendments.

THE PRESIDENT: The amendments are received, Senator.

SENATOR FUSCHILLO: On behalf of Senator DeFrancisco, I wish to call up Senate Print 4877, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

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

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

SENATOR FUSCHILLO: I now offer the following amendments.

THE PRESIDENT: Those amendments are received, Senator.

SENATOR FUSCHILLO: On behalf of Senator Larkin, I wish to call up Senate Print Number 4059, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 613, by Senator Larkin, Senate Print 4059, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

SENATOR FUSCHILLO: I now offer the following amendments.

THE PRESIDENT: Senator, the amendments are received.

SENATOR FUSCHILLO: On behalf of Senator Saland, I wish to call up Senate Print Number 1465A, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 571, by Senator Saland, Senate Print 1465A, an act to amend the Real Property Tax Law.

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

THE PRESIDENT: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

SENATOR FUSCHILLO: I now offer the following amendments.

THE PRESIDENT: Senator, the amendments are received.

SENATOR FUSCHILLO: Mr. President, I wish to call up my bill, Senate Print Number 1537, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 82, by Senator Fuschillo, Senate Print 1537, an act to amend the Labor Law.

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

THE PRESIDENT: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

SENATOR FUSCHILLO: I now offer the following amendments.

THE PRESIDENT: The amendments

are received.

SENATOR FUSCHILLO: Thank you.

THE PRESIDENT: The chair recognizes Senator Seward.

SENATOR SEWARD: Thank you, Mr. President.

I wish to call up my bill, Senate Print Number 806, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 307, by Senator Seward, Senate Print 806, an act to amend Chapter 340 of the Laws of 2005.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

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

THE PRESIDENT: Senator Seward, the amendments are received.

SENATOR SEWARD: Thank you.

And also, Mr. President, I wish to call up my bill, Senate Print Number 4790, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1078, by Senator Seward, Senate Print 4790, an act in relation to transportation contracts.

THE PRESIDENT: Let me guess.

SENATOR SEWARD: Yes, Mr. President, I bet you're right, I now move to reconsider the vote by which this bill was passed.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

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

THE PRESIDENT: The amendments are gratefully received, Senator Seward.

SENATOR SEWARD: On behalf of Senator Saland, I wish to call up his bill,

Senate Print Number 3577, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 670, by Senator Saland, Senate Print 3577, an act to amend the Education Law.

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

THE PRESIDENT: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

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

THE PRESIDENT: The amendments are received.

SENATOR SEWARD: One more. On behalf of Senator Maziarz, I wish to call up his bill, Senate Print Number 255.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 317, by Senator Maziarz, Senate Print 255, an

act to amend the Penal Law and the Agriculture and Markets Law.

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

THE PRESIDENT: Call the roll on reconsideration.

THE SECRETARY: Ayes, 53.

SENATOR SEWARD: Mr. President, I now offer the following amendments to that bill.

THE PRESIDENT: Thank you, Senator. The amendments are received.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President. This is the same thing.

I wish to call up, on behalf of Senator Nozzolio, Senate Print Number 4811, it's recalled from the Assembly, and it's now at your desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1565, by Senator Nozzolio, Senate Print 4811, an act to amend the General Municipal Law.

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

THE PRESIDENT: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

SENATOR FARLEY: I now offer the following amendments.

THE PRESIDENT: The amendments are received, Senator Farley.

SENATOR FARLEY: On behalf of Senator Young, Mr. President, I wish to call up her bill, Senate Print Number 5995, it's recalled from the Assembly, and it's now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1544, by Senator Young, Senate Print 5995, an act to authorize the conveyance.

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

THE PRESIDENT: Call the roll on

reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

SENATOR FARLEY: I now offer the following amendments.

THE PRESIDENT: Senator Farley, the amendments are received.

SENATOR FARLEY: Thank you.

I wish to call up Senator Volker's bill, Print Number 1263A, it's recalled from the Assembly, and it's now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 67, by Senator Volker, Senate Print 1263A, an act to amend the Penal Law.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

SENATOR FARLEY: I now offer the following amendments.

THE PRESIDENT: The amendments

are received.

SENATOR FARLEY: Mr. President, I'm going to make amendments to the following Third Reading Calendar bills.

On behalf of Senator Skelos, page 18, Calendar Number 636, Senate Print 4058A;

On behalf of Senator Young, on page 20, Calendar Number 717, Senate Print 4334;

On behalf of Senator Libous, on page 23, Calendar Number 812, Senate Print 2152;

On behalf of Senator Griffo, on page 33, Calendar Number 1120, Senate Print 5482B;

On behalf of Senator Libous, on page 35, Calendar Number 1150, Senate Print 1589C;

On behalf of Senator Marcellino, on page 37, Calendar Number 1200, Senate Print 4833;

On behalf of Senator Seward, on page 39, Calendar Number 1265, Senate Print 5800;

On behalf of myself, Senator

Farley, on page 39, Calendar Number 1276, Senate Print 5288A;

On behalf of Senator Skelos, on page 43, Calendar Number 1356, Senate Print 4886A;

On behalf of Senator Nozzolio, on page 48, Calendar Number 1635, Senate Print 5037A;

On behalf of Senator Saland, on page 45, Calendar Number 1397, Senate Print 5752;

On behalf of Senator Lanza, on page 51, Calendar Number 1719, Senate Print 4922;

On behalf of Senator Rath, on page 51, Calendar Number 1721, Senate Print 5286;

And on behalf of Senator Lanza, on page 52, Calendar Number 1727, Senate Print 5973A.

Mr. President, I move that these bills retain their place on the Third Reading Calendar.

THE PRESIDENT: Senator Farley, the amendments to all of these bills are

received and adopted. The bills will retain their place on the Third Reading Calendar.

SENATOR FARLEY: Thank you, Mr. President.

THE PRESIDENT: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

On page number 7, on behalf of Senator Robach, I offer the following amendments to Calendar Number 216, Senate Print 3071, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President, on behalf of Senator Fuschillo, I wish to call up Senate Print Number 5780, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number

1250, by Senator Fuschillo, Senate Print 5780, an act to amend the Penal Law and the Vehicle and Traffic Law.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

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

THE PRESIDENT: Those amendments are received, Senator Nozzolio.

The chair recognizes Senator Winner.

SENATOR WINNER: Thank you, Mr. President.

Amendments are offered to the following Third Reading Calendar bills:

By Senator LaValle, page 7, Calendar Number 248, Senate Print Number 2426A;

Senator Morahan, page 40, Calendar

Number 1279, Senate Print Number 4475;

Senator Volker, page 49, Calendar Number 1685, Senate Print Number 6081;

By Senator Saland, page number 52, Calendar Number 1725, Senate Print Number 5672;

By Senator Maltese, page 27, Calendar Number 943, Senate Print Number 1282;

By Senator Marcellino, page 46, Calendar Number 1419, Senate Print Number 634B.

Mr. President, I now move that these bills retain their place on the order of third reading.

THE PRESIDENT: The amendments are received and adopted, Senator Winner. All of the bills will retain their place on the Third Reading Calendar.

The chair recognizes Senator C. Johnson.

SENATOR CRAIG JOHNSON: Thank you very much, Mr. President.

Mr. President, I wish to call up, on behalf of Senator Carl Kruger, Senate Print Number 4542, recalled from the Assembly, which

is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1326, by Senator C. Kruger, Senate Print 4542, an act to amend the Family Court Act and the Criminal Procedure Law.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

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

THE PRESIDENT: Those amendments are received, Senator Johnson.

SENATOR CRAIG JOHNSON: Thank you, Mr. President.

Mr. President, on behalf of Senator Carl Kruger, on page number 43 I offer the following amendments to Calendar Number 1327, Print Number 4546, and ask that said bill

retain its place on the third reading of the calendar.

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

SENATOR CRAIG JOHNSON: Thank you, Mr. President.

Also, Mr. President, on behalf of Senator Carl Kruger, on page number 21 I offer the following amendments to Calendar Number 738, Senate Print Number 4838, and ask that said bill will retain its place on the Third Reading Calendar.

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

SENATOR CRAIG JOHNSON: Thank you, Mr. President.

SENATOR FUSCHILLO: Mr. President.

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: Are there any

substitutions at the desk?

THE PRESIDENT: Yes, there are.

The Secretary will read.

THE SECRETARY: On page 20, Senator Fuschillo moves to discharge, from the Committee on Rules, Assembly Bill Number 1044A and substitute it for the identical Senate Bill Number 1548A, Third Reading Calendar 721.

On page 27, Senator Nozzolio moves to discharge, from the Committee on Rules, Assembly Bill Number 3818A and substitute it for the identical Senate Bill Number 583A, Third Reading Calendar 937.

On page 31, Senator Winner moves to discharge, from the Committee on Rules, Assembly Bill Number 8632 and substitute it for the identical Senate Bill Number 3667A, Third Reading Calendar 1020.

On page 39, Senator Golden moves to discharge, from the Committee on Tourism, Recreation and Sports Development, Assembly Bill Number 1239 and substitute it for the identical Senate Bill Number 2858, Third Reading Calendar 1274.

On page 41, Senator Young moves to

discharge, from the Committee on Judiciary, Assembly Bill Number 2582 and substitute it for the identical Senate Bill Number 376, Third Reading Calendar 1298.

On page 44, Senator Trunzo moves to discharge, from the Committee on Rules, Assembly Bill Number 2757 and substitute it for the identical Senate Bill Number 1341, Third Reading Calendar 1366.

On page 50, Senator LaValle moves to discharge, from the Committee on Judiciary, Assembly Bill Number 6022 and substitute it for the identical Senate Bill Number 2068, Third Reading Calendar 1707.

On page 51, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 6065 and substitute it for the identical Senate Bill Number 3220, Third Reading Calendar 1710.

On page 51, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 6622 and substitute it for the identical Senate Bill Number 3822, Third Reading Calendar 1712.

On page 51, Senator Padavan moves

to discharge, from the Committee on Rules, Assembly Bill Number 7892 and substitute it for the identical Senate Bill Number 3826, Third Reading Calendar 1713.

And on page 51, Senator Rath moves to discharge, from the Committee on Rules, Assembly Bill Number 7175A and substitute it for the identical Senate Bill Number 4220A, Third Reading Calendar 1714.

THE PRESIDENT: Substitutions ordered.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, there was a previously adopted resolution at the desk by Senator Young. May we please have the resolution read in its entirety.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Young, Legislative Resolution Number 2506, congratulating student-athlete Rayanna Anderson upon the occasion of capturing the 2007 United States Girls Wrestling Association National Championship.

"WHEREAS, Athletic competition enhances the moral and physical development of the young people of this state, preparing them for the future by instilling in them the value of teamwork, encouraging a standard of healthy living, imparting a desire for success, and developing a sense of fair play and competition; and

"WHEREAS, It is the sense of this Legislative Body to recognize and pay tribute to those young people within the State of New York who, by achieving outstanding success in athletic competition, have inspired and brought pride to their school and community; and

"WHEREAS, Attendant to such concern, and in full accord with its long-standing traditions, this Legislative Body is justly proud to congratulate student-athlete Rayanna Anderson upon the occasion of capturing the 2007 United States Girls Wrestling Association National Championship; and

"WHEREAS, A student at Immaculate Conception School, Rayanna Anderson wrestles

for the Wellsville Junior Wrestling Club. She won the national title in Livonia, Michigan, with three pins, a technical fall and a decision; and

"WHEREAS, Rayanna Anderson began with an 18-0 victory over Kandice Bredlinger of Pennsylvania, and then won the championship with a 39-second pin over Alexandria Fiore of Dayton, Ohio; and

"WHEREAS, After the championship win, Rayanna Anderson improved to a record of 155-41 with 99 pins, including a 36-9 season; and

"WHEREAS, Rayanna Anderson's overall record is outstanding. She was loyally and enthusiastically supported by family, fans, friends and the community at large; and

"WHEREAS, Sports competition instills the values of teamwork, pride and accomplishment, and Rayanna Anderson has clearly made a contribution to the spirit of excellence which is a tradition of her club; now, therefore, be it

"RESOLVED, That this Legislative

Body pause in its deliberations to congratulate student-athlete Rayanna Anderson upon the occasion of capturing the 2007 United States Girls Wrestling Association National Championship; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to Rayanna Anderson."

THE PRESIDENT: On the resolution, Senator Young.

SENATOR YOUNG: Thank you, Mr. President.

I'd like to have Rayanna stand up so everyone can see her. Rayanna is 9 years old. She's a student at Immaculate Conception School. And she is one of the most dynamic, confident, smart and articulate people I think I've ever met.

She did extremely well, and it is such a great accomplishment to capture the 2007 U.S. Girls Wrestling Association National Championship. And Rayanna is so famous now that she even gave me her own sports card. It has her picture on it, it has all her stats on it. And we're very proud of everything that

she's done.

She's joined by her parents, John Anderson and Kasey Anderson; her two brothers, Nicholas and Brendan; and a friend, Bernie Riley.

And Rayanna told me that it was actually through her brothers that she got involved in wrestling, because she was watching one day and the next thing you knew she was out there wrestling also. And the coach decided that she was a natural, and so the rest is history.

We are all aware of the values that team sports provide for our young people -- teamwork and leadership, among others. And wrestling is unique because once that match begins, it's purely individual. And for a sport that's so focused on the individual, I think it's quite amazing that Rayanna compiled a 155 to 41 record overall, with 99 pins. And her most recent season saw her go by 36 to 9. It truly is a remarkable achievement.

And I do want to mention that she also was the 2006 New York State Girls Wrestling Champion.

So, Mr. President, I'm glad that we have this resolution today. I think it's fine young people like Rayanna who are our future.

And, Rayanna, I want you to just keep it up and go get 'em. And hopefully you'll come back to Albany in the future with even more championships. Okay?

Congratulations.

THE PRESIDENT: This resolution was adopted on May 30th, so we don't have to vote on it. We have already passed it unanimously.

Rayanna Anderson is, as described by Senator Young, in the gallery, along with her parents, John and Kasey; her brothers, Nicholas and Brendan; and her friend Bernie Riley.

She is the winner of the United States Girls Wrestling Association National Championship for the year 2007.

Rayanna, congratulations. And every time you win another championship, come back here and the Senate will recognize you again. Thank you very much.

(Applause.)

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, there is a resolution at the desk, 2891, by Senator Griffo. Would you please have it read in its entirety.

THE PRESIDENT: Resolution 2891, by Senator Griffo. The Secretary will read.

SENATOR FUSCHILLO: Thank you.

THE SECRETARY: By Senator Griffo, Legislative Resolution Number 2891, congratulating the Thomas R. Proctor High School Varsity Baseball Team and Coach Dave Guido upon the occasion of capturing the New York State Public High School Athletic Association Class AA Championship.

"WHEREAS, Excellence and success in competitive sports can be achieved only through strenuous practice, team play and team spirit, nurtured by dedicated coaching and strategic planning; and

"WHEREAS, Athletic competition enhances the moral and physical development of the young people of this state, preparing them for the future by instilling in them the value

of teamwork, encouraging a standard of healthy living, imparting a desire for success, and developing a sense of fair play and competition; and

"WHEREAS, The Thomas R. Proctor High School Varsity Baseball Team are the New York State Public High School Athletic Association Class AA champions; and

"WHEREAS, In winning the Class AA championship, which includes the largest schools in New York State, the Thomas R. Proctor High School Varsity Baseball Team defeated North Rockland High 3-2, and also defending state champion Massapequa 2-1 in the semifinal game both at NYSEG Stadium in Binghamton; and

"WHEREAS, The athletic talent displayed by this team is due in great part to the efforts of Coach Dave Guido and his team of outstanding assistant coaches, skilled and inspirational tutors respected for their ability to develop potential into excellence; and

"WHEREAS, The team's overall record is outstanding, and the team members were

loyally and enthusiastically supported by family, fans, friends and the community at large; and

"WHEREAS, The hallmarks of the Thomas R. Proctor High School Varsity Baseball Team, from the opening game of the season to participation in the championship, were a brotherhood of athletic ability, of good sportsmanship, of honor and of scholarship, demonstrating that these team players are second to none; and

"WHEREAS, Athletically and academically, the team members have proven themselves to be an unbeatable combination of talents, reflecting favorably on their school; and

"WHEREAS, Coach Guido and his dedicated staff have done a superb job in guiding, molding and inspiring the team members toward their goals; and

"WHEREAS, Sports competition instills the values of teamwork, pride and accomplishment, and Coach Dave Guido and these outstanding athletes have clearly made a contribution to the spirit of excellence which

is a tradition of their school; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to congratulate the Thomas R. Proctor High School Varsity Baseball Team, its members -- Joe Barry, A.J. Bates, Carmen Bossone, Ed Constantine, Rafael Cordero, Adam Dee, Ryan Donovan, Jacob Henry, Jack Lottermoser, Mike Mason, Joe Mazzara, Nick Mishlanie, Brandon O'Connor, Joe Perrotta, Sean Redmond, Rob Roth, Steve Sarcone, Mike Scotellaro, Jason Simone, Mark Vandreason, and Devon Warmack -- and Coaches Dave Guido, Jim Lasher and Fred Orsino on their outstanding season and overall team record; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the Thomas R. Proctor High School Varsity Baseball Team."

THE PRESIDENT: On the resolution, the chair recognizes Senator Griffo.

SENATOR GRIFFO: Thank you, Mr. President.

It's an honor today to have these fine young athletes here, along with Rayanna. Perhaps you want to invite Rayanna to the next leaders' meeting as you wrestle with the issues confronting the remainder of our session, Mr. Lieutenant Governor.

To the young men from Proctor and to Coach Guido -- Tommy is also an Italian, so sometimes he doesn't get it completely right, but it's Coach Guido. He has been the coach of the Proctor Raiders for over 22 years. He's done an extraordinary job during that time.

These young professional athletes who are with us today -- young amateur athletes, someday hopefully their designs on professional sports -- have done an extraordinary job. They had a year where they were 22-4-1.

Coach Guido has brought other teams to the Final Four six times in his tenure, in the over 22 years he's been the coach. But this year they won not only the Section III championship but also the Class AA, which is the largest division in high school athletics.

To win that state championship after a very challenging year is a true credit to these young athletes.

So today we're proud that you came here to Albany, because you deserve to be recognized, not only because you are extraordinary athletes but equally because you're exceptional young men and you have served as great role models to many young people in the community. And you also, as you played throughout this state, showcased the great quality of our area, and you did that with poise, confidence and with great honor.

So I want to congratulate each and every one of you, to the coaches, the assistant coaches, the managers and the players. Coach Guido, thank you.

Congratulations. If you would all stand and be recognized.

(Applause.)

THE PRESIDENT: That resounding round of applause indicates probably a favorable resolution, but we do have to vote on the resolution.

All those in favor of the

resolution honoring the young high school champions from Thomas R. Proctor High School, the city of Utica, please indicate so by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

On behalf of the Senate, Coach Guido, we thank all of you for coming here to the chamber today. A well-deserved victory over North Rockland County and also defending champion Massapequa. We are very much in awe of the great achievements not only that your students have rendered on the field but their performance in class and around the school off the field.

Congratulations. And please remember that all of us here in the Senate today pay homage to your effort. Thank you very much.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, there's a resolution at the desk,

2914, by Senator Morahan.

THE PRESIDENT: Resolution 2914, by Senator Morahan, the Secretary will read.

THE SECRETARY: By Senator Morahan, Legislative Resolution Number 2914, honoring Mary Ann Prior upon the occasion of her retirement as the Coordinator of Health Service for the Clarkstown Central School District.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, may we please have the noncontroversial reading of the calendar.

THE PRESIDENT: The Secretary will present a noncontroversial reading of the calendar.

THE SECRETARY: Calendar Number

103, by Senator Morahan, Senate Print 249A, an act to amend the General Business Law and the Executive Law.

THE PRESIDENT: The Secretary will read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 120th day.

THE PRESIDENT: The Secretary will call the roll.

(The Secretary called the roll.)

THE PRESIDENT: And the Secretary will announce the results.

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 280, by Senator Morahan, Senate Print --

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 288, by Senator Lanza, Senate Print 2693B, an act to amend the General Business Law.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 381, by Senator Morahan, Senate Print 2586A, an act to amend the Surrogate's Court Procedure Act.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 505, by Senator Rath, Senate Print 4009B, an act to amend the Social Services Law.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 8. This act shall take effect on the first of January next succeeding.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 721, substituted earlier today by Member of the Assembly Weisenberg, Assembly Print Number 1044A, an act to amend the Public Health Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 792, by Senator Little, Senate Print 1054, an act to amend the Real Property Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 832, by Senator Fuschillo --

SENATOR FUSCHILLO: Lay it aside temporarily.

THE PRESIDENT: The bill is laid

aside temporarily.

THE SECRETARY: Calendar Number 844, by Senator DeFrancisco, Senate Print 5089A, an act to amend the Real Property Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 857, by Senator Golden, Senate Print 209, an act to amend the Public Health Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 937, substituted earlier today by Member of the Assembly Gottfried, Assembly Print Number 3818A, an act to amend the Labor Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 961, by Senator DeFrancisco, Senate Print 36, an act to amend the Public Health Law and the State Finance Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 1020, substituted earlier by Member of the Assembly Destito, Assembly Print Number 8632, an act to amend Chapter 674 of the Laws of 1993.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1063, by Senator DeFrancisco, Senate Print 3959, an act to amend the New York State Defense Emergency Act.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: The Secretary will read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1151, by Senator Larkin, Senate Print 4293A, an act to amend the Highway Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1178, by Senator Stachowski, Senate Print 2803, an act to amend the Labor Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

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

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

The Secretary will read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1204, by Senator Lanza, Senate Print 5583, an act to amend the Environmental Conservation Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1238, by Senator Thompson, Senate Print 3628, an act to amend the Civil Practice Law and Rules.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1274, substituted earlier today by Member of the Assembly --

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

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

THE SECRETARY: Calendar Number 1298, substituted earlier by Member of the Assembly Parment, Assembly Print Number 2582, an act to amend the Uniform Justice Court Act.

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

Please read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1303, by Senator Winner, Senate Print 3228, an act to amend the Uniform Justice Court Act and the Town Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calender Number 1306, by Senator Volker, Senate Print 4874, an act to amend the Real Property Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1335, by Senator Seward, Senate Print 2139, an act relating to the Department of Health approval.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1366, substituted earlier today by Member of the Assembly Eddington, Assembly Print Number 2757, an act to amend the General Municipal Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1393, by Senator Rath, Senate Print 5475, an act to authorize the City of Batavia.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Results.

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1433, by Senator Marcellino, Senate Print --

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid

aside by the Acting Minority Leader, Senator Duane.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1578, by Senator Wright, Senate Print 3490A, an act in relation to authorizing the Village of Alexandria Bay.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Results.

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1590, by Senator Maziarz, Senate Print 5906A, an act to amend the Parks, Recreation and Historic Preservation Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first of April.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1592, by the Senate Committee on Rules, Senate Print Number 5983, an act to amend the Tax Law.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1637, by the Senate Committee on Rules, Senate Print 5988 --

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1650, by the Senate Committee on Rules, Senate Print 4858A, an act to amend Tax Law.

THE PRESIDENT: This bill is accompanied by a local fiscal impact note that is at the desk.

The Secretary will read the last section.

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

THE PRESIDENT: The Secretary will now call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1655, by Senator Leibell, Senate Print 5654A, an act to amend the Town Law and the Public Officers Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1657, by the Senate Committee on Rules, Senate Print 5753A, an act to amend the Tax Law.

THE PRESIDENT: There is a local

fiscal impact note at the desk.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1665, by Senator Volker, Senate Print 6079, Concurrent Resolution of the Senate and Assembly proposing an amendment to Article 3 of the Constitution.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The resolution is adopted.

THE SECRETARY: Calendar Number 1667, by Senator Golden, Senate Print 2449A, an act to amend the Public Health Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the same date as Section 24 of Part B of Chapter 58 of the Laws of 2007.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1696, by Senator Alesi, Senate Print 4744B, an act in relation to redistributing 2006 bond volume allocations.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 17. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1700, by Senator Padavan, Senate Print 6072, an act to amend Chapter 156 of the Laws of 2006.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1704, by Senator Volker, Senate Print 6135, an act to amend Chapter 367 of the Laws of 1999.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1706, by Senator Robach, Senate Print 2004, an act to amend the Executive Law.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1707, substituted earlier today by Member of the Assembly Alessi, Assembly Print Number 6022, Concurrent Resolution of the Senate and Assembly proposing an amendment to Section 26 of Article 6 of the Constitution.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The resolution is adopted.

THE SECRETARY: Calendar Number 1708, by Senator Alesi, Senate Print 2598, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1709, by Senator Griffo, Senate Print 2724 --

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1710, substituted earlier today by Member of the Assembly Thiele, Assembly Print Number 6065, an act to amend the Criminal Procedure Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Results.

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1711, by Senator Winner, Senate Print 3670, an act to amend the Alcoholic Beverage Control Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of the month that begins at least 90 days after the date on which it shall have become a law.

THE PRESIDENT: Wow. Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1712, substituted earlier today Member of the Assembly Alessi, Assembly Print Number 6622,

an act to amend the Criminal Procedure Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1713, substituted earlier today by Member of the Assembly Brook-Krasny, Assembly Print Number 7892, an act to amend the Private Housing Finance Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 1714, substituted earlier today by Member of the Assembly Schimminger, Assembly Print Number 7175A, an act relating to adjusted valuation for school aid.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1715, by Senator Marcellino, Senate Print 4382A, an act to amend the Executive Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1716, by Senator Skelos, Senate Print 4401, an act to amend the Education Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1722, by Senator Hannon, Senate Print 5339, an act to amend the County Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 1728, by Senator Bruno, Senate Print 5981, an act to amend Chapter 757 of the Laws of 2005, establishing the Tech Valley High School.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1730, by the Senate Committee on Rules, Senate Print 6123, an act to amend the Tax Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2007.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1732, by Senator Skelos, Senate Print 6167 --

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

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

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

SENATOR FUSCHILLO: Mr. President, would you please take up Calendar Number 832, which was laid aside temporarily.

THE PRESIDENT: The Secretary will read Calendar Number 832.

THE SECRETARY: Calendar Number 832, by Senator Fuschillo, Senate Print 1531, an act to amend the Real Property Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

I just want to point out that last year, in addition to myself, Senators Hassell-Thompson, Liz Krueger, Velmanette Montgomery, Senators Parker and Schneiderman all voted in the negative on this bill.

And I will be voting in the negative again this year, Mr. President.

THE PRESIDENT: Senator Duane will be recorded in the negative on Calendar Number 832.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 832 are Senators Adams, Dilan, Duane, Montgomery, Schneiderman and Serrano.

Ayes, 50. Nays, 6.

THE PRESIDENT: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr.

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

And the Senate will stand at ease.

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

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 4:06 p.m.)

(Whereupon, the Senate reconvened at 4:19 p.m.)

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, if we could return to the order of reports of standing committees for the report of the Rules Committee.

THE PRESIDENT: Reports of standing committees.

The Secretary will read.

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

Senate Print 1470, by Senator

Morahan, an act authorizing;

2035, by Senator Young, an act to amend the Tax Law;

4017, by Senator Hannon, an act to amend the County Law;

4018, by Senator Saland, an act to amend the Education Law;

4070B, by the Senate Committee on Rules, an act to amend the Tax Law;

4163, by Senator Padavan, an act to amend the Civil Service Law;

4318, by Senator Valesky, an act to amend the Tax Law;

4476B, by Senator Farley, an act to amend the Education Law;

4624, by Senator Griffo, an act to amend the Retirement and Social Security Law;

4712, by Senator Leibell, an act to amend the Tax Law;

5373, by Senator Hannon, an act to authorize;

5515, by Senator Bonacic, an act to amend the Executive Law;

5671, by Senator Saland, an act to amend the Education Law;

5694, by Senator Morahan, an act in relation to state aid;

5727, by Senator Padavan, an act to amend the Real Property Law;

5805, by Senator Griffo, an act to amend the Criminal Procedure Law;

5831A, by Senator Larkin, an act to authorize;

5862, by Senator Maziarz, an act to amend the Environmental Conservation Law;

6011, by Senator Larkin, an act to amend the Tax Law;

6024A, by Senator Padavan, an act to amend the Local Finance Law;

6082, by Senator Wright, an act to amend the Public Authorities Law;

6125, by Senator Padavan, an act to amend the General City Law;

6148, by Senator Winner, an act to amend Chapter 987 of the Laws of 1971;

6165, by Senator Bonacic, an act to amend Chapter 159 of the Laws of 2000;

And Senate Print 6171, by Senator Lanza, an act to amend Chapter 1 of the Laws of 2005.

All bills ordered direct to third reading.

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: Move to accept the report of the Rules Committee.

THE PRESIDENT: All in favor of accepting the Rules Committee report please indicate so by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The report is accepted.

Senator Fuschillo.

SENATOR FUSCHILLO: May we please have the noncontroversial reading of Supplemental Calendar 62A.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1717, by Senator Morahan, Senate Print 1470, an act authorizing the Greenwood Lake Union Free School District.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1737, by Senator Young --

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1738, by Senator Hannon, Senate Print 4017, an act to amend the County Law.

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

The Secretary will read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1739, by Senator Saland, Senate Print --

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1740, by the Senate Committee on Rules, Senate Print 4070B, an act to amend the Tax Law.

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

The Secretary will now read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of the month next succeeding the date on which it shall have become a law.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1741, by Senator Padavan, Senate Print 4163, an act to amend the Civil Service Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1742 --

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

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

THE SECRETARY: Calendar Number 1743, by Senator Farley, Senate Print 4476B, an act to amend the Education Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1744, by Senator Griffo, Senate Print 4624, an act to amend the Retirement and Social Security Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1745, by Senator Leibell, Senate Print 4712, an act to amend the Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1746, by Senator Hannon, Senate Print 5373, an act to authorize the Ethical Humanist Society of Long Island.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55. Nays, 3. Senators Bonacic, Larkin and Rath recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1747, by Senator Bonacic, Senate Print 5515, an act to amend the Executive Law.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1748, by Senator Saland, Senate Print 5671, an act to amend the Education Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1749, by Senator Morahan, Senate Print 5694, an act in relation to state aid.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1750, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 5182 and substitute it for the identical Senate Bill Number 5727, Third Reading Calendar 1750.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1750, by Member of the Assembly Young, Assembly Print Number 5182, an act to amend the Real Property Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1751, by Senator Griffo, Senate Print 5805, an act to amend the Criminal Procedure Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays, 2. Senators Duane and L. Krueger recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1752, by Senator Larkin, Senate Print 5831A --

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

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

THE SECRETARY: Calendar Number

1753, by Senator Maziarz --

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

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

THE SECRETARY: Calendar Number 1754, by Senator Larkin, Senate Print 6011, an act to amend the Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1755, by Senator Padavan, Senate Print 6024A, an act to amend the Local Finance Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1756, by Senator Wright, Senate Print 6082, an act to amend the Public Authorities Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1757, by Senator Padavan, Senate Print 6125, an act to amend the General City Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1758, by Senator Winner --

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1759, by Senator Bonacic, Senate Print 6165, an act to amend Chapter 159 of the Laws of 2000.

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

The Secretary will read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1760, by Senator Lanza, Senate Print 6171, an act to amend Chapter 1 of the Laws of 2005 amending the State Finance Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

That completes the noncontroversial reading of the calendar.

SENATOR FUSCHILLO: Mr. President.

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: Will you please recognize Senator Ruth Hassell-Thompson.

THE PRESIDENT: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank

you, Mr. President.

According to Rule 9, if I had been in chambers, I would have voted no on Calendar Number 832.

Sorry, Chuck.

THE PRESIDENT: The record will so reflect. Thank you, Senator Hassell-Thompson.

Senator Fuschillo.

SENATOR FUSCHILLO: Will you please restore Calendar Number 1739, by Senator Saland, to the noncontroversial calendar and take it up at this time.

THE PRESIDENT: We will take up Calendar Number 1739.

The Secretary will read.

THE SECRETARY: Calendar Number 1739, by Senator Saland, Senate Print 4018, an act to amend the Education Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 19. This act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator C. Johnson, to explain his vote.

SENATOR CRAIG JOHNSON: Thank you, Mr. President.

I'm going to be voting in the affirmative on this piece of legislation. I did have a question in connection with it, as to whether or not special-acts school districts were required to undertake criminal background checks for prospective employees.

I had a conversation with the sponsor of this legislation, Senator Saland, and he has told me I can represent that it is his understanding and his counsel's understanding that special-acts schools do fall within this legislation, that they are required to do the fingerprinting for prospective employees. And so I will be voting in the affirmative, given that representation.

So thank you very much, Senator Saland.

THE PRESIDENT: Senator C. Johnson will be recorded in the affirmative on Calendar Number 1739.

Senator Saland, to explain his vote.

SENATOR SALAND: Thank you, Mr. President.

I wish to merely affirm, or confirm, Senator Johnson's remarks. Certainly this bill does provide and is intended to provide that special-acts schools as well as the 4201 schools, all special ed schools, are covered.

Thank you, Mr. President.

THE PRESIDENT: Your vote, Senator?

SENATOR SALAND: I think I'll vote in the affirmative, Mr. President.

THE PRESIDENT: Senator Saland will be recorded as voting in the affirmative on Calendar Number 1739.

Senator Perkins, to explain his vote.

SENATOR PERKINS: Thank you, Mr. President.

Pursuant to Rule Number 9, I'd like to vote no on Calendar Number 381 and Calendar Number --

THE PRESIDENT: Senator Perkins, we're on the roll call of Calendar Number 1739.

SENATOR PERKINS: Oh. Excuse me.

THE PRESIDENT: So we assume you're voting in the affirmative on Calendar Number 1739.

The Secretary will announce the results.

THE SECRETARY: Ayes, 59. Nays, 0.

THE PRESIDENT: The bill is passed.

The chair recognizes Senator Perkins.

SENATOR PERKINS: Once again, Mr. President, pursuant to Rule Number 9, I'd like to take this opportunity to vote no on Calendar 381 and Calendar 832, as if I were here. Thank you.

THE PRESIDENT: Senator Perkins, pursuant to Rule 9 you cannot vote at this time on those two bills. You can make record of your feelings on those bills.

SENATOR PERKINS: In that case I

would like to have my vote recorded as if I would have voted no on those two bills, Calendar 381 and Calendar 832.

THE PRESIDENT: Thank you, Senator. The record will reflect.

SENATOR PERKINS: Thank you.

THE PRESIDENT: Senator Winner.

SENATOR WINNER: Mr. President, before we go to the controversial calendar, would you lay aside my bill, Calendar Number 1758, for the day, please.

THE PRESIDENT: Calendar Number 1758 is laid aside for the day at the request of the sponsor.

Senator Winner.

SENATOR WINNER: Yes, Mr. President. On the controversial calendar can we start with Calendar Number 280.

THE PRESIDENT: The Secretary will conduct the controversial reading of the calendar, Calendar Number 280 to commence.

Ring the bell so that all members may be aware that we are now voting on bills.

THE SECRETARY: Calendar Number 280, by Senator Morahan, Senate Print 1897A,

an act authorizing the Commissioner of General Services.

SENATOR DUANE: Explanation, please.

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

SENATOR MORAHAN: Wow. This bill -- which we voted on, by the way, in March, it passed 61 to 0 -- was requested to be amended by the Assembly, which this new bill now reflects their amendment.

The bill in essence allows the Commissioner of General Services to sell at fair market value a portion of a state facility called the Rockland Psychiatric Center to the Town of Orangetown.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

If the Senator would please yield.

THE PRESIDENT: Senator Morahan, would you wield for a question from Senator Duane?

SENATOR MORAHAN: Yes, I will.

SENATOR DUANE: Thank you, Mr. President.

I'm just curious, how was the bill amended? What makes this bill different than the original version?

THE PRESIDENT: Senator Morahan.

SENATOR MORAHAN: It was greatly reduced in content. The original bill outlined the use and what was going to be done. It called for a project labor agreement.

Those provisions were taken out, and the phrase "fair market value" was added back in.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

THE PRESIDENT: Any other Senator wishing to speak on the bill?

In that case, debate is closed. Ring the bell.

The Secretary will read the last section on Calendar 280.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Announce the results.

THE SECRETARY: Ayes, 62. Nays, 0.

THE PRESIDENT: The bill is passed.

Senator Winner.

SENATOR WINNER: Continue with the controversial calendar, please, Mr. President.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1433, by Senator Marcellino, Senate Print 607, an act to amend the Education Law.

SENATOR OPPENHEIMER: Explanation, please.

THE PRESIDENT: Senator Marcellino, an explanation has been requested to Calendar Number 607 by Senator Oppenheimer.

SENATOR MARCELLINO: Yes, Mr. President.

This bill would require that each

school district include on their annual report card the percentage of the budget that is actually spent on instructional services.

The definition of what is an instructional service is already in law. The Education Commissioner has so stated. We've adopted that as the definition. The school districts are well aware of that.

We just want to make sure that the taxpayers and the voters know how successful and where exactly their budget dollars go, their tax dollars are going, that they're not being wasted, they're going into the classroom for legitimate expenses.

THE PRESIDENT: Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you very much, Senator.

THE PRESIDENT: Read the last section.

SENATOR OPPENHEIMER: No, I'd like to speak, if I may be heard.

THE PRESIDENT: Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: Thank you.

I'm urging a no vote on this even though I will say that what is considered instructional expense in our state is much broader than in many other states. And so it does include things like curriculum development, psychological services, guidance counseling. Even interscholastic sports is now considered part of instructional services.

But even though the definition is broad, I'm against this because this is already available. It is reported to the state. It is highly scrutinized by the state. It is public record. And I think to mandate this report on the school districts is just onerous and rather unnecessary.

I think in another way it is important to defeat this because there are small districts which are going to appear to be wasteful because much of their expense goes into transportation. And if they have buildings that have to be repaired or new buildings built, it makes it look like they're not spending enough on instruction when indeed they have to provide these other services. So I think it disadvantages our smaller school

districts and our rural school districts.

And it turns out, you know, we in New York State are really much more efficient and putting much more into the classrooms as defined, the classroom expense, than most other states in our nation. We put 78 percent of our budgets, on average, into the instructional expense. And if you look at it nationally, instructional expense is around 61.5 percent.

So we're already doing a lot more than other states as far as improving what is, you know, efficiency and putting people into the classroom and into the daily interaction with students and not building up administration layers on top of each other.

So for these reasons -- the information is there, it's public record. And also because our smaller school districts or rural districts would be quite disadvantaged were this bill to go through. That's why I'm urging a no vote.

Thank you.

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. President, on the bill.

I beg to differ with my worthy colleague. This information is not readily available. The information would have to be -- for the average citizen to go on the State Ed website, which is a maze, they would have to be able to put all of these things together. Many of them are listed separately, and they'd have to add them all up, because no place are they in fact added up so the average citizen, knowing, could find these things in an easy way.

Every tax dollar that we spend -- and I'm sure in the county that the Senator represents, and I know in my county, in my counties that I represent, the school property tax is about 70 percent of your tax dollar. The public demands to know that their tax dollars are being spent appropriately.

We passed legislation requiring the Comptroller of this state to audit every school district to make sure that the money is being spent appropriately.

I agree with the Senator, our

schools are very appropriate. They're very careful in how they spend their money. They do the best they can to put as much as they can into the classroom. The public must know this, and it must be made readily and easily available to every person in the state that the school districts, who are often categorized as the villains in a lot of situations, not be so cast in an inappropriate way.

If they're doing something wrong, that's one thing. But when they're doing it right, the public should know it. All this bill says is add a little number on the report card -- big onerous -- one little number on a report card that they put out every year which basically says we're doing the right thing, and this is where it is, and you can find it and we're proud of it.

If a school district has a transportation situation, the people in that school district understand. They're not stupid. They understand that you've got to bus kids great distances in certain rural districts, and therefore a large expenditure

goes for transportation. I don't think they're foolish enough to think that's a bad expense.

And if there's a building situation, they know they're going to get a percentage of that back. Building aid is reimbursable. So what are they ashamed of? I don't think that's a problem for anybody.

So what we're doing here, we're just simply saying that since our school districts do the right thing, by and large, the general public should be made aware of this in as clear and as easy and as open a way as possible. That is what we're all about.

That is what this bill is all about. It's very simple, very straightforward. I don't think it's onerous, Mr. President. And I certainly urge a unanimous yes vote.

This bill, by the way, passed in 2006 with 61 votes. Last time I looked, that was unanimous.

Thank you, Mr. President.

THE PRESIDENT: Any other Senator who would like to speak?

Debate is closed.

The Secretary will ring the bell.

The Secretary will read the last section on Calendar Number 1433.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: The Secretary will announce the results on Calendar Number 1433.

THE SECRETARY: Those recorded in the negative on Calendar Number 1433 are Senators Adams, Breslin, Connor, Duane, Hassell-Thompson, Huntley, L. Krueger, Montgomery, Oppenheimer, Parker, Perkins, Sabini, Savino, Schneiderman, Serrano, Stachowski and Thompson.

Ayes, 45. Nays, 17.

THE PRESIDENT: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 1637, by the Senate Committee on Rules, Senate

Print 5988, an act to amend the Hudson River Park Act.

THE PRESIDENT: Senator Duane.

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

THE PRESIDENT: Senator Duane, to speak on the bill.

SENATOR DUANE: Thank you, Mr. President.

I believe at this point all of my colleagues should have gotten a copy of a letter which I sent out regarding the reopening of the Hudson River Park Act, and I'm hopeful that everyone had a chance to take a look at it.

But I do want to just highlight some of the points that I made in that letter and make sure that they are on the record so that when people look at how my colleagues have voted on it, they know that not just did they have a chance to read the letter but also heard in person from me why it is that I so strenuously oppose this legislation.

First of all, I want everyone to know that the residents of the 29th Senatorial

District and the Assemblymembers, particularly on the west side of Manhattan who represent that portion of the district, all are clear in their desire to do more than our fair share of dealing with New York City's waste management.

And we all firmly and strongly believe that for far too long the burden of dealing with the city's waste has fallen disproportionately on disadvantaged communities and, frankly, also Staten Island. And our position on this issue is not to foist responsibility on anyone else, temporarily or permanently.

What it's about is our ability and our responsibility, frankly, to do that part of our waste management in the place that will frankly best meet the city's waste needs and will also make the most sense for West Side neighborhoods.

Many of you received a letter from the Mayor regarding our opposition to the siting of the waste transfer station on Gansevoort. His letter claimed that the community had its chance to work with the city and that if we even looked at other

alternatives it would delay or even frustrate the construction of other facilities. I'm going to kindly say that that assertion is misleading.

And the letter is frankly also disingenuous in its description of the city's history of support for the Hudson River Park.

Now, even reading the Mayor's letter of June 12th, I am even more firmly convinced that the city really did not seriously examine any alternatives to Gansevoort. And in fact, in their own initial EIS it's clear that they did not, because the final EIS, even in that initial report, is the one that's supposed to look at not just Gansevoort but, indeed, the other alternatives.

So in fact, the city's own documentation, or I should say the administration's own documentation, points to that it did not look substantively at any of the other possible sites and it didn't even look at the Gansevoort site in a thorough manner.

I want to talk about Pier 76. Many

of you know Pier 76. If you've ever had your car towed in New York City, especially in Manhattan, it's been towed to Pier 76.

Now, while it is true that Pier 76 has never housed a sanitation facility, it has housed the tow pound. Now, the tow pound has had a lot of traffic on it. And the waste transfer station will have a lot of traffic on it. So it's had a lot of traffic on it.

Interestingly, the size of Pier 76 is such that you could fit more than two Gansevoorts on it, and plus the present waste transfer station that we have at Pier 99, which is at 59th Street, all on it, and also have the tow pound and also keep the police horse facility on it. There's room for all of it on Pier 76.

Unlike Gansevoort, Pier 76 is actually a pier, which means boats come up to it and on those boats containerized waste could be put on barges. Which is the way it's supposed to go off. And again, Pier 76 is a pier at which boats have historically moored; Gansevoort is not. Gansevoort is a piece of land in the river.

The pier, as I said before, has room for the police department mounted unit for the horse stables that go along with that. Now, by the way, the issue of the mounted police stable is an issue which the city created itself. They removed the horse unit from an inland location, they put it on a land-based facility at 23rd Street, which they should not have, but the city magnanimously allowed them to go there.

And in fact it wasn't even the city that moved to take it off there, because it wasn't supposed to be there. But we were nice enough to let it stay there. It was actually friends in the business community whose word we had gotten that it would only be a temporary site there that caused the city to make the facility at Pier 76 available. Which the community accepted, although they are supposed to be moved inland, but who knows whether the city will keep its word on that. But if the city doesn't keep its word on that, there's room for it on Pier 76, plus the tow pound, plus the marine transfer station. Plus there's room for a park.

And in fact the parkland that they could put on it, which would be on the roof, would make a lot of sense, particularly in that it would be even more accessible to people who use the Javits Convention Center and any of the other facilities in that area. So there would also be room for a very large piece of parkland there also, which is something which has been on the drawing board in many scenarios anyway.

In addition, because there would have to be elevation to get to the rooftop park, it could also allow pedestrians and cyclists to be separated from the motor vehicle traffic or the truck traffic, so it would be even safer for people who were using the park.

And also the budget for constructing the facility on Pier 76 is absolutely within range of what is supposed to happen at Gansevoort and in fact at 59.

Now, the city also says that because of the marine traffic that 76 is not a good spot. But 76 is just a few blocks from the Gansevoort. There's no more and no less

marine traffic there, at 76, than there is at Gansevoort. In fact, there might even be more at Gansevoort. So that's just a ridiculous argument.

Pier 57 was another location which we had offered. Now, Pier 57 also, it's true, has never hosted a sanitation facility. But it was the place where New York Transit used -- it was a location that they used for their buses for as long as I can remember. So again, Pier 57 is a pier. Boats use piers. It had a lot of traffic. It had buses. Right?

If any of you are trying to figure out which is Pier 57, that's where the Mayor incarcerated demonstrators and people who weren't actually demonstrators during the Democratic [sic] convention, and where there are some issues with -- it needs to be cleaned up, let's put it that way.

Of course the Mayor has promised that the transfer station and the recycling center is going to be beautiful, absolutely lovely, clean, clean, clean. Although I do have to say I went and visited one in

New Jersey which was supposed to be similar to that one, the one that's supposed to go in Gansevoort. And if any of you listen to my podcast, you'll hear the moment when the rat ran across my feet.

It actually didn't smell too good there, either. In fact, they sprayed peppermint into the air so that you can actually breathe. And then they were kind enough to let us breathe in without the peppermint spray, and it was tough. Very tough. The peppermint spray helped, but you could still smell it.

And I did not scream like a little girl -- not that there would be anything wrong with it -- when the rat ran across my foot.

(Laughter.)

SENATOR DUANE: Anyway, so the Mayor also says that Pier 57 is a lovely historic structure and shouldn't be used for this. But in fact, in all the years it was used as a bus depot, with lots and lots and lots of buses on it, the city never fixed it up. So now the city is provided with a golden opportunity to fix up the outside historic

part of the structure, which is what they're talking about, and which would not in any way be negatively impacted by putting a transfer station.

And the Mayor also says that there's a big plan for that. And while it's true that there was a developer who was interested in using it, the biggest tenant of that developer who was planning on using it has pulled out.

And the developer itself is now stuck in VENDEX, and the city apparently has problems -- and I'm not going to characterize them, but the problems by which -- because of which VENDEX were created were either the company did a bad job or they had parts of them or actions involved with it that oftentimes required scrutiny by federal prosecutors. We don't know what the answer is, but we do know that it's stuck in VENDEX. It could be either one of those things or it could be neither of these things. But that is why VENDEX is usually used.

And finally, I want to talk for a moment about the rail option. Now, just so

you know, again, the disingenuousness of the city they said, Oh, rail, you couldn't possibly do it. And yet we checked with CSX, with Amtrak, with Metro North, and they all said absolutely possible to take the trash out by train.

In fact, in many parts of the country that's how it's done now, trash is taken out by train. It's a more affordable way of getting rid of trash.

In addition, the rail trash removal, waste removal scenario would actually be better for the entire city and would take trucks off the streets of every neighborhood in New York City. And so the city has done itself -- not just us, but itself and everybody in New York City -- a disservice by not thoroughly exploring this option, because it's an option whose time has already come.

The city also says that they would have to buy, you know, that site for zillions of dollars. It's not true; they could just rent it. And again, there's money in it for the rail companies to do trash removal. They do it all around the country. It's a smart

way to get rid of trash.

Now, the city says, oh, you know, some of us approved of it or whatever. That's totally not true. None of us were ever for it, never, ever, ever. We always had better sites -- piers, where boats actually pull up, and the rail freight option.

We were never given the opportunity to weigh in. We weren't given an opportunity in the inception of it, and we weren't given an opportunity -- there was one City Council hearing on it, and that was it.

Everyone opposed it. Everyone said absolutely, we want to do our fair share, we want to do our own trash removal, but we have sites which are just a few blocks away which are actually on piers, or the rail freight option, and you refused to look at them. And we wish you would, and we think that you'll see that they're better options.

Now, the city says that they were a huge partner with us on fighting for the park. And again, I don't want to characterize it as something that would be characterized as sinful, so let's just say what they said is

misleading.

The city has put millions in, but the deal is -- and we're grateful for that, but they only put it in after the state put in its funds. The most egregious example of the city's alleged supportive funding is the $8 million cost to relocate the mounted police unit, which again was a problem of the city's own making. And one which we accommodated them, and we will continue to accommodate them, even we think it's not the best place.

There is room for them also on Gansevoort. There's plenty of room for them on Gansevoort -- and a marine transfer station, and the tow pound, and a park which would be good for the economic development of the city, which is something that they already had envisioned doing.

Now, the city also was supposed to be off the Gansevoort with their sanitation facilities long ago. We had to go to court. We went to court; we won. We stayed in court; we won. The city signed a stipulation. I've given you copies of the stipulation. If anyone needs a copy, I have extra copies of

it. But I gave you copies, and I hope -- and I assume you read them.

But probably the most important thing it says is that they would be gone by December 31, 2012. They signed a stipulation saying they'd be gone, off that Gansevoort peninsula by December 31, 2012. They can't even start construction of the new facility until after 2012. And yet just a few short months after signing that stipulation they went back on their word and decided to site another sanitation facility there without consultation.

Now, I just -- this is a warning to communities that think they've made a deal with the city: Don't take it to the bank. Why would anyone make a deal with the city and sign a stipulation if they're just going to go back on their word a few months later? It's really a complete, utter disgrace that they did that. Absolutely horrendous. Imagine if they signed a deal with you and they went back on their word right after that.

And even still, even though we have the right to not let it stay there and we'll

be back in court about it, that's the thing that's going to delay it. The delay is because they can't start at the very earliest until 2013. And even then, I think if you read the stipulation, they're not going to be able to do it then either. In the meantime, they could be doing Pier 57 or, better, Pier 76 or even the rail freight option. So, you know, again, I mean why would you cut a deal with them?

So -- and I guess the final thing I want to say about this is that what they're doing to us and what you're being asked to vote on today is terrible. Terrible. But I think maybe you should keep in mind that it could happen to you. That by legislation you could have something being held over your heads that is most likely illegal and which is irresponsible and which is something where there's a better way to do it.

It's happening to me this year, potentially, although, as I say, they can't start until 2013. But you know what? It could happen to any one of you. And sooner, sooner than you think. You never know. You

never know. You never know.

So I would urge my colleagues on both sides of the aisle to vote no on this, to send a message that the city should not break its word to communities, that there is something to be said for responsible planning by communities. And that in many cases, especially in cases like this, the member who's most directly impacted -- the member who still would be getting the facility, but just in a different part of his district or her district -- in many cases knows best. And I think you know that's true.

So I'm urging you all in the strongest possible way to please vote no and to allow us to move forward with a better plan and one which will better deal with the city's solid waste issues and one in which we will, we promise, and we want to do our fair share for the city's waste management.

Thank you, Mr. President.

THE PRESIDENT: The chair recognizes Senator Diaz.

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

THE PRESIDENT: Senator Diaz, on the bill.

SENATOR DIAZ: This is the day that the Lord has made. This is a day where we are seeing, for the first time ever, our minority community getting justice. We finally are getting justice.

Forty percent of the garbage that Manhattan produces is taken by Bronx, Brooklyn, Queens and other boroughs. Every single borough, especially the Bronx, has so many transfer stations. So many in the Bronx. Every time that they need to get a miniplant or a transfer station plant, they look at our communities. Manhattan never get one. Never Manhattan get one. All the time they place all those transfer station plants and garbage plant and miniplants in minority communities, black and Hispanic communities especially.

The last time they had seven miniplants to be built, they studied 60 sites in the state -- they had 11 plants, sorry, to be built. They studied 60 sites in the state. And out of the 11 miniplants, seven of them were built in black and Hispanic communities.

Four of them in the Bronx.

So we are always getting -- and I'm not going to say the word what I'm going to say -- discriminated. Always. Now, finally, the Mayor of the City of New York says let's do some justice and let's build a plant in Manhattan so Manhattan could take care of its own garbage. And people start rising up, calling it injustice. Injustice. Injustice Is what has been done to us. Injustice, injustice is what has been done to the South Bronx. Injustice, injustice that blacks and Hispanics have to go through for many years.

So this is an opportunity for us to tell Manhattan: You've got your own garbage, take care of your own garbage. The Bronx doesn't have to take your garbage anymore. Brooklyn doesn't have to take your garbage anymore. Queens doesn't have to take your garbage. Do away with your own garbage.

So I'm asking all of you to follow the lead of Mayor Bloomberg and the City Council President of the City of New York, Christine Quinn, who this plan will be building in her own district. And she has

taken a position, her career, against her own district, saying we have to be just to the minority communities and let's build it here. And she's supporting this plan.

So she has to be praised, because she has seen the light. And today I'm asking all of you join her, join us, join the black and Hispanics. Even though I was reading, during the weekend, Friday, June 15th, I was reading the editorial of the New York Post, and it said that the Gansevoort site is a plan which seeks to cut down on the number of sanitation trucks needed to hold trash and thus lightening traffic and pollution throughout the city.

With Gansevoort, City Hall is projecting some 13,600 fewer trips by sanitation department trucks between Manhattan, the Bronx and New Jersey -- 13,600 fewer trips of trucks, of sanitation trucks from Manhattan, Bronx and New Jersey.

That obviously pollution will come down and the asthma rate in the Bronx could take some relief because those trucks from Manhattan garbage, they come through the Bronx

to get to New Jersey.

Also, it's sad to say, that reading the same New York Post article, it said that the members of the Black and Hispanic Caucus have said they will not take a position on this matter. And that is sad. That is sad because when we build a caucus, Black and Hispanic Caucus means we got to get together to protect and defend our communities. And even though they are -- not every member of the Black and Hispanic Caucus has taken this position, it is a shame for the Black and Hispanic Caucus not to take a position on this thing.

Because this is our community that we are defending, and this is the black and Hispanic community who is suffering. And if we are going to have a caucus of black and Hispanic, meaning we're going to fight for our people, we're going to protect our community and we're going to defend our community at all costs.

And I'm asking the members of the Black and Hispanic Caucus in this chamber to send a message, clear, a loud message: We got

elected to defend our community, we will support our community, we will protect our community.

And today is the day that the Lord has made. And the time has come today to vote in favor of this plan. Let Manhattan get their own garbage. Because if we stop this, to do this, this story talks about how it takes us ten years to come to this solution. Now we're going to stop it to get another story? That's another ten years. Meanwhile, the Bronx will keep taking and Brooklyn and Queens will keep taking Manhattan garbage while we take five, six, 10 years for another story.

No, sir. This is the time. This is the day. I'm asking all of you, especially the minority members of this chamber, this is it. This is our opportunity. Let's send a clear and solid message to the other side, to the other chamber. We will protect our community, we will defend or community, we have enough garbage in our community, we have enough plants in our community, we have enough transfer station plants in our community, we

have enough of them dumping on us. This time, praise the Lord, Manhattan is getting a way to dump their own garbage.

Ladies and gentlemen, I urge you to support this bill. Thank you.

THE PRESIDENT: Are there any other Senators wishing to speak on this bill?

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

While I agree in large part with the sentiments expressed by Senator Diaz, and I do support the Solid Waste Management Plan, this one provision -- and I think we should be clear on this -- is unique. And I don't represent the area down there, it's now Senator Duane's district, but it used to be my district before redistricting. And I know the people there, I know the folks who are in the Coalition to Protect Our Parks.

The only area of the city where we need to amend a state law -- and here we have to amend the Hudson River Park Act -- is the Lower West Side of Manhattan, because we have jurisdiction over it. This community has

requested an amendment that would keep the waste transfer facility in their area on the Lower West Side of Manhattan, they've just proposed an alternative location.

The most important thing I'd like to amend about what Senator Diaz says is he keeps saying Manhattan will have its own. You mean Lower Manhattan will have its own. Upper Manhattan, we have plenty of garbage. We've got a sewage treatment plant in my district in Upper Manhattan that will outstink any facility anywhere in your district, I assure you.

So Upper Manhattan, Alto Manhattan, la provincia mas norte de Republica Dominicana, we have plenty of garbage. But Lower Manhattan is a different -- you take that amendment? You accept that amendment? Lower Manhattan.

SENATOR DIAZ: Maybe Lower Manhattan get the --

THE PRESIDENT: Senator Schneiderman has the floor, Senator Diaz.

SENATOR SCHNEIDERMAN: That's okay. Thank you. I can handle him. Thanks,

David.

(Laughter.)

SENATOR SCHNEIDERMAN: The most important thing I want to say, though, is what has impressed me about the request here is very simple. This bill is apparently not coming to the floor in the Assembly. We will revisit this in January.

The request that I'm hearing from Senator Duane and the Coalition to Protect Our Parks is they have a location 20 blocks from the proposed location that they would like to have considered. Senator Duane has assured me that this could be done in the next few months. We will see this bill again. We will have another opportunity to approve the state's solid waste management plan.

It does seem to me that there's nothing wrong with taking a few months to consider an alternative facility that is in the same area, with the understanding that, either way, we are going to support the Solid Waste Management Plan.

I would not support a stonewall by the people representing this area if they're

saying we're going to block the plan as a whole. The plan has gone through. The only question is will there be an amendment to it relating to this one provision.

This is the only area of the plan that requires legislative action of this type, because this is the only area of the plan that's in the Hudson River Park. This is a park that's in development. Whether or not and how you locate a facility in a park is slightly different than how you locate a facility elsewhere.

So I must say I do have enough sympathy for the coalition seeking a few months to have an alternative plan within their own neighborhood, 20 blocks away, considered. And considering what's going on in the Assembly, that I think I'm going to give them a chance.

And I'm going to vote against this with the understanding that by the time this comes back to us in January, if this alternative facility is not approved, I'm going to support the Solid Waste Management Plan. Because I agree in large part with the

principles enunciated by Reverend Diaz. We have had a problem of poor communities doing more than their share of hosting these sorts of facilities.

However, when a community is proposing something 20 blocks away from the proposed facility, they at least deserve a hearing.

Thank you, Mr. President.

THE PRESIDENT: Senator Serrano.

SENATOR SERRANO: Thank you, Mr. President.

For so many years East Harlem and the South Bronx has had to bear the brunt of many undesirable facilities, things that have contributed to the overwhelming asthma rate that we see in this community. And the South Bronx -- Port Morris, Hunts Point -- has had to handle the majority of Manhattan's waste for decades. This is how it's been.

It's been very unfortunate that this level of social injustice continues to go forward. And the idea of borough self-sufficiency in regards to dealing with waste throughout the city was a concept that

for many years we could not get together.

So here we have the Solid Waste Management Plan, which finally, as Senator Diaz said, finally addresses an age-old concern. But all those years where there was this mounting injustice in the South Bronx, where was the activism from all of these groups back then? Where were the voices being raised for the generation that may be lost to asthma in my community? We can't get those years back.

And my fear is that any further delay will -- every day that we delay this means more trucks continue to go through East Harlem and the South Bronx, more children will get asthma, more lives may be lost.

So I think it's important that we keep time -- time is of the essence -- in mind as we move forward with this and ask ourselves, is any further delay in the best interests of the communities that have suffered the most under the social injustice of the current waste management system? Can we afford to continue those delays? And how important is it that we move forward with a

plan whose time has come decades ago?

I support this bill.

THE PRESIDENT: Senator Adams.

SENATOR ADAMS: Would Senator Duane yield for a question, through you, Mr. President?

THE PRESIDENT: Senator Duane, will you yield for a question from Senator Adams?

SENATOR DUANE: Yes, Mr. President.

SENATOR ADAMS: Through you, Mr. President. Senator Duane, were you consulted at all on the proposed site?

SENATOR DUANE: No, I was not, Mr. President.

SENATOR ADAMS: Would he yield for another question.

THE PRESIDENT: Senator Duane, do you continue to yield?

SENATOR DUANE: Yes, Mr. President.

SENATOR ADAMS: Do you know any elected official on the state level in your area that was consulted?

SENATOR DUANE: Through you, Mr. President, none of us were consulted. If we had been consulted, we would have suggested Pier 76, which is about -- a little over twenty blocks north, or Pier 57, which is five blocks north for this facility.

Or, as I say, we would have suggested -- which would be good for the city, better for the city -- the rail transport. And if that was the way we were going to go, to allow either one of those other piers to be used until rail freight became operational, no matter how long that took.

It is something that we've thought about, and I think many of the members here and certainly the members who served with me in the New York City Council know of -- I'm not going to speak for my colleagues in the Assembly -- but certainly know of my commitment to environmental justice. I'd already been through the battle surrounding incineration and other solid waste management plans.

We've always been not only open to but encouraging of taking Manhattan's solid

waste. And in fact, we know that Manhattan creates more waste than anyplace else because of the central business districts. So when we did deal with Manhattan's own waste, we knew we were dealing with not, of course, just residential waste but the entirety of the commercial and manufacturing waste which is created in Manhattan. And we, in a spirit of one city, wanted to take care of, if you will, that waste.

Which, as I say, we -- I'm at the point of saying we fought for it, but in fact we did fight for it. So we weren't consulted. We think we had better ideas. And it's actually a tragedy that we weren't consulted, because now we've lost some time. And as I say, Gansevoort at the earliest couldn't be used until 2013, based on the stipulation; may not be able to be used after that. And in the meantime we have two other excellent piers that could be used for this. So, I mean, that's the tragedy, that we weren't consulted.

SENATOR ADAMS: Through you, Mr. President, would the Senator continue to yield.

THE PRESIDENT: Senator Duane, do you continue to yield?

SENATOR DUANE: Yes, Mr. President.

SENATOR ADAMS: The train transportation of garbage, you stated that the city stated it wasn't possible?

SENATOR DUANE: Yes. Through you, Mr. President, the city said that they had looked at it, but in fact they had not looked at it. We went to Amtrak, CSX and Metro North, and they said that it was entirely possible. And as I say, removing trash by rail is a model which is used around huge parts of the country where rail is available.

SENATOR ADAMS: Would the Senator continue to yield.

THE PRESIDENT: Senator Duane, do you continue to yield?

SENATOR DUANE: Yes, Mr. President.

SENATOR ADAMS: The alternate site that you recommended, what is the date that it would be ready to be used?

SENATOR DUANE: Through you, Mr. President, sooner than Gansevoort will be available. It's indeed, you know, very, very close to being available right now.

There is -- it's more than twice the size of Gansevoort. It's huge. The solid waste facility could be there.

And just another -- you know, the bad thing about the solid waste the way it's been traditionally dealt with is not even so much the smelly garbage. The bad thing is the trucks, which we want to get off the streets. And not only is there enough room on Gansevoort for the actual facility where they would load the garbage, the containerized garbage onto ships, but there's also room for that and to have all the truck staging so the trucks would not be on the street, they would actually be on the pier.

So in terms of air quality, 76 -- and 57, but 76 is better if what we're trying to do is get truck traffic off the streets and to make air quality better.

SENATOR ADAMS: Thank you.

Mr. President, on the bill.

THE PRESIDENT: Senator Adams, on the bill.

SENATOR ADAMS: Okay, I think, first, I would hate to be a revisionist and have to revisit history to give the impression that Senator Duane was not a person who has always been committed to those environmental issues. And we shouldn't give the impression that because he's doing what we all would do, and that is fight for our districts, that in some way he's attempting to say that we shouldn't share the burden.

I think that you have a long record, Senator Duane, of standing up for those issues that are important to our environment.

You know, there's an unfortunate pattern that's developing out of the City of New York. And I think about it as we begin to look at the issue of congestion pricing and how we're going to handle that. And it's the level of arrogance, that basically snubbing their nose at state legislators. Two weeks before the end of the term, we're handed a multipage bill on congestion pricing, just to

have every editorial page in the state stating we're wrong if we don't look at it, when City Hall is aware of these deeds.

To look at a site with the understanding that you would need state input, and not speak to the state legislators, that's a slap in the face to all of us. And to continue to cover oneself in the environmentalist flag and state that what we want to do is best for the environment, if you want to do what's best for the environment, then the first step is to speak to those state legislators who have input.

Tom is right, Senator Duane is right by representing his community. If a site was built in my district and I did not have input in that site, I would be just as vociferous as Senator Duane is, and I'm sure we all would be. And in fact we would be neglecting our duties if we didn't do that.

So to know that there's an alternative site that is blocks away, to find out that City Hall lied about the use of road transportation using trains, and to give the indication that every day we delay the Mayor

is threatening the community with if we don't go with his plan, then he's not going to look at any other sites -- that's insulting. It's insulting to me, and it should be insulting to those who have areas with a high rate of asthma.

Yes, we want to deal with those areas. Yes, we do want to build a site. Yes, Lower Manhattan below 86th Street, which happens to be congestion-pricing territory. But yes, those sites should contribute to the cleanup of garbage.

But to merely state any plan is good enough, any plan that we create is a good plan long as it's in Manhattan, we can't be so thirsty with putting it in Manhattan that we're not going to examine is it the right move to make.

So, Senator Duane, I'm torn. Because as you know, historically our communities have held the highest level of garbage. We have been Manhattan's bastard child when it comes down to dumping the garbage. So I'm torn on should I support this bill or shouldn't I support this bill, because

the message does -- it must be sent to metropolitan Manhattan that we all have to share this burden together.

But at the same time, I think you raise a very troubling and disturbing pattern that seems to be coming from City Hall that state legislators do not matter, that state legislators do not have a right in how major changes are going to take place in their community.

And I'm asking my colleagues on both sides of the aisle, we need to consider this when congestion pricing comes to this floor. What input did we have in this? What role do we have? Are we merely just going through some ceremonial gesture of sitting here in these beautiful red-cushioned chairs, or are we legislators? And if we're not, then why are we coming up here?

So I think you raise a good point, Senator Duane. I'm not quite sure which way I'm going to vote on this bill. I think that, though, your colleagues from the Bronx, your colleagues from Harlem, your colleagues from other parts of the city, I just urge you to be

concerned that any plan is not the only plan. We need to do the right plan.

And the right plan should include not only Senator Duane when it's in Lower Manhattan, but you know what? It should consider you, Senator Diaz, when it's in the Bronx. It should consider you, Senator Perkins, when it's in Upper Manhattan. It should consider all of us. We should be part of the planning.

And unless one of my colleagues from those areas can stand up and tell me they had input in the plan, or if they had input in those waste treatment sites in their community, then I can say there was something done that was different. But we don't have input. And we need to have input.

Diane Savino should have input when something takes place in closing down or opening the site on Staten Island. We all should have input as state legislators on those things that we will have to decide if it goes forward.

So right now I don't know which way I'm going to go on the vote, Senator Duane.

But I want to once again commend you on your long dedication to dealing with environmental issues.

And we should not give the impression that because you are fighting for your district and believing that another location or another site is as good as the site or better than the site that's chosen, that you're trying to abdicate your responsibility of dealing with waste treatment throughout the city. That would be a wrong message to send. And I know what you have done throughout the years, and I commend you for that.

THE PRESIDENT: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

You know, over my years here, as my district changed, it's like solid waste management problems have followed me. In 1979 or '80 I was the only member of this house to vote against a proposal that came up for an incinerator in my district in Williamsburg, in the Navy Yard, a large incinerator. Then-Assemblyman Strelzin, I went over and

told him it was on the agenda, and he was the only one in the Assembly. And we were told: This is going to happen, Ed Koch wants it. Years later, after much community opposition, that proposal was shot down.

Then we got into the marine waste transfer station problems. No, I should say then I had Staten Island with the largest mountain of garbage on the East Coast -- and I believe was quickly becoming the highest point, actually, on the coast, on the entire East Coast of the United States.

And then, I don't know, 10 years or so ago there was a proposal for six new marine waste transfer stations. Five of them were to be in my district in Brooklyn -- in Sunset Park, in Williamsburg, and in Greenpoint. We already had a few. And yes, some of these neighborhoods -- Red Hook, Sunset Park -- were minority neighborhoods, and there was no justice in that proposal. None whatsoever. They already had more than their fair share of transfer stations.

And now I find myself representing a goodly part of Hudson River Park, and this

issue of the Gansevoort transfer station arises. It's not in my district, it's in Senator Duane's district. Although I have constituents who are quite concerned about it. They're quite enthusiastic about having this park that we, this Legislature, promised them and enacted into law. And we confront this issue.

And Senator Adams is absolutely right, and he said what I was going to say. Over and over again, over the years, I've seen the City of New York arrive at this Legislature in the last couple of weeks or the last week of session with a proposal that affects our district and with no consultation whatsoever with the elected state representatives.

My colleagues on the other side of the aisle, can you imagine any of your local governments coming up here with a proposal that requires state legislation and they never talk to you until the bill got filed, and they didn't talk to you since? That's happened.

When I was Minority Leader, it happened with a -- I got a call saying, "Oh,

we finally agreed" -- it was the Lower Manhattan Revitalization Act -- "we finally agreed." This was from community people in Lower Manhattan. "We finally have a deal with City Hall for this major tax incentive revitalization program for Lower Manhattan."

I said "Yeah?"

"Well, it requires legislation."

I said, "Have you talked to Speaker Silver? You haven't talked to me. It's in our district."

"No, no, no, we're going to send the bill up. You'll pass it, right?"

I said, "I haven't seen the bill. No one's talked to me."

"Oh, we negotiated it all with City Hall."

"Well, you didn't negotiate with the State Legislature. You didn't negotiate with the Assembly member and the State Senator for the district."

Eventually they talked to us and eventually, under my sponsorship in this house and Speaker Silver's in the Assembly, we passed it.

But over and over, the city does this. I've been getting calls and mail and seeing TV ads for weeks and weeks and weeks for congestion pricing. A concept I like. A concept that's probably needed. But no bill. No bill until, what, a week and a half ago. Not enough details in the bill. Some aspects of it are the city wants carte blanche.

You know, I recently met, oh, last year, I guess, with a group in my district that was working on residential parking permits. And they had been meeting with the City Councilmember and the City Department of Transportation for year after year after year to create a system of residential parking permits.

And I was at this meeting at borough hall, and it looked like they thought they had a deal. And I said, "What about state legislation?" And everybody looked at me and said: "State legislation? We don't need state legislation. We've been dealing with City DOT."

And I said, "Well, you most certainly do. Look at the statute. There are

dozens of sections lettered A through, I don't know, MM or something for virtually every city in this state that has residential parking permits. You need state legislation."

They said: "No." The city DOT people sat there silently, not acknowledging that it was needed.

I looked up the case law. It's a constitutional decision by our Court of Appeals, a long-standing one. You can't restrict access to the highways of this state, including parking on them, and that includes every roadway, without state legislation.

The message is, and Senator Adams is absolutely right, if you need state legislation for either constitutional reasons or in this case you're modifying a statute that this Legislature passed creating a park, how about talking to the people that are concerned?

And what Senator Duane is and the community is seeking here is not to send the garbage back to Brooklyn or the Bronx. I would not be for that. What they're saying is: Talk to us, we'll give you an alternative

in our community that will work better for the city and for the community.

And it's just plain arrogance on the parts of the city to not consider that, to not have consulted the state elected representatives when they need legislation for something.

I am for -- and by the way, the rest of the Solid Waste Management Plan, if the city has the power to implement it, they should implement it. In this case they need our approval, they need the state's approval. The least they could do is pay the courtesy to the state elected representatives for that area to hear them out, to consider the alternatives, to talk to a community, seriously talk to a community -- not talk at a community, talk to the community that's willing to accept its fair share and just says move it a few blocks, it will work far better. They won't even hear why the community thinks that.

So in this case I'm voting no on this bill. I know how I'm voting. Because I've seen this over and over again. It's time

it stops, it's time we get the respect we deserve.

Thank you.

THE PRESIDENT: Senator Perkins.

SENATOR PERKINS: Thank you, Mr. President. I'd like to speak on the bill.

THE PRESIDENT: Senator Perkins, on the bill.

SENATOR PERKINS: There is no question that this Mayor has not been the best at communicating with us with regard to congestion pricing and any other number of things that take place sometimes in our neighborhoods. And I have publicly denounced him time and time again because of that.

But, Senator Adams, I have to admit on this one I was consulted. I was consulted, however, several years ago as a member of the City Council when this proposal first came before us. And at that time this solid waste management treatment plan was proposed, and it was debated vociferously. Because the essence of it was that the new sites would not be in those communities that traditionally have suffered from being the ones where these

plants were located.

It was a plan that from the perspective of Manhattan included East 91st Street, I believe in Senator L. Krueger's district -- or maybe it was Senator Serrano's district. But it wasn't his East Harlem barrio part of the district, it was in the silk-stocking part of his district, the wealthier, whiter part of his district, who fought tooth and nail to prevent it from being sited there. And then of course this one was also part of the plan.

And I voted for the solid waste management treatment plan then. And the reason I voted for it is because of the history of the siting of these plans. And those who I depend on very much, who are what I consider to be the experts, the environmentalists, those who have been fighting environmental racism, had fought very hard to get this type of plan for the first time to be considered by the city.

And I want to make sure it's clear I consider Tom, Senator Duane, not just a friend but a partner in the struggle against

environmental racism. So I don't consider this a NIMBY per se on his part.

But, as was the case then, I believe is the case now, which is that delay will be a problem. And so, as I have in the past, when this first was presented to me --

ACTING PRESIDENT LITTLE: Senator Adams -- excuse me, Senator Perkins.

Senator Adams, why do you rise?

SENATOR ADAMS: Would Senator Perkins yield for a question, please.

ACTING PRESIDENT LITTLE: Thank you.

Senator Perkins, will you yield for a question?

SENATOR PERKINS: Yes.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR ADAMS: Senator Perkins, when you were the City Councilperson and you were told about this plan several years ago, was Senator Duane a State Senator?

SENATOR PERKINS: I believe so.

SENATOR ADAMS: Was Senator Krueger a State Senator?

SENATOR PERKINS: I believe so.
SENATOR ADAMS: Would he yield for another question, please.
ACTING PRESIDENT LITTLE: Thank you.
Senator, do you continue to yield?
SENATOR PERKINS: Yes.
ACTING PRESIDENT LITTLE: Thank you. The Senator yields.
SENATOR ADAMS: Do you believe the environmentalists who you trust their opinion of dealing with environmental racism, do you believe their concern was to move a site in Lower Manhattan? Or was their concern to move it to only that site? What was their primary concern, in your --
SENATOR PERKINS: This was the site that was a part of the plan that was approved at that time.
SENATOR ADAMS: Would he continue to yield.
ACTING PRESIDENT LITTLE: Thank you.
Senator, do you continue to yield?
SENATOR PERKINS: Yes.

ACTING PRESIDENT LITTLE: Thank you. The Senator yields.

SENATOR ADAMS: I understand that that was the plan. But the question I'm trying to find out, was the desire of those environmentalists that you depend on, was their desire to move a site in Lower Manhattan, or was it only at that particular site? Would they be upset if the site was 20 blocks up or 20 blocks south? What was their desire?

SENATOR PERKINS: A twofold answer. It was a very site-specific plan, which included what I just described.

And, number two, their desire, as it has been represented to me -- and I would dare say to others as well -- is that this plan go forward, as proposed then, without any delay.

And by the way, I want to also say that they're not in the pocket of the Mayor, as may have been rumored. And for them it's an insult to suggest that their opinion, that their advocacy has anything to do with being bought off by the Mayor.

And these are groups like the West Harlem Environmental Action Group, which represents Northern Manhattan, where we have such a solid waste treatment plant, as well as other local neighborhood environmentalists that are part of the Northern Manhattan area where the concern is that the delay will continue the trucking through those neighborhoods.

SENATOR ADAMS: Would the Senator continue to yield.

ACTING PRESIDENT LITTLE: Thank you.

Senator Perkins, do you continue to yield?

SENATOR PERKINS: Yes.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR ADAMS: I understand, Senator Perkins, that they presented a plan. What I'm trying to find out -- and you can correct me if I don't know, but I'm trying to find out -- was it their desire to find a location that was in the southern part of Manhattan? I understand that they presented a

plan. But was that their overall desire?

SENATOR PERKINS: Their desire was for this site as it was represented in the plan.

However, what you're asking me would require of me skills that I don't have, which is to read into their minds, as opposed to what they actually said and what they actually advocated for, which was very explicit and very vigorous.

SENATOR ADAMS: Would the Senator continue to yield.

ACTING PRESIDENT LITTLE: Thank you.

Senator Perkins, do you continue to yield?

SENATOR PERKINS: Yes.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR ADAMS: Thank you.

Senator Perkins, was it your desire, when you saw the high numbers of asthma in your community, was it your desire to ensure that Lower Manhattan carried their share of the garbage? Was it your desire?

SENATOR PERKINS: Yes.

SENATOR ADAMS: Okay. Thank you.

ACTING PRESIDENT LITTLE: Thank you.

Is there any other Senator wishing to speak?

Senator Lanza, to close.

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

I rise to urge my colleagues to vote in favor of this legislation and to respectfully disagree with some points that have been made by those of my colleagues who have risen to oppose it.

The City of New York produces 22,000 tons of waste and recyclables every single day. And for decades the way the city has handled that trash has been characterized by one principle, and that has been unfairness. And some of my colleagues who rose and talked about the social injustice, the environmental injustice, were absolutely truthful in what they said.

Last year the City Council voted overwhelmingly in favor of the city's Solid

Waste Management Plan, known affectionately as "the Swamp." It was approved later in the year by the State DEC. That plan will revolutionize how the City of New York handles its trash and recyclables.

It is characterized by flexibility, environmental fairness and justice, and a principle that has been so important and has been the object of a quest over the last decade for folks who live in the outer boroughs, a quest that has been waged by the folks who live in the outer boroughs, and that is borough self-sufficiency, whereby each borough handles its share of its garbage.

In the past, the outer boroughs -- we heard from Senator Diaz in the Bronx, and Senator Serrano, and Greenpoint, Williamsburg in Brooklyn -- have been burdened with a disproportionate share of waste facilities.

Let me add another fact for you with respect to another group of people who have been the victims of environmental injustice, and those are the hundreds of thousands of people who live in my district in Staten Island, who have suffered in the

shadows for 48 years of one of the worst environmental disasters in the State of New York. By that I mean, let me remind you -- Senator Connor brought it up -- the unpermitted, unlined, illegal Fresh Kills Landfill.

Senator Serrano asked where all the voices in opposition to the environmental injustice were with respect to the people in his community. I would suggest to you they were with the rest of the people in the city who stood idly by and silent as that environmental disaster went year in and year out for nearly five decades.

So now we have a plan to take us beyond that, to move us into a plan that will equitably distribute the facilities and the way the city handles its garbage. The Gansevoort transfer station is the final legislative hurdle to the implementation of that plan. That said, I need to disagree with points made by those who spoke in opposition.

This plan was a decade in the making. It didn't happen secretly at night. I sat in the City Council, on the Committee of

Sanitation and Solid Waste. There were numerous public hearings that considered this plan. Testimony was invited from the community at large. Any elected official would have been welcome at those hearings to discuss this plan. Testimony was received by some elected officials, not just in the city, with regards to this plan.

The alternatives. My fear is that alternatives have been proposed merely to frustrate this plan, to delay implementation of this plan. They've been vetted. Environmental groups by and large support the opening of this transfer station. Why? Because in the end of the end of the day it will remove 5.6 million truck miles of traffic from the roads of the City of New York.

The Gansevoort transfer station in and of itself would remove 30,000 truck miles of traffic from the streets of the City of New York. It was mentioned we have one of the highest asthma rates in the country, four times the national average, in the City of New York. This plan will remove 5.6 million truck miles of traffic and all the attendant

greenhouse gases and pollutants that hurt our environment and no doubt contribute to that ridiculous asthma rate in the City of New York.

So this plan has been vetted. It has been aired out. There has been the opportunity for anyone wishing to testify or to submit testimony with respect to this plan in the City Council. The Speaker of the City Council, Christine Quinn, within whose district this site exists, is in favor of this plan, came out only weeks ago to support it.

Talk about what can happen to you. I'll tell you what can happen to you: what happened to the people of Staten Island who had to suffer, let me repeat, under one of the worst environmental disasters in this state's history. And people stood by silently.

We need to get beyond that. We can't delay this. Delay means uncertainty. Delay means that those trucks will continue to run through the streets of every district in our city, primarily in the outer boroughs.

Those alternatives, they're not feasible. By everyone's account they are

not -- with the exception of a few, they're not feasible. And I fear that's why they're being proposed. They're being proposed in order that this plan is defeated.

We need to put the final chapter to bed here with respect to the way the city deals with its waste and recyclables. This plan does it. Enacting this legislation will clear the way to make sure that that historic plan becomes a reality. I urge my colleagues to vote in favor of this.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Lanza.

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

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

SENATOR ADAMS: Yes, Madam

President. I think, you know, we have to be extremely careful not to allow politics by blackmail.

All the experts that I've heard on this issue, they've stated over and over again, if we delay, if we delay, the Mayor is not going to allow us to move ahead with any other project. This has been stated often.

And, you know, I commend both Senator Perkins as well as Senator Duane because they've long been soldiers in this battle of improving the environment that we're in. And it's important that Manhattan find an alternative site. And this is probably the first time I've been in this chamber that I'm torn on the issue of vote.

I'm going to vote in support of the bill. But I encourage my colleagues that we look towards City Hall and demand that the city halls throughout this state show this body the respect that it deserves.

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

Could we have it quiet in the

chamber, please, while members explain their votes.

Senator Duane.

SENATOR DUANE: Thank you, Madam President.

You know, I was in the City Council when Fresh Kills was closed. And I think the only part of that that was unfortunate is that there was no plan in place and we've struggled since then to deal with our solid waste. It would have been better to, at the very least simultaneously, have a plan that was workable.

But I would be remiss if I didn't draw the example, since it was raised by my colleague. An agreement was made between the people of Staten Island and then-Mayor Giuliani to close the Staten Island landfill. And what's happening with us in Gansevoort, although it is on a slightly smaller scale, is as if the city reneged on its agreement to close Fresh Kills.

That's what they're doing with us, signing a stipulation saying that they would move off the piece of land and then going back on their word and siting a facility there,

especially when we have other viable alternatives, better alternatives, one 20 blocks away, one five blocks away.

Madam President, I'll be voting in the negative, with the sincere desire that no one else in this chamber is ever put in the same position that I'm being put in today. Because that could happen.

Thank you, Madam President.

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

Senator Perkins, to explain his vote.

SENATOR PERKINS: Thank you.

I just want to again reiterate my support for this. And especially from the perspective of environmental justice, the fact that certain communities, including my own, have over the years suffered having to be the dumping grounds for the city's waste, for the city's garbage, and has had the consequences of all kinds of illnesses -- in fact, even a sense of paranoia that it would never change, that it would continue to be the case.

This particular situation at Gansevoort has risen to almost a point of a symbolic thing in some people's minds because it represents another opportunity to do the right thing. And folks are concerned that if there's a delay, it will be a delay that is designed to redo the whole plan, with the result that the dumping will go back to those communities such as mine, such as the ones in the Bronx and other so-called minority communities, communities that are for the most part black and Latino and low-income.

And we don't want to see that anymore. I'm sure Senator Duane doesn't want to see that anymore. And I would urge that when we have these differences that we do not undermine the debate by characterizing the leaders in these efforts, who are environmentalists, who were for years and years and years, as being corrupt or in the pockets of the Mayor.

Thank you.

ACTING PRESIDENT LITTLE: Senator Perkins, how do you vote?

SENATOR PERKINS: I'm voting yes.

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

Senator Sabini, to explain his vote.

SENATOR SABINI: Thank you, Madam President. To explain my vote.

Senator Duane is right about one thing. When the Giuliani administration, in their desperate attempt to curry favor with Staten Island, closed the Staten Island landfill, there wasn't a plan of what to do with the garbage. And I believe that in retrospect one of the greatest failings of the eight years of the Giuliani administration was having a goal -- closing Fresh Kills -- without having a plan.

And, you know, the garbage doesn't stop in New York. It just keeps on coming. Like Lucy and Ethel at the candy factory, it just keeping coming. So we've got to find a way to do it.

And I've got to give Mayor Bloomberg credit. During his term in office he has tried very hard to deal with that and get a plan that was fair, environmentally

sensitive, recyclable-friendly. And I think he's done that.

I served on the City Council for 10 years, and one of the first bills we passed when we got there -- and Senator Duane was a member of the same class -- was to force the City Council to approve the Solid Waste Management Plan before it was submitted to DEC. Now, why is that impressive? Because then people actually had to vote on the fates of their own districts and things like that before it went down the pike to DEC.

So the Council holds lots of hearings on this, people are invited to testify ad nauseam. Perhaps the longest hearings I ever went to were Environmental Protection hearings on the first solid waste management plan that the city submitted through the council.

This plan went through all that, it was approved by DEC. It is the most local of bodies, the council, and they spent lots of time analyzing this. And while it may not be a perfect site, there are no perfect sites for garbage, because no one likes having it near

them or having it trucked near them.

So I do extend concerns over the arguments made by Senator Duane, but I think in totality we should let this plan move forward. I'm going to vote aye.

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

Senator Lanza, to explain his vote.

SENATOR LANZA: Thank you, Madam President. I vote aye.

I just want to voice my outrage with respect to what I just heard, that Mayor Giuliani should somehow be criticized for closing one of New York State's worst environmental disasters. It is one of his shining moments.

Let me remind my colleagues about what exactly the Staten Island landfill was. There was no lining, as is required under federal law. It was without permit. It sat in just about the worst place you can pick to put an unlined dump, unless, of course -- unless, of course, you were politically motivated in where you were placing it. It

sat on tidal wetlands, brackish waters, estuaries.

The worst place you could ever have imagined to put an unlined dump, and that's where they put it. And why? Because it was on Staten Island. Why? Because it was politically motivated.

And so Mayor Giuliani ought to be commended for what he did. Because remember, it was Governor Cuomo, Mayor Dinkins, Mayor Koch, Mayor Beame who every single year, by the swipe of a pen, said: I ignore the law and I don't care about the people of Staten Island and I don't care about the environment. And they signed off on continuing to pile that garbage there.

So that was one of Mayor Giuliani's finest moments, and now Mayor Bloomberg's finest moment in taking the city out of the shadows of that environmental disaster.

I vote aye, Madam President.

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

Senator Stachowski, to explain his

vote.

SENATOR STACHOWSKI: Madam President, I wasn't going to say anything. But having been here when the Staten Island landfill was closed, I would have to point out that I thought the only point that Senator Duane was making wasn't that it was a good idea to close Fresh Kills, which it was.

The problem was, and it was mentioned and debated on the floor at the time, was that, yeah, Mayor Giuliani's doing a good thing, he's closing this, but he had no plan what he was going to do with the garbage once he closed it. And that's what the problem was. That's what Senator Duane just pointed out. And if that's a shining moment, that's great.

But I'm going to vote for this bill.

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

The Secretary will announce the results.

THE SECRETARY: Those recorded in

the negative on Calendar Number 1637 are Senators Breslin, Connor, Duane, Klein, L. Krueger, C. Kruger, Schneiderman, and Stavisky.

Absent from voting: Senator Fuschillo.

Ayes, 53. Nays, 8.

ACTING PRESIDENT LITTLE: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 1709, by Senator Griffo, Senate Print 2724, Concurrent Resolution of the Senate and Assembly proposing an amendment to Section 1 of Article 5.

SENATOR LIZ KRUEGER: Explanation.

ACTING PRESIDENT LITTLE: Thank you. Senator Griffo, for an explanation.

This is a concurrent resolution, though. It's not a bill.

SENATOR GRIFFO: Thank you, Madam President.

We during the course of this session have had a deal with a number of

changes in the political landscape. And what I was attempting to do here, after in recent memory we've seen this particular office, the Office of State Comptroller, change twice through an act of resignation and the current process be put in place where an appointment to that office takes effect.

This year particularly was concerning, because it would be almost a four-year appointment to a job that has great authority and responsibility, and that the people should have the choice and have had the choice to make that determination in a general election.

If we look at what happens in a vacancy in state government, in the Legislature, there will be a call for a special election. We saw that this year in the State Senate. We look at local government, and local governments across the state, when there's a vacancy in the elective office, there is a special election to ultimately fill that seat.

So what I have attempted to propose here is an opportunity to continue to engage

and involve the people in the democratic property to select those chief statewide elected officials, like the Comptroller, so ultimately they will have the final decision on who should be running and charged with the responsibilities and duties such as the office of the Comptroller, a significant job as it is, rather than allowing an appointment through a legislative body.

ACTING PRESIDENT LITTLE: Thank you. Senator Krueger.

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

ACTING PRESIDENT LITTLE: Thank you. Senator Griffo, do you yield for a question?

SENATOR GRIFFO: Gladly.

ACTING PRESIDENT LITTLE: Yes, the Senator yields.

SENATOR LIZ KRUEGER: Thank you, Madam President. Thank you, Senator Griffo, for your explanation.

So I understand your point. We have no model for special elections for

Attorney General or Comptroller, and so we end up with the Legislature deciding. And I heard you say that we should put this back in the hands of the people, and I agree with you.

But how would the people decide the candidates in a special election for a statewide office? What would be the process, from your bill, of who would make the decision of who were the candidates running for that seat?

SENATOR GRIFFO: Well, the bill -- Madam President.

ACTING PRESIDENT LITTLE: Thank you. Senator Griffo.

SENATOR GRIFFO: Senator Krueger, the bill as presently drafted would allow for the same procedures that are in place today for selection during the legislative process. It would entail a special election to be called by the Governor. And obviously there are certain things, benchmarks that you would use.

For instance, if it were after June, it would take place in that November. If it were after September 20th, it would have

wait until the next general year.

So basically it follows the same procedures that are in existence right now if there were a vacancy in a seat like we had in the Senate this year.

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

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

It's a resolution, Senator. On the resolution.

SENATOR LIZ KRUEGER: Excuse me. Thank you. My mistake. On the resolution, Madam President.

ACTING PRESIDENT LITTLE: That's okay. Thank you.

SENATOR LIZ KRUEGER: Thank you.

Well, here's my problem with the resolution, Senator. I don't think special elections are the best model for filling vacancies. Because on a local level, in a special election you can have a county committee or a subpopulation of a county committee making the decision who's the candidate for the Democrats, who's the

candidate for the Republicans. And third-party candidates really don't have any options.

And on a statewide basis, for a special election you're basically saying whoever is leading the Democratic Party and whoever is leading the Republican Party, that's the two people who will decide who the two candidates for a statewide special are.

So I think you and I both want a process where the people really do have a say, but I'm afraid that in a statewide special election, where it would just be the leader of each party deciding you're the candidate and you're the candidate, ironically we'd actually see less participation of people in making the decisions who the candidates were over the current model.

But I share your concerns about the current model. So there's a movement of people, and I support that movement, who are saying we need to change the structure for special elections, we need to set up a mechanism for primaries within special elections so that people really do have an

opportunity to compete for these seats.

And if I can see the value of that argument for an Assembly seat or a Senate seat, I can absolutely make the argument that to decide who should be the next Attorney General or Comptroller of the State of New York, if there is a vacancy, that we should really open it up to the people and set up a process where we could have a primary process rather than just the two party heads deciding who the two candidates would be.

That we should perhaps have a model of weighted voting, using instant runoff voting as one possibility, if we're concerned about a timeliness factor in replacing an Attorney General or Comptroller. Because I think we probably would all agree we wouldn't want to spend an extended period of time without someone being the Attorney General or the Comptroller of the State of New York.

So we could do a primary election before we got to the point of the special election. We could do runoff voting for determining that the majority candidate actually won the election. We could come up

with a variety of models that we use in other parts of the country or for other seats.

But again, my reason for voting against your resolution tonight is I really think, when you think of a statewide election and you say a special election is better than the Legislature deciding, that sounds right. But when you actually ask the question who would decide who each of the two party candidates would be, it would not be all of the Legislature deciding or taking a vote, it would be literally two people in the State of New York deciding one party's candidate and the other party's candidate. And so I don't sincerely think that was what you wanted it to be either.

So I'll vote no on the resolution. Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Krueger.

Senator Sabini.

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

ACTING PRESIDENT LITTLE: Thank you. Senator Griffo, will you yield for a

question?

SENATOR GRIFFO: Yes.

ACTING PRESIDENT LITTLE: Thank you. The Senator yields.

SENATOR SABINI: Thank you. Madam President, through you, if the sponsor could tell me who would call the special election and at what point would it be required to be called.

SENATOR GRIFFO: Madam President.

ACTING PRESIDENT LITTLE: Thank you. Senator Griffo.

SENATOR GRIFFO: Senator Sabini, I had indicated earlier, based on the current concept, it would be at the discretion of the Governor.

And again, it would use certain milestones, as I indicated. If it were before June, it would be within that time period. After July, it would become a November election. And after September 20th, you have another problem; it would have to go to the next year.

SENATOR SABINI: Thank you, Madam President. Through you, if the sponsor would

continue to yield.

ACTING PRESIDENT LITTLE: Thank you. Senator Griffo, do you continue to yield?

SENATOR GRIFFO: Sure.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR SABINI: I think the sponsor actually did mention it, but I want to be sure I got it right. In the fiscal implication in the sponsor's memo, it says there is none. And I'm just wondering who pays for this special election.

SENATOR GRIFFO: Madam President.

ACTING PRESIDENT LITTLE: Thank you. Senator Griffo.

SENATOR GRIFFO: Senator, this will follow the same format that you would have in any general election that would take place across the state.

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

ACTING PRESIDENT LITTLE: Thank you. Senator Griffo, do you continue to

yield?

SENATOR GRIFFO: Yes.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR SABINI: I'm wondering, through you, Madam President, if the sponsor could tell me, then, if that's the case, aren't we again sticking to localities another bill with no funding, that we're going to require local Boards of Elections to conduct a statewide election and, you know, to say there's no fiscal implications -- somebody's paying the bill.

And I'm just wondering at what point do we admit who pays the bill here.

SENATOR GRIFFO: Madam President. Senator, I think it's an interesting dilemma that we have there. Because many of the people want to have that opportunity to be heard in statewide office and not allow a group of 212 legislators to make an appointment.

And from my discussions, while we do not want to incur additional cost, and that's something that maybe we can consider in

the future under a special election, at this point in time it's weighing whether or not we want to let the people, allow them to have a direct voice and at what cost democracy.

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

ACTING PRESIDENT LITTLE: Thank you. Senator Sabini, on the resolution.

SENATOR SABINI: I'm sorry, on the resolution.

I can understand the sponsor's desire to have more democracy in the state. We all want that. We'd like to see more democracy in this chamber once in a while.

But I think this is an idea that hasn't fully germinated out of its seedling yet. I see this as an unfunded mandate to localities. An election like that will generate enormous publicity. And I'd like to at some point figure out who's going to pay the bills for localities having yet another election that they didn't call.

And I think that the system we have now is so rarely used that it has worked up till now. Certainly we didn't hear a lot of

problems this year when the Majority's candidate was selected in the statewide procedure to elect a new Comptroller. And in the past, the procedure has been used to elect members of the Legislature to the Attorney General's spot.

So I'd like to see more debate on this, and perhaps a different system. But for now I'm going to be voting in the negative.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you. Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Madam President.

I wanted to stand up because I couldn't believe the arguments of my colleagues on the Minority side. And just to tell Senator Griffo, the sponsor of this resolution, I can't see how anyone in their right mind would vote against this.

I mean, the selection of the Comptroller that just happened several months ago was clearly not New York's proudest moment. I mean, I don't understand when you say that the political parties would nominate

a candidate for a special election and who's going to pay for the special election. The taxpayers are going to pay. That's who pays now for our elections. That's who pays now when there's a special election. That's who paid for Senator Craig Johnson's election in Long Island.

You know, when we had a vacancy in the office of comptroller, an extremely popular, just recently elected governor had a candidate -- the leader of the Democratic party. And one individual, one individual who was the most popular person in the Assembly majority had another candidate. And we ended up with a candidate not of the most recently elaborated popular governor, but the candidate of the -- at least most popular speaker in the Assembly.

You know, I think this puts the onus and puts the decision in the hands of the voters of the state of New York. What could be better than that? And as a taxpayer, what price do you put on democracy, Senator? I think it would be well worth it to have a special election by candidates nominated by

all five of the major political parties.

I will be voting in the affirmative. Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator Maziarz.

Is there any other Senator wishing to be heard?

Senator Connor.

SENATOR CONNOR: Thank you, Madam President.

I'm going to vote for this because my Assemblymember introduced a similar resolution and I introduced it too earlier this session.

But while we're having this debate, I think we ought to give it a lot of thought. You know, everybody jumps to this because, oh, that's the most recent thing they remember; we elected a comptroller recently. Hey, a few years back we elected an attorney general and a comptroller within a period of 10 months. So that's been the system.

The one thing nobody has ever addressed, no one has ever addressed -- Governor Cuomo actually called for us to do

something about it -- and that is, what happens when there's a vacancy in the office of lieutenant governor? And that's happened -- if you look in the Red Book, that's happened frequently in our history. And it certainly happened when Governor Cuomo came in and about a year later, Lieutenant Governor DelBello resigned and we went three years without a lieutenant governor.

And, you know, the majority in this house smiled when Lieutenant Governor DelBello resigned and Governor Cuomo said, It's terrible, we have no way to replace a lieutenant governor. Why? Because the majority leader is next in line for governor. What's wrong with that if you're the majority here?

Well, you know, we've seen in New Jersey where the Senate president has been acting governor, frequently. Different ones in the last seven or eight years. But under their constitution, the person remains the president of the Senate and gets to go back to that job.

What, let me ask you, would happen

if a majority leader, temporary president of this body, who loved that position, loved being a Senator, found him or herself in the position where the office of lieutenant governor was vacant and the lame-duck governor resigns November 15th? Now the Senate temporary president is, by our constitution, governor for six weeks. Out of the Senate, out as majority leader.

My colleagues, think about it before you smile. It may have been nice to have the majority leader poised to succeed Governor Cuomo for three years. But I suggest we have this gap in our constitution that could have some very, very unforeseen results.

And I think, while we're playing with the constitution here, someone ought to put a bill in to fill the office of lieutenant governor, because that is a statewide position.

And someone ought to think about how you would feel if you'd sat in that chair as temporary president and were forced to leave to be governor for three weeks. And we once upon a time had a governor, I remind you,

a lame-duck governor who resigned with but six or eight weeks to go in his term, to take a federal position. But there was a lieutenant governor, Charles Poletti, who became governor for seven weeks.

So things like that can happen. And it may not be the best thing in the world for the majority of this house to have its temporary president become governor if it's only for four or five weeks and you're out of the Senate then, forced out.

ACTING PRESIDENT LITTLE: Thank you.

The debate is closed.

The Secretary will ring the bell.

Call the roll on the resolution.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1709 are Senators Breslin, Dilan, Gonzalez, Hassell-Thompson, Huntley, Klein, L. Krueger, C. Kruger, Onorato, Oppenheimer, Parker, Perkins, Sabini, Sampson, Schneiderman, Serrano, Smith, Stachowski and Thompson.

Absent from voting: Senator

Fuschillo.

Ayes, 42. Nays, 19.

ACTING PRESIDENT LITTLE: The resolution is adopted.

The Secretary will read.

THE SECRETARY: Calendar Number 1737, by Senator Young, Senate Print 2035, an act to amend the Tax Law.

SENATOR LIZ KRUEGER: Explanation.

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

Senator Winner.

SENATOR WINNER: If you'd lay Senator Young's bill aside for the day, please.

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

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

SENATOR WINNER: Madam President, is there any housekeeping?

ACTING PRESIDENT LITTLE: Yes, there is, Senator Winner.

Senator Nozzolio.

SENATOR NOZZOLIO: Madam President, I wish to call up, on behalf of Senator Skelos, Print Number 4383B, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT LITTLE: The Secretary will read.

Could we please have it quiet in the chamber while we finish the day's business. Thank you.

THE SECRETARY: Calendar Number 1065, by Senator Skelos, Senate Print 4383B, an act to amend the Penal Law.

ACTING PRESIDENT LITTLE: Senator Nozzolio.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

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

ACTING PRESIDENT LITTLE: The amendments are received.

SENATOR NOZZOLIO: Madam President, on page number 29 I offer the following amendments to Calendar Number 983, Senate Print Number 4029A, by Senator Volker, and ask that said bill retain its place on Third Reading Calendar.

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

SENATOR NOZZOLIO: Madam President, I wish to call up, on behalf of Senator Fuschillo, Print Number 5517, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 1488, by Senator Fuschillo, Senate Print 5517, an act to amend the Penal Law and others.

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

ACTING PRESIDENT LITTLE: The

Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

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

ACTING PRESIDENT LITTLE: The amendments are received.

SENATOR NOZZOLIO: Madam President, I wish to call up my bill, Print Number 5012, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 1697, by Senator Nozzolio, Senate Print 5012, an act to amend the Penal Law.

ACTING PRESIDENT LITTLE: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Madam President. I now move to reconsider the vote by which the bill was enacted.

ACTING PRESIDENT LITTLE: The Secretary will call the roll on

reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LITTLE: Senator Nozzolio.

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

ACTING PRESIDENT LITTLE: The amendments are received.

Senator Winner.

SENATOR WINNER: Yes, Madam President. There will be a Rules Committee meeting at 7:00 p.m. in the Majority Conference Room, and the house stands at ease pending the report of the Rules Committee.

And there will be no further business tonight.

ACTING PRESIDENT LITTLE: Thank you. There is a Rules Committee meeting at 7:00 o'clock in the Senate Majority Conference Room, and the Senate stands at ease until the report of the Rules Committee.

(Whereupon, the Senate stood at ease at 6:48 p.m.)

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

ACTING PRESIDENT STACHOWSKI: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to motions and resolutions.

On behalf of Senator Alesi, I wish to call up his bill, Print Number 961, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT STACHOWSKI: Motions and resolutions.

The Secretary will now read.

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

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

SENATOR SKELOS: I offer the

following amendments.

ACTING PRESIDENT STACHOWSKI: The amendments are received.

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

ACTING PRESIDENT STACHOWSKI: Reports of standing committees.

The Secretary will read.

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

Senate Print 1668, by Senator LaValle, an act to amend the Executive Law;

2506B, by Senator Trunzo, an act in relation to authorizing;

3223A, by Senator Skelos, an act to amend the Workers' Compensation Law;

4011, by Senator Marcellino, an act to authorize;

4612A, by Senator Marcellino, an act to authorize;

4717A, by Senator Marcellino, an

act to authorize;

5609A, by Senator Lanza, an act to amend the Environmental Conservation Law;

6057, by Senator O. Johnson, an act to amend the Environmental Conservation Law;

6288, by Senator Bruno, an act to amend the Education Law;

And Senate Print 6289, by Senator Bruno, an act to amend the Education Law and the Tax Law.

All bills ordered direct to third reading.

ACTING PRESIDENT STACHOWSKI: Senator Skelos.

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

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

(Response of "Aye.")

ACTING PRESIDENT STACHOWSKI: Opposed, nay.

(No response.)

ACTING PRESIDENT STACHOWSKI: The report is accepted.

Senator Skelos.

SENATOR SKELOS: Is there any further business at the desk?

ACTING PRESIDENT STACHOWSKI: No further business at the desk.

SENATOR SKELOS: Thank you, Mr. President.

There being no further business, I move we stand adjourned until Tuesday, June 19th, at 3:00 a.m.

ACTING PRESIDENT STACHOWSKI: On motion, the Senate stands adjourned until Tuesday, June 19th, at 3:00 p.m.

(Whereupon, at 7:06 p.m., the Senate adjourned.)