NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 19, 2007

3:19 p.m.

REGULAR SESSION

LT. GOVERNOR DAVID A. PATERSON, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT ROBACH: The Senate will come to order.

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

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

ACTING PRESIDENT ROBACH: The invocation today will be given by Reverend Charles M. Recker, pastor, Heritage Baptist Church, New York, New York.

REVEREND RECKER: Good afternoon. Let's bow together in prayer.

Father in heaven, we thank You that we can bow in Your presence and say great are You and great is Your faithfulness.

We thank You that You're the source of all of our blessings, and we pray that You would grant this Senate today wisdom and success.

Bless these public servants, their families, their staff. Give them peace in their homes. And may they be able to finish during this final legislative session and week

so that they can return to their families swiftly.

Lord, we pray that You'll give them wisdom, give them wisdom and faith, courage in You, righteousness and truth, so that we may have continued freedoms, real prosperity, and lasting peace throughout our state and throughout our great nation.

Father, we pray that You would watch over our military as they wage a great battle around the world. Give them safety.

We pray for our peace officers, and even yesterday as Amanda Reif, the state trooper, was shot in Potsdam. We pray for her rapid healing, we pray for her husband and even her 7-month-old son. Raise her up quickly, dear Lord.

Watch over us now during this session. Thank You for Your Senators, and give them great wisdom, again.

We pray in Jesus' name. Amen.

ACTING PRESIDENT ROBACH: Reading of the Journal.

THE SECRETARY: In Senate, Monday, June 18, the Senate met pursuant to

adjournment. The Journal of Sunday, June 17, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT ROBACH: 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 Bruno.

SENATOR BRUNO: Mr. President, can we at this time adopt the Resolution Calendar, with the exception of 2942, 2989, and 2995.

ACTING PRESIDENT ROBACH: All in favor of adopting the Resolution Calendar, with the exceptions of Resolutions Number 2942, 2989, and 2995, signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH:

Opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: The Resolution Calendar, with exceptions, is adopted.

Senator Bruno.

SENATOR BRUNO: Thank you, Mr. President.

I believe I have a privileged resolution at the desk, 2989. I would ask at this time that it be read in its entirety and move for its immediate adoption.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: By Senator Bruno, Legislative Resolution Number 2989, honoring Marc Humbert, distinguished journalist, on his retirement.

"WHEREAS, It is the sense of this Legislative Body that government is best served and most effective when the electorate is interested, educated and well-informed, and that individuals who contribute to it being so merit the highest commendation; and

"WHEREAS, AP Political Editor in

New York State since 1995, Marc Humbert has distinguished himself in his profession, diligently and consistently throughout his career not only recording New York State Capitol happenings, but often himself bringing to light news of great public interest and import; and

"WHEREAS, Marc Humbert began his journalism career at The Saratogian in 1966 and joined the Associated Press in Albany in 1977; and

"WHEREAS, Even before he became a permanent, full-time newsman, he was busy scooping the rest of the Legislative Correspondents Association press corps in the Capitol. In February 1977, his work helped AP break the news of Governor Hugh Carey's plan to reorganize the State Health Department; and

"WHEREAS, In 1980, Marc Humbert was praised for a series of stories, including one consumer-interest story on why some stations were suddenly selling gasoline for 33 cents a gallon; and

"WHEREAS, Also in that year, he broke the news of a pending and unannounced

hike in automobile inspection fees, and provided in-depth coverage of how the state was keeping all 23 of its mental hospitals open and their payrolls growing despite a dramatic drop in the number of patients from 85,000 to 25,000 and, subsequently, also broke the story on which of those hospitals would be closed; and

"WHEREAS, In 1980, Marc Humbert was also assigned to cover the Democratic National Convention in New York City and the U.S. Senate campaign of Alfonse D'Amato; and

"WHEREAS, In 1981, Marc Humbert became AP's chief New York State political writer and, later that year, in August, was named its Capitol correspondent; and

"WHEREAS, He covered the Democratic Convention again in 1984 in San Francisco and broke the news that Mario Cuomo would be the convention's keynote speaker, a speech which fueled eight years of presidential speculation surrounding the New York governor and permanently linked Marc Humbert and Mario Cuomo; and

"WHEREAS, Waiting for Mario Cuomo

became a sort of pastime for Marc Humbert, who, in 1987 and 1991, aggressively tracked Governor Cuomo while he made up his mind, or didn't; and

"WHEREAS, Marc Humbert has also earned accolades for covering three other New York State governors -- Hugh Carey, George Pataki, and Eliot Spitzer -- and he never met a campaign finance filing he didn't like; and

"WHEREAS, In 1999 and 2000, he distinguished himself covering the historic run of then-First Lady Hillary Rodham Clinton for the United States Senate. In the lead-up to that campaign, Brills Content referred to Marc Humbert as 'perhaps the single most important New York reporter covering the campaign'; and

"WHEREAS, As a result of his tireless coverage of that campaign, which included a world scoop on the news that Rudolph Giuliani was dropping out of the race, he won the Associated Press' prestigious Gramling Award; and

"WHEREAS, Marc Humbert was also first with the news in 2002 that another

Cuomo, this time Andrew Cuomo, was dropping out of the governor's race; and

"WHEREAS, Marc Humbert was not just a political writer, he was much more and was just as comfortable covering crime stories such as the parole of Gary McGivern or reform of the Rockefeller Drug Laws, a train crash, a state commissioner taking family vacations in company cars, or a governor flying around the state on taxpaper funds; and

"WHEREAS, For 30 years, Marc Humbert has been justly respected and honored for his work ethic, enthusiasm, and energetic coverage of politics in New York State. Hard-nosed and skeptical, he was also the first to praise a colleague for a job well done. His colleagues, in turn, have honored him three times, most recently in 2007, with the Legislative Correspondents Association's Walter T. Brown Award for outstanding coverage of New York State government; and

"WHEREAS, Marc Humbert is a true professional whose thorough reporting, balanced stories, and persistence in search of news made him one of the most sought-after

reporters at the Capitol for promoting a positive story and, by the same token, the one to avoid when news was breaking on a tough, contentious public policy issue; and

"WHEREAS, In reporting a story, Marc Humbert has always been well-prepared and relentless in pursuit of the facts, and his weekly column has always been insightful and informative and frequently contained news-making information; and

"WHEREAS, It is with due cause and proper resolve that this Legislative Body pays tribute to Marc Humbert, recognizing his outstanding journalism career, his dedication to the Associated Press, his decades of covering politics and state government at the Capitol, and his many professional accomplishments; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to congratulate and extend its warmest appreciation and respect to Marc Humbert upon the occasion of his retirement and to wish him a healthy and happy future in which he may enjoy his retirement with his wife, Carla;

their children, Jake and Addie; and their grandchildren; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to Marc Humbert."

ACTING PRESIDENT ROBACH: Senator Bruno, on the resolution.

SENATOR BRUNO: Mr. President and colleagues, you heard a recitation in a few minutes about a gentleman, an individual, an accomplished journalist over a 41-year expanse. What you may not know is that this very distinguished, decorated man, honored repeatedly for his outstanding work, is a constituent of mine. You knew that.

(Laughter.)

SENATOR BRUNO: Makes me look good.

Tackawasick Lake. That is the great metropolitan area that Mark lives in. It's probably a community of at least 200, and part of Rensselaer County. It is a beautiful place where he and Carla, his wife -- children, Jake and Addie -- live and they entertain their grandchildren.

Now, I want to say to Marc, and we appreciate his being here, that over the 41 years and the years that I have been here, he started in what is my district, in Saratoga, in '66. 1966.

There are, and I have to be guarded about this, there are very few journalists that you can point to that are pragmatic, they are objective, they are pretty accurate in the reflection of what they write. Because most take licenses. They take kind of the easy way out, the once over lightly. Marc, sometimes to a fault, is too thorough, but he is on.

So, Marc, I want to just, on behalf of my colleagues here, just say thank you. Thanks for that, for the objectivity. For those stories that you wrote that were very painful for me personally, and hurtful, I forgive you.

(Laughter.)

SENATOR BRUNO: And for those very positive pieces that I'm trying to recollect, I thank you.

(Laughter.)

SENATOR BRUNO: But you are one

of the best. I'm proud that you're a constituent, proud that you are a neighbor.

And I know that what is happening, as your colleagues know, is a transition from the life that you have chosen to distinguish yourself in over these last 41 years into other endeavors, because you're high-energy and enthusiastic and bright and intelligent and articulate and a lot of other things that if I were a writer, I could recite. But that's you, and that's your description.

And, Mr. President, if we were extolling all of the true virtues of Marc Humbert, we would have to stay through the weekend. So we don't have time for that, so we put it down into what we've heard in a few minutes.

But the bottom line is, 41 years of dedicated, committed service to the public, to a constituency here in this state and sometimes nationally. Something to be proud of, you individually, and for us to be proud that we have known you and we know you and that we have a relationship.

Congratulations. The best of

health. The best in everything that you will be doing as we go forward throughout the balance of your long and distinguished career and life.

ACTING PRESIDENT ROBACH: Thank you, Senator Bruno.

Senator Farley, on the resolution.

SENATOR FARLEY: Thank you, Mr. President.

I also rise to wish Marc all success and happiness in his retirement. But you will note that in 1977 he left The Saratogian, the same year that Senator Bruno and I got elected. And that's one of our papers.

And I notice that as he's extolling all the virtues of Marc, he was including you, Betty Flood, also in those wonderful remarks, I'm confident.

Marc, who came from Ogdensburg, New York, which many of us recognize -- I don't see Senator Wright here, but Ogdensburg. He's a graduate of Ogdensburg Free Academy, which used to play Watertown, from which I came from. And also not many people get out

of Ogdensburg and make it to such a high place that you've arrived at, Marc.

But let me just say, as you look at somebody's career, he's really arrived at the pinnacle of reporting. And we're very, very proud. You've done a fine job. Really, I would say that every one of my colleagues respect what you have done and respect you as a journalist. And you've been a credit to your profession, and you can't say much more.

Forty-one years. I was kind of surprised at the length of your service, a young fellow like yourself. But we all wish you well in whatever you decide to do. And good luck and Godspeed.

ACTING PRESIDENT ROBACH: Senator Volker, on the resolution.

SENATOR VOLKER: Mr. President, very quickly.

As was mentioned, that he came out of Ogdensburg, and I -- let's just say that he and I have been friends for a long, long time. In fact, on several occasions we met up in the North Country when I was up there and he was visiting his family. And probably -- I will

say this. I have never really had a problem with Marc Humbert. I haven't always agreed with him, but I haven't had a problem with him.

And I must tell you something, Marc. For Senator Bruno these days to say wonderful things about a reporter is not easy to do. I mean, I've got to tell you that.

But you have been a super reporter and a good friend, and we've known each other for a long time. And I can't believe that you've been around for 41 years -- it doesn't seem possible.

But congratulations to you. Maybe we'll meet again sometime up there in the North Country where your family started out. And there are very few finer people than you that I have known over the years.

And congratulations and good luck to you. And may our -- I hope our paths across again in the future.

ACTING PRESIDENT ROBACH: The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: The resolution is adopted.

(Applause.)

ACTING PRESIDENT ROBACH: Senator Bruno.

SENATOR BRUNO: Mr. President, I would ask my colleagues in the Senate to join us on this resolution. And anyone that would care not to, privately share that with the desk. Other than that, we'll all go on.

And one of the members that didn't take the time to speak made the observation on what a wonderful thing it is when a reporter retires.

(Laughter.)

ACTING PRESIDENT ROBACH: At the motion of Senator Bruno, all members of the Senate will be on the resolution unless they choose not to. Please indicate that at the front desk.

Senator Bruno.

SENATOR BRUNO: Thank you,

Mr. President.

I believe there is another resolution at the desk, by Senator Larkin. I would ask that this at this time be read and move for its immediate adoption.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: By Senator Larkin, Legislative Resolution Number 2942, commemorating the 75th Annual National Convention of the Military Order of the Purple Heart and celebrating the 225th Anniversary of the Badge of Military Merit.

"WHEREAS, The dedication and sacrifices of our military personnel ensure our continued role as a nation which embodies the ideals of democracy and is a defender of liberty for peoples throughout the world; and

"WHEREAS, This Legislative Body is justly proud to commemorate the 75th Annual National Convention of the Military Order of the Purple Heart and to celebrate the 225th Anniversary of the Badge of Military Merit; and

"WHEREAS, The 75th Annual National

Convention of the Military Order of the Purple Heart will take place on August 5 through 10, 2007, at the Westchester Marriott in Tarrytown, New York. The celebration of the 225th Anniversary of the Badge of Military Merit is on Tuesday, August 7, 2007, at the National Purple Heart Hall of Honor; and

"WHEREAS, Tuesday, August 7, 2007, will be an all-day celebration of Purple Heart Day. Participants will visit Washington's Headquarters and the Purple Heart Hall of Honor, located in the New Windsor Cantonment State Historic Site, where the final encampment of George Washington's Army took place; and

"WHEREAS, Events scheduled for Purple Heart Day include a reenactment of General Washington presenting the Badge of Military Merit to a Continental Army soldier and participation of the 3rd Infantry 'Old Guard' Fife & Drum Corps and their Continental Army contingent. There will also be a flyover by military aircraft and a skydiving exhibition of the Purple Heart parachute; and

"WHEREAS, During this festive week,

everyone will have the opportunity to visit George Washington's headquarters on the Hudson River in Newburgh, where the Badge of Military Merit was created; and

"WHEREAS, Specifically a combat decoration, the Purple Heart is awarded to members of the armed forces of the United States who are wounded by an instrument of war at the hands of the enemy or posthumously to the next of kin in the name of those who are killed in action or die of wounds received in action; and

"WHEREAS, In 1932, the organization now known as the Military Order of the Purple Heart was formed for the protection and mutual interest of all who have received the decoration through the Institute of Heraldry; and

"WHEREAS, Composed exclusively of Purple Heart recipients, the Military Order of the Purple Heart is the only veterans' service organization comprised strictly of combat-wounded veterans; and

"WHEREAS, In addition, wives, mothers, daughters, step-daughters and adopted

daughters of Purple Heart recipients are eligible to belong to the Ladies' Auxiliary of the Military Order of the Purple Heart, which also does important work nationally and locally in veterans' hospitals. Such lineal descendants are eligible to belong as associate members; and

"WHEREAS, The mission of the Military Order of the Purple Heart is to foster an environment of goodwill and camaraderie amongst combat-wounded veterans, promote patriotism, support legislative initiatives of the Military Order of the Purple Heart and provide service to all veterans and their families; and

"WHEREAS, The Badge of Military Merit is considered to be the first official military combat badge of the United States armed forces; and

"WHEREAS, The Badge of Military Merit was first announced in General George Washington's general orders to the Continental Army issued on August 7, 1782, at the headquarters in Newburgh, New York; and

"WHEREAS, After the Revolutionary

War, the Badge of Military Merit fell into disuse although it was never officially abolished. In 1932, the United States War Department authorized the new Purple Heart Medal for soldiers who had previously received either a Wound Chevron or the Army Wound ribbon. At that time, it was also determined that the Purple Heart Medal would be considered the official successor decoration to the Badge of Military Merit; and

"WHEREAS, It is the sense of this Legislative Body that when events and organizations of such noble aims and accomplishments are brought to our attention, they should be celebrated and recognized by all the citizens of the great State of New York; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to commemorate the 75th Annual National Convention of the Military Order of the Purple Heart and to celebrate the 225th Anniversary of the Badge of Military Merit; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, transmitted it

the Military Order of the Purple Heart."

ACTING PRESIDENT ROBACH: Senator Larkin, on the resolution.

SENATOR LARKIN: August the 7th forever will be a day in America that we as Americans must take a time to stand up and recognize that this little piece of metal that we call the Purple Heart was initiated in 1932 at the request of General MacArthur to then-President Hoover. Because prior to that, the Badge of Merit was given to only enlisted men, and it didn't have to be for being wounded, it had to do with something of your performance of duty.

In 1932, in a little hamlet in Orange County called Vails Gate, 5,000 people -- and we realize the only ones who had cars in those days was my good friend Breslin -- thought I'd wake you up. But to see that that many people would come to an event of that nature to show appreciation for what was done.

There were 151 individuals awarded Purple Hearts going back to World War I. This award that had laid dormant for so many years

was quickly addressed by all the services. Because at first it was just the War Department, which is now what we call the Department of Army. And after that, it became common.

At Pearl Harbor, there were 3,000 Purple Hearts issued for December the 7th. And we know since then has what has happened. We have approximately 1.8 million Americans that have been awarded the Purple Heart for being killed or wounded in combat.

We started a stamp to honor the Purple Heart in January 2000. The stamp became effective in 2003. And then when it cost too much money to run the Postal Department, we had to raise it. We just raised it again.

And now we have the National Purple Heart Hall of Honor, to pay tribute to those Americans who were wounded or killed in combat.

I know a lot of people think, well, it's just a badge. But how about those of us who have had to write home to a mother or father or grandmother and say "I regret to

inform you that your loved one was killed or wounded this morning in combat." That is a lasting remark that will stay with you forever.

So, you know, while we think war is bad and we think of a lot of things that we don't like, we should take a moment and think of all the freedoms that we enjoy because men and women of the armed forces of the United States have put their life on the line and they proudly wear the Purple Heart.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Thank you, Senator Larkin.

Senator Bonacic, on the resolution.

SENATOR BONACIC: Briefly.

You know, when I go to veterans' events, there's not enough teachers of patriotism and military history. And it's important for our younger generation to know the sacrifices that the bravest of the brave, both men and women, who have made the ultimate sacrifice or who have served in the military, have done for one generation after the other.

But I stand to congratulate Senator

Larkin, because he is a teacher of military history. He wears his patriotism on his arm and in his heart every day.

And I can say without doubt that there is no one in the state of New York that has done more to enhance the significance of the purple heart and to honor those who have served it, in creating that national museum, really, for the Purple Heart in Orange County, than Senator Larkin.

Senator Larkin, I thank you for what you have done and what you continue to do as a teacher of patriotism and military history.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, if you would, with the consent of Senator Larkin, open up the resolution for sponsorship by the entire Senate.

If anybody wishes not to sponsor the resolution, they should notify the desk.

ACTING PRESIDENT ROBACH: Thank you, Senator Skelos.

That resolution will be open to any member that would like to be on. If you choose not to, please signify that up front at the desk.

SENATOR SKELOS: Mr. President, there's a resolution at the desk, 2995, by Senator Breslin. If we could have the title read and move for its immediate adoption.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: By Senators Breslin and Bruno, Legislative Resolution Number 2995, mourning the death of Diva de Loayza, distinguished citizen and devoted member of her community.

ACTING PRESIDENT ROBACH: Senator Larkin -- or, excuse me, Senator Breslin, on

the resolution.

SENATOR BRESLIN: No greater compliment could you offer than to mistake me for Senator Larkin.

I rise on this resolution in a very bittersweet way. Diva de Loayza was a well-known fashion designer who was born and raised in the Albany area who was tragically killed when she was on a bicycle back in early June.

She went off to New York, to Parsons, to develop her fashion designing career, ended up as a major player in San Francisco, Los Angeles, with her avant garde designs.

She then returned to her roots in Albany, where she opened up a shop; continuing to add to the economy of New York State, opened another store in Troy, Senator Bruno's district; opened up another store in Syracuse, Senator DeFrancisco's district; and opened up an additional store in Senator Winner's district.

She was a wonderful human being who did much for not only this Capital District

area but for the state of New York. And she brought her accomplishments throughout the state of New York. And it is a humbling duty to stand up and praise someone who achieved so much in such a short life.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Thank you, Senator Breslin.

No other Senators wishing to be heard, the question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: The resolution is adopted.

Senator Skelos.

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

ACTING PRESIDENT ROBACH: Senator Skelos.

SENATOR SKELOS: First, Mr. President, if we could go to motions and

resolutions. And I think there are also substitutions at the desk.

ACTING PRESIDENT ROBACH: Motions and resolutions.

Senator Griffo.

SENATOR GRIFFO: Thank you, Mr. President.

I wish to call up Print Number 2360B, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Calendar Number 136, by Senator Fuschillo, Senate Print 2360B, an act to amend the General Business Law.

ACTING PRESIDENT ROBACH: Senator Griffo.

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

ACTING PRESIDENT ROBACH: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

SENATOR GRIFFO: Mr. President, I

now offer the following amendments.

ACTING PRESIDENT ROBACH: The amendments are received.

SENATOR GRIFFO: Mr. President, I wish to call up Print Number 3854A, recalled from the Assembly, which is now at your desk.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Calendar Number 631, by Senator Fuschillo, Senate Print 3854A, an act to amend the General Business Law.

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

ACTING PRESIDENT ROBACH: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

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

ACTING PRESIDENT ROBACH: The amendments are received.

SENATOR GRIFFO: Mr. President, amendments are offered to the following Third Reading Calendar bills:

Sponsored by Senator DeFrancisco, on page 14, Calendar Number 498, Senate Print Number 4025;

Sponsored by Senator Fuschillo, page 18, Calendar Number 626, Senate Print Number 2970A;

Again by Senator Fuschillo, page number 25, Calendar Number 870, Senate Print Number 5543B;

And by Senator Skelos, page number 49, Calendar Number 1732, Senate Print Number 6167.

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

ACTING PRESIDENT ROBACH: The amendments are received and adopted, and the bills will retain their place on the Third Reading Calendar.

The Secretary will read the substitutions.

THE SECRETARY: On page 16, Senator Bonacic moves to discharge, from the Committee on Rules, Assembly Bill Number 8798 and substitute it for the identical Senate Bill Number 3970A, Third Reading Calendar 588.

On page 26, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 7432 and substitute it for the identical Senate Bill Number 4995, Third Reading Calendar 925.

On page 29, Senator Marcellino moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 7179 and substitute it for the identical Senate Bill Number 5327A, Third Reading Calendar 1005.

On page 32, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 6311 and substitute it for the identical Senate Bill Number 4694, Third Reading Calendar 1109.

On page 34, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 7845B and substitute it for the identical Senate Bill Number 5233B, Third Reading Calendar 1143.

On page 35, Senator Stewart-Cousins moves to discharge, from the Committee on Rules, Assembly Bill Number 3172 and substitute it for the identical Senate Bill

Number 4136, Third Reading Calendar 1185.

On page 49, Senator Maltese moves to discharge, from the Committee on Rules, Assembly Bill Number 8370 and substitute it for the identical Senate Bill Number 6188, Third Reading Calendar 1734.

And on page 50, Senator Marcellino moves to discharge, from the Committee on Rules, Assembly Bill Number 6943 and substitute it for the identical Senate Bill Number 4011, Third Reading Calendar 1762.

ACTING PRESIDENT ROBACH: Substitutions ordered.

Senator Skelos.

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

ACTING PRESIDENT ROBACH: The Secretary will read.

SENATOR SKELOS: Mr. President, before we go to the noncontroversial reading, the resolution that was passed, 2995, by Senator Breslin, cosponsored by Senators Bruno and Saland, they would like to have the entire resolution opened up to the entire membership.

If anybody wishes not to sponsor it, they should notify the desk.

ACTING PRESIDENT ROBACH: Thank you, Senator Skelos.

Let me announce to the members, on the Breslin resolution, that will be also offered to all members for cosponsorship. If for some reason you do not wish to cosponsor that, please indicate so at the front desk. Thank you.

The Secretary will conduct the reading of the noncontroversial calendar.

THE SECRETARY: Calendar Number 121, by Senator Maziarz, Senate Print 948C, an act to amend the Labor Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 132, by Senator Padavan, Senate Print 1462, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 306, by Senator Seward, Senate Print 804A, an act to amend Chapter 650 of the Laws of 1998 amending the Insurance Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 337, by Senator Morahan, Senate Print 2443, an act to amend the General Business Law.

ACTING PRESIDENT ROBACH: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 60th day.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 359, by Senator Maziarz, Senate Print 3674, an act to amend the Labor Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 412, by Senator Robach, Senate Print 3745, an act to amend the Education Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 427, by Senator Flanagan, Senate Print 3688A, an act authorizing the state to convey letters patent.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 446, by Senator Larkin, Senate Print 2895A, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT ROBACH: Announce the results.

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

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 588, substituted earlier today by Member of

the Assembly Kavanagh, Assembly Print Number 8798, an act to amend the Private Housing Finance Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 671, by Senator Seward, Senate Print 3687A, an act to allow a filing.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT ROBACH: The

bill is passed.

THE SECRETARY: Calendar Number 716, by Senator Young, Senate Print 3714A, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT ROBACH: The bill is passed.

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

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 719, by Senator Hannon, Senate Print 599A, an act to amend the Public Health Law.

ACTING PRESIDENT ROBACH: Read the last section.

THE SECRETARY: Section 9. This act shall take effect on the 120th day.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT ROBACH: The bill is passed.

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

ACTING PRESIDENT ROBACH: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the first of January next succeeding.

ACTING PRESIDENT ROBACH: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 817, by Senator Flanagan, Senate Print 4175A, an act to amend the Public Authorities Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 885, by Senator Little, Senate Print 1132, an act to amend the Town Law and the Village Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 917, by Senator Morahan, Senate Print 5398A, an act to establish a temporary task force.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 925, substituted earlier today by Member of the Assembly Hoyt, Assembly Print Number 7432, an act to amend the Public Authorities Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 954, by Senator Padavan, Senate Print 4603, an act to amend the Administrative Code of the City of New York and the Education Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 955, by Senator Padavan, Senate Print 5223, an act to amend the Administrative Code of the

City of New York.

ACTING PRESIDENT ROBACH: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 60th day.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 968, by Senator Hannon, Senate Print 4992A, an act to amend the Public Health Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number

972, by Senator Farley, Senate Print 899A, an act to amend the Education Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

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

SENATOR DUANE: Thank you, Mr. President.

I'm thrilled to vote for this bill, which is an institution which is, I'd have to say, shared by Senator Liz Krueger and myself.

So with a tip of my not wearing a hat to Senator Farley, I will be voting in the affirmative.

ACTING PRESIDENT ROBACH: Thank you, Senator Duane.

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1005, substituted earlier today by Member of the Assembly Weisenberg, Assembly Print Number 7179, an act to amend Chapter 203 of the Laws of 1999 amending the Environmental Conservation Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1019, by Senator Winner, Senate Print 3606, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call

the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT ROBACH: The bill is passed.

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

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT ROBACH: The bill is passed.

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

ACTING PRESIDENT ROBACH: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect immediately.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1100, by Senator Fuschillo, Senate Print 5541A, an act to amend the Executive Law and the Criminal Procedure Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1109, substituted earlier today by Member of the Assembly Abbate, Assembly Print Number 6311, an act to amend the Retirement and

Social Security Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT ROBACH: The bill is passed.

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

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number

1135, by Senator Little, Senate Print 5704B, an act to amend the General Municipal Law and the Town Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1141, by Senator Rath, Senate Print 3950, an act to amend the Parks, Recreation and Historic Preservation Law.

ACTING PRESIDENT ROBACH: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the first of November.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1143, substituted earlier today by Member of the Assembly Peoples, Assembly Print Number 7845B, an act to amend the Parks, Recreation and Historic Preservation Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1152, by Senator Flanagan, Senate Print 4354A, an act to amend the Highway Law.

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

Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1153, by Senator Bonacic, Senate Print 4370, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1159, by Senator Morahan, Senate Print 4001, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1163, by Senator Morahan, Senate Print 5473A, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1185, substituted earlier today by Member of the Assembly Pretlow, Assembly Print Number 3172, an act to amend Chapter 761 of the Laws

of 1976 authorizing the County of Westchester.

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

Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1307, by Senator Little, Senate Print 5364A, an act to amend the Real Property Actions and Proceedings Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

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

negative.

ACTING PRESIDENT ROBACH: The bill is passed.

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

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1382, by Senator Stachowski, Senate Print 1340A, an act to authorize the Town of Eden in the County of Erie.

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

Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1402, by Senator Wright, Senate Print 5744A, an act to amend the Public Service Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1498, by Senator Seward, Senate Print 2180B, an act to amend the Vehicle and Traffic Law and the General Business Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1499, by Senator Winner, Senate Print 2366A, an act to amend the Tax Law.

ACTING PRESIDENT ROBACH: A local fiscal impact note is at the desk.

Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1595, by the Senate Committee on Rules, Senate

Print Number 6014A, an act to amend the Tax Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1616, by Senator LaValle, Senate Print 898B, an act to authorize payment.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The bill is passed.

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

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1686, by Senator Griffo, Senate Print 6100, an act to amend the Civil Service Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The

bill is passed.

THE SECRETARY: Calendar Number 1720, by Senator Padavan, Senate Print 5224, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1726, by Senator Seward, Senate Print 5775, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1729, by Senator Larkin, Senate Print 6012A, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT ROBACH: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 90th day.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1733, by Senator Rath, Senate Print 6184, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT ROBACH: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1734, substituted earlier today by Member of the Assembly Abbate, Assembly Print Number 8370, an act to allow members of the Board of Education.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1735, by Senator LaValle, Senate Print 1668, an act to amend the Executive Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1736, by Senator Trunzo, Senate Print 2506B, an act in relation to authorizing.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 2. Senators Bonacic and Larkin recorded in the negative.

ACTING PRESIDENT ROBACH: The bill is passed.

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

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

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

THE SECRETARY: Calendar Number 1758, by Senator Winner, Senate Print 6148, an act to amend Chapter 987 of the Laws of --

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT ROBACH: The bill is laid aside.

THE SECRETARY: Calendar Number 1761, by Senator Skelos, Senate Print 3223A, an act to amend the Workers' Compensation Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The

bill is passed.

THE SECRETARY: Calendar Number 1762, substituted earlier today by Member of the Assembly Conte, Assembly Print Number 6943, an act to authorize Pederson-Krag Center of New York.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 2. Senators Bonacic and Larkin recorded in the negative.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1763, by Senator Marcellino, Senate Print 4612A, an act to authorize the Incorporated Village of Muttontown.

ACTING PRESIDENT ROBACH: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1764, by Senator Marcellino, Senate Print 4717A, an act to authorize the Incorporated Village of Muttontown.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1765, by Senator Lanza, Senate Print 5609A, an

act to amend the Environmental Conservation Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1766, by Senator O. Johnson, Senate Print 6057, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

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

negative.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1767, by Senator Bruno, Senate Print 6288, an act to amend the Education Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT ROBACH: Senator LaValle, to explain his vote.

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

This bill and the one to follow are bills that would make the kinds of commitments that we should be making in the intellectual capital in this state.

Here, in this bill, we are rewarding our veterans who have fought in any war additional tuition aid up to $4,350, which is the SUNY tuition. And I think that, at

minimum, is what we can do to reward and thank our veterans who have gone to war, served our nation to protect our freedoms.

Thank you, Mr. President. I vote in the affirmative.

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

Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1768, by Senator Bruno, Senate Print 6289, an act to amend the Education Law and the Tax Law.

ACTING PRESIDENT ROBACH: Read the last section.

THE SECRETARY: Section 12. This act shall take effect immediately.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT ROBACH: Senator Stavisky, to explain her vote.

SENATOR STAVISKY: To explain my

vote, Mr. President.

I too support a commitment to our students, but I think we have to have a different kind of commitment, particularly to students in the middle class.

Several weeks ago Senator Smith, Senator Stewart-Cousins, Senator Sabini and I held a press conference to suggest ways we can distribute the TAP money more equitably. When students graduate from college, they face tremendous debts. The amount has gone up in the -- it has doubled in the last 15 years or so.

We are mortgaging our students' future. And we have to make sure that TAP accurately reveals our middle-class students' needs. Our proposal was for $183 million, but distributed quite differently.

And, Mr. President, because of my concerns, I vote no.

ACTING PRESIDENT ROBACH: Senator LaValle, to explain his vote.

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

This bill before us is one of the

most expansive student financial aid proposals to come before this body. It truly is legislation that will provide the hardworking middle-income taxpayer with relief, relief through the TAP program by expanding each category.

It takes the maximum income from $80,000 to $100,000 and also the award at the $100,000 net taxable income to $1,000. That right now is $500.

As everyone here knows, we were the first in the nation for a tuition tax credit tax deductibility law. We're bringing that up-to-date. Presently the deductibility is $10,000. We're making that $14,000. The tax credit goes from 4 percent to 5 percent. Students walk away with loans of $15,000, on the average, if you are public, at a public university, or $21,000 for those in the private sector.

Once again, we could be the first state in the nation to adopt a proposal like this, to give those students with incomes of $50,000 or less up to a $1,000 tax credit.

There are other proposals on math

and science to give awards up to $1,000 a year for five years, and also to expand the math teacher program from 500 awards to 700.

This proposal would go a long way to help students get their dream, do it in a way where they don't carry a huge debt. And it is really focused on the one category of students who would get the most help, is that middle-income student.

So I vote in the affirmative, Mr. President.

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

And I was remiss; Senator Stavisky will be recorded in the negative.

Senator Krueger, to explain your vote.

SENATOR LIZ KRUEGER: Thank you, Mr. President. I also rise to explain my vote.

Because it's true, when you look at this bill, you think why wouldn't we want to expand TAP for middle-income students. And the fact is I would argue we want to do a lot to increase young people's ability to go to

college in the state of New York, middle income and low income.

So my problem with this legislation and my reason to vote against it is it doesn't do very much for low-income students who need to go to college in this state. And I think it's wrong for us to move a package that will cost a significant amount of money in the state budget, money we actually haven't explained where we're getting it -- but to imagine creating a new program of expanded TAP that in fact will do so little for low-income students.

And some of the data I have is that this enhancement package would basically not assist any of the 80,000 students who are already at the maximum TAP level in the state of New York, most of whom are CUNY students. And that this package would in fact statistically most assist students going to independent colleges, not CUNY and SUNY.

Now, I love independent private colleges. I'm a graduate of two of them. But I also know, because I sit through budget fights here every year, that we're not doing

enough for CUNY and SUNY and that, frankly, compared to most states in this country, we underfund our public university system at a level that should embarrass us.

So if we're increasing money to help students go to college -- and I want every student who wants to go to college to be able to go to college -- I have a serious problem with our passing a piece of legislation that technically would really do nothing for CUNY and SUNY in comparison to all the additional monies it would provide to independent colleges.

I'm also very concerned that the way the language is written in this bill, students who might have defaulted on a federal loan wouldn't be eligible for TAP. And there's a lot of reasons why students end up defaulting on federal loans. Most likely, that they were wrongly steered or directed into the wrong program for them, and perhaps not even a legitimate university or college. Perhaps one of those questionable colleges that continues to exist in New York State in these private proprietary schools, some of

which are terrific and some of which are not.

So having failed in one goal of starting school and ending up potentially defaulting on a federal loan, now under this legislation we would deny them to the right to try again to get some financial aid to go to a college to get the degree, to be able to graduate, become a taxpaying citizen and ironically have the ability to make good on the defaulted loan they already have on their record.

So I want to do the right thing for college students and their families in this state, and I want to make sure we pass laws that help every student get to college. But I am too concerned about who is impacted and who is not helped in this bill to be comfortable voting for it. So I vote no.

Thank you, Mr. President.

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

Senator Adams, to explain his vote.

SENATOR ADAMS: Thank you, Mr. President.

As I was sitting here I was trying

to think of one person that I know that didn't default on a student loan, and I don't know any.

You know, the government still receives the money even when you default on a student loan. So we shouldn't give the impression that a default on a student loan means that the government is not going to follow this individual throughout his entire life until -- with interest.

So the concept and the logic behind taking away financial assistance to someone who can't pay their student loan because they don't have the money is just not making sense to me.

And how that helps middle-class New Yorkers -- it ignored low-income New Yorkers. And then when you look at the remedial aspect, those who take remedial courses, they will also be hurt by this bill.

So there are good parts of this bill that does allow New Yorkers to experience the American dream. But you know what? There's parts that turn low-income individuals' American dream into a nightmare.

To attach a student loan default to a requirement for someone to receive financial assistance is not logical. It's not logical.

And if you ask yourself, in honesty, those who went through law school, those who went through their master's degree, those who went through their bachelor's, have you defaulted on your loan, would you have liked to see financial assistance removed from you because of that. No one defaults merely because it's a popular thing to do. They do it because they don't have the financial needs.

I think this is the wrong direction. I think it hurts not only low-income but it hurts middle-income, the average mother and father, homeowner, who put two mortgages on their home to send their child through school. College tuition is increasing at a rate that's unbelievable. All New Yorkers are experiencing the difficulties of paying for college. And this is going in the wrong direction by penalizing individuals who make financial mistakes.

I vote no on this bill.

ACTING PRESIDENT ROBACH: Senator Adams will be recorded in the negative.

And could I remind my colleagues that when we are on explaining our vote, try and stick to that two-minute explanation, if we could.

With that introduction, Senator Parker.

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

ACTING PRESIDENT ROBACH: To explain your vote.

SENATOR PARKER: In keeping with the two minutes, let me go through my prepared speech. Four score and seven years ago --

(Laughter.)

SENATOR PARKER: Let me just very quickly, first, thank Senate Bruno for bringing this bill forward and raising this issue. I want to congratulate him on doing something that's very important but not very popular, which is looking out for middle-class and middle-income people. This is truly, truly needed.

I think that this bill is a great

start. I would love for us to continue to work on it, to expand it, because it really does need to include a number of low-income individuals who certainly. Certainly need the help getting education.

Education is really the most important thing that we can provide as a government for our citizenship, and not only helps with income and economic opportunity but it certainly helps in terms of creating better citizens who are able to have better outcomes as relates to housing, as relates to their health and other things.

And so I would like to support this bill. I think that if we were able to include low-income individuals, I certainly could vote yea on it. But unfortunately, it does not.

And so until we can in fact get this where it needs to be where we continue both to take care of middle-income folks and low-income students, I have to vote nay.

ACTING PRESIDENT ROBACH: Senator Parker will be recorded in the negative.

Senator Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I concur with a lot of the sentiments expressed by my colleagues. Very simply, we can do better. We must do better. This is not a bill that is going to pass and become a law this year. As we go back into our negotiations, we have to do better. We must do better.

TAP and our entire system of higher education has been under assault for years by the prior gubernatorial administration. We have a new Governor who's willing to take a new look at all of these issues. We have to do better especially for the poorest students in our state. I vote no.

Thank you.

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

Announce the results.

Oh, I'm sorry, excuse me. Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: Yes, I'm going to vote aye, and I just want to clarify one thing.

What this bill does is increase the income level from $80,000 to $100,000 where people would be -- families would be entitled for TAP awards. And as far as I understand it, low income is included in that figure.

It's not that we're providing a window that only handles middle class or upper class. It still provides for grants for low income. And it may not be a perfect bill, but it's as close to what we're going to get this session, and I vote yes.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1768 are Senators Adams, Gonzalez, L. Krueger, Parker, Schneiderman and Stavisky. Also Senator Hassell-Thompson. Also Senator Serrano. Also Senator Huntley.

Ayes, 52. Nays, 9.

ACTING PRESIDENT ROBACH: The bill is passed.

Senator Skelos, that completes the

noncontroversial reading of the calendar.

SENATOR SKELOS: Mr. President, I believe there's one bill on the controversial calendar: 1758, by Senator Winner.

ACTING PRESIDENT ROBACH: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 1758, by Senator Winner, Senate Print 6148 --

SENATOR LIZ KRUEGER: Explanation.

ACTING PRESIDENT ROBACH: Senator Winner.

SENATOR WINNER: Thank you, Mr. President.

This is a very, very simple bill. This is a bill to allow the board of governors of the New York State Dental Association, which is a representative component body representing 13 component dental societies, to choose the officers of the New York State Dental Society rather than having them be chosen at a meeting of the general membership at their annual meeting.

The original statute having them

selected by the membership at large was created in 1868, and it at that time was justifiable. They had even called for a quorum of 20 members. And now they have 14,000 members of the New York State Dental Society.

The board of governors is a truly representative body of that society, and they believe that it is appropriate for the purpose of proper democracy within their own association, which is what they're choosing to do, to have the selection of their officers made in this manner.

ACTING PRESIDENT ROBACH: Senator Krueger.

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

ACTING PRESIDENT ROBACH: Will you yield, Senator Winner, for an additional question?

SENATOR WINNER: Under the penalty of a root canal, I will be glad to yield.

(Laughter.)

ACTING PRESIDENT ROBACH: Senator Krueger, I think that's a yes.

SENATOR LIZ KRUEGER: I certainly won't be performing any root canal, so it won't be from me, Senator Winner.

Thank you, Mr. President.

I confess freely I know little about the dental association's history of how they decide their leadership and elect their officers. But I do understand that the state dental association is created by the votes of the county dental associations. And it's been brought to me by my county dental association that they actually don't like the idea of instead of 14,000 dentists having the ability to vote for who would be the officers of the statewide board, that instead it would be decided by the majority of a quorum of 20 -- which I think would be 13 or 14, under their rules -- who could decide, instead of 14,000 dentists.

And I do understand the point of the bill and the memo that, yes, you probably won't get 14,000 dentists or any percentage thereof coming to Albany for a specific

meeting. In fact, I have been advised that it's approximately a hundred who show up. Which would still be more than some percentage of 20.

But what I don't understand is if we are concerned about keeping democracy and letting the dentists decide who their own board executives should be, why don't we just change the law and allow for a paper ballot or a proxy vote or an electronic vote?

My concern is one -- and you used the term of democracy -- why shouldn't the 14,000 dentists of New York State be allowed to decide their own leadership? And yes, perhaps calling them all up to one meeting is antiquated and time-consuming, but why not paper ballots or another form of voting?

SENATOR WINNER: Mr. President, the society itself has made a determination that this is how they wish to conduct their affairs.

I would point out parenthetically, in the spirit of democracy and the effort of participation, that there are 2,000 -- this fact might come as a interesting fact for you.

In the 2006 annual meeting of the New York State Dental Society, there are 2,000 general members of the society from New York City. And out of those 2,000 members, some of whom apparently have contacted you and are very concerned about their lack of democratic process or involvement -- I know this might surprise you, but the grand total of zero went to the meeting. So the fact of the matter is that there were only 40 people that went to the last annual meeting.

And as such, they feel that for the purposes of not having a result that is so skewed that they would have the overall general overseeing board of directors, similar to corporations that have the board of directors elect the officers of the corporation, that they will have a board of directors, which they have, which is representative of all 13 societies in the state, choose the officers.

And they believe that that would be very -- because they are elected from their local societies, that they would be able to be representative of what was truly sought for in

the area of how to perform a proper root canal.

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

ACTING PRESIDENT ROBACH: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you. Thank you to the sponsor for his clarification.

Well, actually, there's 2361 members from my borough, Manhattan. And I suspect, although I don't know for sure, Queens, Brooklyn, Bronx and Staten Island probably all also have some dentists. So -- yes, he's saying yes, they do. There are zero dentists in Brooklyn, Bronx, Queens and Staten Island? I know that's not true. But if there are 2361 in Manhattan, there are some larger number in the rest of the boroughs.

My understanding also is that the decision to ask for this bill and to shift from 9,000 voting members out of 13,000 dentists in New York State was decided also by a handful of people as an add-on to a board meeting I believe that was in Puerto Rico. So

I'm not sure how many members would have been there. Although I hope Puerto Rico was lovely that time of year.

SENATOR DIAZ: It's always.

SENATOR LIZ KRUEGER: It always is, says Senator Diaz.

So frankly I think democracy allows for the greatest number of people to participate. I'm not entirely sure why the State Legislature decides the membership and officer status of the Dental Association of New York State; apparently it dates back to the 1800s. So I'm not sure how many other issues like this will come before us.

But my county has told me they're concerned about this. They've asked me to vote no. They think everybody should have an opportunity to vote on the leadership of their state association.

And again, in a world of modern technology and even mailed ballots, I don't think it's so hard to come up with an alternative to inviting everyone to one meeting each year. So I'll vote no.

Thank you, Mr. President.

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

Is there any other Senator wishing to be heard? If none, debate is closed.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT ROBACH: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1758 are Senators Adams, L. Krueger, Morahan and Parker.

Ayes, 57. Nays, 4.

ACTING PRESIDENT ROBACH: The bill is passed.

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

SENATOR SKELOS: For the information of the members, there will be another Rules report coming out that we'll be

voting on a little bit later.

And now we're going to go to reports of standing committees for the report of the Judiciary Committee.

ACTING PRESIDENT ROBACH: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator DeFrancisco, from the Committee on Judiciary, reports the following nominations.

As a justice of the Supreme Court of the Third Judicial District, Christopher E. Cahill, of Kingston.

ACTING PRESIDENT WINNER: Senator DeFrancisco.

SENATOR DeFRANCISCO: Thank you, Mr. President --

ACTING PRESIDENT WINNER: Senator DeFrancisco, if you could bear with me for a moment.

Could we have some order in the chamber, please. This is very important business.

Thank you, Senator DeFrancisco.

SENATOR DeFRANCISCO: Thank you.

Each of the nominees that came before the committee today had their qualifications fully explored prior to the meeting, and each were found to be well-qualified, with backgrounds that are appropriate to become a judge in the state of New York. And in addition, each one of them passed unanimously in the Judiciary Committee and are recommended to the full Senate for confirmation.

And I would request, Mr. President, that you call the first nomination.

ACTING PRESIDENT WINNER: The question is on the confirmation of Christopher E. Cahill, of Kingston, as a justice of the Supreme Court of the Third Judicial District.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Mr. President, I would move the nomination and request that you recognize Senator Bonacic to second the nomination.

ACTING PRESIDENT WINNER: Senator Bonacic, for the purpose of a second.

SENATOR BONACIC: Thank you, Mr. President.

I stand in support of the nomination of Christopher Cahill. He appeared before our Judiciary Committee earlier today with his bride, Kim, who I believe is in the chambers with him.

When you look at the background of this gentleman, he has served with distinction with Judge Bradley for over 22 years. He has exhibited judicial temperament that is needed to be a good judge. He certainly has the intelligence. And he has written, on behalf of Judge Bradley, quite a bit of learned opinions.

He is respected by all the people that I have spoken to in Ulster County, the lawyers.

He has also given back to his community. He was an adjunct instructor in SUNY New Paltz. In addition, he was the president of his bar association in Ulster County, as well as participating in many community activities.

When you look at the profile of this gentleman, you could say he's a pillar of the community. So I look forward to his work

as a Supreme Court judge, and I second that nomination.

Thank you, Mr. President.

ACTING PRESIDENT WINNER: Thank you, Senator Bonacic.

Senator Larkin.

SENATOR LARKIN: Thank you, Mr. President.

I'd like to join my colleagues Senator DeFrancisco and Senator Bonacic on seconding the nomination of soon-to-be Judge Cahill. In my discussions -- I've represented the Kingston area for the last 17 years. And when I heard about a law clerk and I heard about someone who was involved in the judicial process, it was always said to me when you want an honest, straight answer, one which reflects dedication, commitment, thorough research, ask Chris.

I had calls from judges, had calls from clerks, had calls from normal attorneys, who have all said the same thing: Chris is the ideal person because of his commitment to the judiciary, his commitment to fairness, his commitment to the people he will represent in

the future.

I am honored to stand here and second the nomination of Chris Cahill.

ACTING PRESIDENT WINNER: Thank you, Senator Larkin.

The question is on the confirmation of Christopher E. Cahill, of Kingston, as a justice of the Supreme Court of the Third Judicial District. All those in favor of confirmation signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT WINNER: Opposed, nay.

(No response.)

ACTING PRESIDENT WINNER: Christopher E. Cahill, of Kingston, is hereby confirmed as a justice of the Supreme Court for the Third Judicial District.

And he is accompanied today by his wife, Kim Cahill. Congratulations.

(Applause.)

ACTING PRESIDENT WINNER: The Secretary will read.

THE SECRETARY: As a justice of the Supreme Court of the Eleventh Judicial

District, Honorable Lenora Gerald, of Bayside.

ACTING PRESIDENT WINNER: Senator DeFrancisco.

SENATOR DeFRANCISCO: I move the nomination and request that you please recognize Senator Maltese for a second.

ACTING PRESIDENT WINNER: Senator Maltese, for the purpose of a second.

SENATOR MALTESE: Mr. President, I'm very honored to second the nomination of Lenora Gerald for this judiciary position. She appeared before the Judiciary Committee this morning and was approved unanimously.

Mr. President, she is a graduate of St. John's University, a graduate of St. John's University Law School.

The judges that have appeared before her -- I'm sorry, the attorneys that have appeared before her in her various capacities as a jurist have all indicated that she has the judicial temperament necessary to perform the duties as a judge.

In addition, she seems to be a judge for all seasons. She has performed as a judge in the Civil Court, a judge in the

Criminal Court, and a judge in the Family Court. She also was the principal law clerk for Justice Al Lerner. And I've spoken to Justice Lerner this morning; he certainly endorses her judiciary position and indicates that she would perform in an exemplary manner.

Mr. President, I'm pleased and proud to second the nomination of Lenora Gerald for this judicial position.

ACTING PRESIDENT WINNER: Thank you, Senator Maltese.

Senator Smith.

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

I rise to second the nomination and also to congratulate the Governor on a fine selection of Lenora Gerald to be a Supreme Court justice in the Eleventh Judicial District. I also thank Senator DeFrancisco and the Judicial Committee of the State Senate for their taking the time and the necessary steps to place someone with such a character as Lenora Gerald.

Lenora Gerald, as Senator Maltese has said, has served in Criminal Court, she's

served in Family Court, she is now acting Supreme Court justice in Queens. She has distinguished herself as a judge throughout her career. She's been appointed as a judge under Mayor Rudolph Giuliani, she was appointed a judge under Mayor Bloomberg, and now she gets an appointment under the Governor of the State of New York, Eliot Spitzer.

She has always performed and handles herself as a judge, as a jurist, as a person in the legal profession who has had the kind of temperament that clearly sets her apart from many of the justices that have come before us today. She is someone who I know. She's a member of my church as well, where Reverend Dr. Floyd H. Flake is the pastor.

But in addition to all that she has done in the legal profession, she also is just an ordinary person. In our church she is part of a liturgical dance ministry where she actually dances in the church and performs to the glory of God in terms of her feeling about what she does and her heart is in the right place.

She's also joined by her fiance,

Les James, who is also an active member in our church as well.

This a great day for not only Queens and Bayside, it's a great day for the State of New York. They are getting a supreme -- maybe there's a pun there -- they're getting a supreme individual by the name of Lenora Gerald.

And I will tell you there are a few things I have done on the floor of the Senate, there are a few things I have done on the floor of this Senate now being the Minority Leader for the State Senate. And today it gives me great pleasure to congratulate her, to second her nomination, and to say I know you will do well and I know that there's much more ahead of you.

Congratulations, Judge.

ACTING PRESIDENT WINNER: Thank you, Senator Smith.

The question is on the nomination of Honorable Lenora Gerald, of Bayside, as a justice of the Supreme Court of the 11th Judicial District. All those in favor of the nomination signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT WINNER: Opposed, nay.

(No response.)

ACTING PRESIDENT WINNER: Justice Lenora Gerald, of Bayside, is hereby confirmed as a justice of the Supreme Court of the 11th Judicial District.

Judge Gerald is accompanied by her fiance, Les James.

Congratulations, Judge.

(Applause.)

ACTING PRESIDENT WINNER: The Secretary will read.

THE SECRETARY: As a justice of the Supreme Court of the Second Judicial District, Honorable Rena K. Uviller, of New York City.

ACTING PRESIDENT WINNER: Senator DeFrancisco.

SENATOR DeFRANCISCO: I move the nomination and request that you recognize Senator Duane for the second, please.

ACTING PRESIDENT WINNER: Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

I rise to second the nomination of Rena K. Uviller, who has just an amazing, outstanding record. From her prejudicial experience through her judicial experience, she has shown absolutely the finest qualities that we could possibly have for people who are sitting on the bench in New York State.

In addition to her judicial experience and her numerous published decisions and articles, she also has devoted a tremendous amount of time to volunteer and professional activities.

So it is with great pride that I second the nomination of Rena K. Uviller for the Court of Claims.

Thank you, Mr. President.

ACTING PRESIDENT WINNER: Senator Duane.

SENATOR DUANE: Sorry, Mr. President. She was on the Court of Claims, but this is for a Supreme Court seat.

Thank you, Mr. President.

ACTING PRESIDENT WINNER: Your

apology is accepted, Senator.

The question is on the nomination of Rena K. Uviller, of New York City, as a justice of the Supreme Court of the Second Judicial District. All those in favor of the nomination signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT WINNER: Opposed, nay.

(No response.)

ACTING PRESIDENT WINNER: Justice Rena K. Uviller, of New York City, is hereby confirmed as a justice of the Supreme Court for the Second Judicial District.

Congratulations.

(Applause.)

ACTING PRESIDENT WINNER: The Secretary will read.

THE SECRETARY: As a judge of the Westchester County Court, Honorable James W. Hubert, of Ardsley.

ACTING PRESIDENT WINNER: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, I would move the nomination and request that you

recognize Senator Stewart-Cousins to second the nomination.

ACTING PRESIDENT WINNER: Senator Stewart-Cousins.

SENATOR STEWART-COUSINS: Thank you, Mr. President.

This is a great day for Westchester County. I rise to second the nomination of Honorable James Hubert, who will leave his position as Greenburgh Town Judge. Greenburgh is the largest town in Westchester County and has been able to enjoy the wisdom, the integrity, the compassion of Judge Hubert since 2005.

But he's not just a judge. Prior to that, he had a private practice, he was a litigator with the Queens district attorney, and he has been everpresent in the community.

Judge Hubert not only is accompanied by his wonderful wife Jodie and friend Suzanne Berger, but he represents all of what community activists should be. He has served on the Planning Board, he has been able to serve on the Zoning Board, and he is someone who has been a strong presence in the

Black Bar Association.

Judge Hubert, you will do Westchester well. You will do us proud. You are moving very, very rapidly. We couldn't have picked a better person to serve us. And I too want to congratulate Governor Spitzer.

Thank you.

ACTING PRESIDENT WINNER: Thank you, Senator.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President. I too rise to second the nomination, along with Senator Stewart-Cousins.

This young man grew up in the city of Mount Vernon. His parents would be extraordinarily proud. He has recently lost his dad, and his mom is very ill, but I know the pride that they had in both of their children.

And certainly he has the temperament, as I spoke this morning, to be on the County Court. And I know, because of the diligence with which he has worked in his past career, he will continue to do the county of

Westchester, the city of Mount Vernon, his home birthplace, very proud.

We are proud of you, and congratulations.

ACTING PRESIDENT WINNER: Thank you, Senator Hassell-Thompson.

The question is on the nomination of James W. Hubert as Judge of the Westchester County Court.

Senator Smith, excuse me.

SENATOR SMITH: Thank you very much, Mr. President. I rise also to second that nomination of James Hubert.

I guess a lot of people are going to lay claim to the judge-to-be, and that is because, as far as I'm concerned, he's from Queens. He was a borough chief in Queens, he was assistant district attorney. I rise to lay claim to his legal profession started there, notwithstanding his sole-practionership.

But I will tell you, today is a banner day for the judicial system. One of the things that we did in the Senate, as you know, over the last couple of months we had a

lot of hearings on judicial diversity. And I think today the Governor has made a statement to that effect. We have Judge Hubert now, we're going to have judge Lenora Gerald. And clearly that sends a message to the people around the state that we are listening.

The judges both understand what it means to serve, what it means to use judicial discretion. And I think the people of this state are going to be served very proud by their leadership.

And so I rise to support that nomination of Judge James W. Hubert and look forward to his career.

ACTING PRESIDENT WINNER: Thank you, Senator Smith.

The question is on the nomination of James W. Hubert as a judge of the Westchester County Court. All those in favor of the nomination signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT WINNER: Opposed, nay.

(No response.)

ACTING PRESIDENT WINNER: Judge

James W. Hubert is hereby confirmed as a judge of the Westchester County Court.

Judge Hubert is accompanied by his wife, Jodie, and friend Suzanne Berger.

Congratulations, Judge.

(Applause.)

ACTING PRESIDENT WINNER: The Secretary will read.

THE SECRETARY: As a judge of the Erie County Court, Honorable Thomas P. Franczyk, of Buffalo.

ACTING PRESIDENT WINNER: Senator DeFrancisco.

SENATOR DeFRANCISCO: I hope the Honorable Thomas Franczyk, of Buffalo, didn't think that we were slighting him by going over the name and not going in the order that we had on the list. But, very observant, Senator Maziarz realized the whole family wasn't together at the proper moment, so he wanted them to realize and see the event.

So I would move the nomination and ask you to call on Senator Volker to second.

ACTING PRESIDENT WINNER: Senator Volker.

SENATOR VOLKER: Mr. President, I want to say that Tim Franczyk, who has been a judge of the City Court for a number of years and is one of the most highly regarded judges in Buffalo, he also was an assistant DA. And I want to especially say that he was one of the best assistant DAs to handle cases in Depew, where I live. Not that he handled anything for me or against me, but that's not the issue.

His very good friend Henry Wick, who is the former justice there, made sure that I say to him that he was the best guy he ever had in his court.

But I want to say that there's no question he'll make a fine County Court judge. He comes from a fine family background. Tim has been, as I say, one of the leaders in the bar association in Erie County.

And I want to say congratulations to him and to the Governor for sending us a fine nominee.

ACTING PRESIDENT WINNER: Thank you, Senator Volker.

Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Mr. President. I rise to second the nomination of Thomas Franczyk as a judge of the Erie County Court.

You know, when a nominee from Erie County is sent up here, I generally talk to some attorneys in Erie County, an area I do not represent, and I call up people like Joe Latona and Tom Burton, both of whom hold you in the highest regard, Judge. Then of course I always talk to Richard Kloch to find if what Burton and Latona told me was the truth, you know. And in this instance they indicated that it was.

It really is a great moment here for the judiciary in Western New York, and I'm sure for your family, Judge. And it's a proud moment in more ways than one. Senator Smith talked about diversity here today. And it's good to see a Polish guy from Buffalo get ahead too.

So congratulations, Judge.

ACTING PRESIDENT WINNER: Senator Stachowski.

SENATOR STACHOWSKI: Speaking of

Polish guys from Buffalo.

(Laughter.)

ACTING PRESIDENT WINNER: I thought I'd let you say that.

SENATOR STACHOWSKI: Thank you.

It gives me great pleasure to rise to also second the nomination of Tim Franczyk.

Obviously he was a very, very competent and excellent assistant district attorney, as Senator Volker pointed out. And as Senator Maziarz pointed out, he was terrific on the City Court bench, where his cases were innumerable, as they are for City Court judges.

And Tim has waited a long time to move up to County Court. I know he'll be an outstanding justice on that level too.

But from my perspective, it's always been Tim Franczyk grew up in my neighborhood. I grew up with his whole family. Tim played basketball in the same places I played basketball, and I know him for a long, long time. And more importantly than I'm happy to see him made a judge, I'm happy to have him as my friend.

So I take great pride in standing to second this nomination.

ACTING PRESIDENT WINNER: Thank you, Senator Stachowski.

Senator Rath.

SENATOR RATH: Thank you, Mr. President. I'd like to add my congratulations and my best wishes to Judge Franczyk.

The legal community in Western New York, as you may have gathered from the other speakers, is very close and they all talk about who is ascending to the various judgeship levels. They were thrilled when they understood that Judge Franczyk was going to be coming up too as a judge of the Erie County Court.

And he has the kind of judicial temperament that the lawyers and the judges in Western New York know will add to the members of that bench. And we're delighted and give you our congratulations.

ACTING PRESIDENT WINNER: The question is on the nomination of Thomas P. Franczyk, of Buffalo, as a judge of the Erie

County Court. All those in favor of the nomination signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT WINNER: Opposed, nay.

(No response.)

ACTING PRESIDENT WINNER: Judge Thomas P. Franczyk is hereby confirmed as a judge of the Erie County Court.

Judge Franczyk is accompanied by his wife, Michele, and daughters Claire and Natalie.

Congratulations, Judge Franczyk.

(Applause.)

ACTING PRESIDENT WINNER: The Secretary will read.

THE SECRETARY: As a judge of the Court of Claims, James H. Ferreira, of Delmar.

ACTING PRESIDENT WINNER: Senator DeFrancisco.

SENATOR DeFRANCISCO: I would move the nomination and request that you recognize Senator Connor for a second. No? Recognize Senator Breslin for a second.

ACTING PRESIDENT WINNER: Senator

Breslin.

SENATOR BRESLIN: It's my honor to once again stand up for Judge Ferreira, who's only been on the bench since June of '06. At that time I referred to him as one of the "Delmar Four" that was appointed by Governor Pataki, and I praised Governor Pataki for that appointment, as I praise this Governor for the reappointment.

The extensive background that the judge has, from being deputy commissioner and general counsel at the Department of Environmental Conservation, to his background with Harris Beach, even with Bond Schoeneck as a summer associate. But throughout his legal career, he has exemplified the highest degree of scholarship.

And I once again look forward to seeing him on the bench and doing the job he's been doing since June.

Thank you, Mr. President.

ACTING PRESIDENT WINNER: Thank you, Senator Breslin.

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you,

Mr. President. On the nomination.

I certainly echo my colleague and good friend's support of this wonderful nomination. And Senator Breslin said it very well.

It's often been said that the days are long and the years are short. And that certainly is what I think about when I think about my good friend Judge Ferreira, who I think of more as a young man who worked with us in the Assembly many, many years ago out of school, trying to learn about the government that he so well has served now for so many years.

Judge Ferreira, known as Jim, has had such extensive experience in certainly the private sector, but schooled here in the Legislature, understanding the dynamics of the government process bode him well in a variety of experiences with the Attorney General's office and the important job, as Senator Breslin said, heading up the entire law department of one of the most important state agencies in all of New York State government, the New York State Department of Environmental

Conservation.

We who knew Jim when he was an intern are just more than proud of his wonderful accomplishments through the government of this state, and distinguished as a member of the New York State Court of Claims.

He's been an outstanding jurist in his very brief tenure there, and that I am very pleased to welcome certainly him back to where he all started, which is in the Legislature.

It's wonderful that his mom, Joan, could be here with him, that his number of friends who have joined together to be part of this recognition of confirmation of an excellent person, one who is one of the outstanding young men that serves in state government.

It's an excellent renomination and certainly has full support of us here in this chamber, Mr. President. Thank you.

ACTING PRESIDENT WINNER: Thank you, Senator Nozzolio.

The question is on the nomination

of James H. Ferreira, of Delmar, as a judge of the Court of Claims. All those in favor of the nomination signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT WINNER: Opposed, nay.

(No response.)

ACTING PRESIDENT WINNER: Judge James H. Ferreira is hereby confirmed as a judge of the New York State Court of Claims.

Judge Ferreira is accompanied by his wife, Abbey; mother, Joan Hartford Ferreira; and friends Reverend Erwin Schweigardt, Rick Clarkson, Jill Swingruber, and Helen Ashley.

Congratulations.

(Applause.)

ACTING PRESIDENT WINNER: The Secretary will read.

THE SECRETARY: As a judge of the Court of Claims, Elizabeth A. Foley, of Staten Island.

ACTING PRESIDENT WINNER: Senator DeFrancisco.

SENATOR DeFRANCISCO: I move the

nomination and request that you recognize Senator Savino for a second.

ACTING PRESIDENT WINNER: Senator Savino.

SENATOR SAVINO: Thank you, Mr. President.

I rise to second the nomination of Elizabeth Ann Foley and to commend the Governor for a well-deserved nomination that has been a long time coming.

I also want to thank Betty Ann and her family and friends for their patience in this long, drawn-out process.

From her early days in the victim advocate unit in the New York County District Attorney's office to her more than 20 years of service at the Richmond County DA's office, she's been a tireless public servant, whether she was investigating violent felonies, organized crime, insurance fraud or, later in her tenure at the Department of Education, investigating allegations of corporal punishment.

She's had a long and distinguished career and will be a wonderful addition to the

Court of Claims. And I know that somewhere right now the late Assemblyman John Lavelle is looking down on us smiling.

So I want to say congratulations to Betty Ann and her family and thank the Senate for her confirmation.

ACTING PRESIDENT WINNER: Thank you, Senator Savino.

The question is on the nomination of Elizabeth A. Foley, of Staten Island, as a judge of the Court of Claims. All those in favor of the nomination signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT WINNER: Opposed, nay.

(No response.)

ACTING PRESIDENT WINNER: Judge Elizabeth A. Foley, of Staten Island, is hereby confirmed as a judge of the Court of Claims.

Judge Foley is accompanied by several family members and friends.

Congratulations.

(Applause.)

ACTING PRESIDENT WINNER: The

Secretary will read.

THE SECRETARY: As a judge of the Court of Claims, Daniel P. Conviser, of Brooklyn.

ACTING PRESIDENT WINNER: Senator DeFrancisco.

SENATOR DeFRANCISCO: I move the nomination and request that you recognize Senator Connor for the second.

ACTING PRESIDENT WINNER: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

And I offer this second on my own behalf as well as Senator Montgomery. Mr. Conviser lives in Senator Montgomery's district, a couple of blocks from my district.

You know, this is a nomination I certainly congratulate the Governor for. Dan started many years ago on the Assembly staff, actually in 1982, and worked in the housing area, on the Housing Committee, for about seven years, and then during that time received his bachelor of arts degree from Queens College in 1986. And then about 1987,

he kind of disappeared from the scene here and went off to the University of Michigan Law School, where he graduated magna cum laude, with a 3.9 cum, which is pretty impressive. Pretty impressive law school as well.

Then Dan worked for a large law firm, a Wall Street law firm in Manhattan, and clerked for Judge Vincent Broderick of the Southern District of New York, whose brother actually was one of my law professors once upon a time.

Dan then returned in 1993 to the Assembly, where he was a counsel for criminal justice issues, judiciary issues, and election law issues. And one might imagine I had many opportunities to exchange views with Dan on election law over the years or election law legislation.

And he has served for the past I guess nearly eight years as counsel to the Rules Committee in the Assembly.

Now, many of you and I'm sure many of us and our staffs have over the years encountered Dan or negotiated with Dan, and I think we all understand his acute legal

skills, his knowledge. And I think, even more importantly, particularly with respect to the Assembly, if you look at the function of being counsel to the Rules Committee, none can doubt his demeanor and patience.

Which suit him well for the bench, since dealing with so many members in the Assembly, all anxious, as many of us are in this house, to get your bills out of the Rules Committee, it does take patience and good judgment and just exactly the qualifications and characteristics that make a good judge.

So I'm delighted to second this nomination. I know that Dan Conviser will be a credit to the judiciary and will serve us well on the Court of Claims.

ACTING PRESIDENT WINNER: Thank you, Senator Connor.

Senator Volker.

SENATOR VOLKER: Mr. President, the one thing I really have to say, Senator Connor, about your comments, where he certainly seems to be possessed of patience. Because I have to admit this has been a rather drawn-out ordeal, which frankly I know was not

the most enjoyable thing in the world.

My good friend Assemblyman Lentol is here. And the reason he's here is he wants to make sure you're gone.

(Laughter.)

SENATOR VOLKER: No, he actually came over to make sure that I did the right thing. And I told him don't worry, I'll do the right thing.

Dan actually has been a formidable -- I don't want to say opponent, but a formidable person as the key man on criminal justice in the Assembly. And we became very good friends, Dan and I. And Assemblyman Lentol and I of course have gone through more conference committees than just about anybody in the Capitol. And we've been mostly successful. In fact, I think we were only unsuccessful once. And we eventually became successful, as the saying goes.

But I just have to say that frankly there's never been any question of the fact that Dan Conviser is extremely bright, intelligent, sometimes can be a formidable opponent. But that's part of the business

we're in. And I don't think there's any question he'll make an excellent Court of Claims judge.

My very best to you. And I regret that what has happened here. But remember that a lot of us will never forget you for various reasons. No, but have a good time, good luck on the Court of Claims, and best wishes.

ACTING PRESIDENT WINNER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I want to join my colleagues and Assemblyman Lentol -- and I'm glad he is here to make sure that it all goes down correctly this time. They say justice delayed is justice denied. But in this case justice delayed just gave us a few more months of Dan helping us resolve our legislative issues.

He is one of the best people I've worked with in the Legislature. He's been an incredible counsel. Anyone who's actually worked with him knows that. His record, as Senator Connor has laid it out, is exemplary.

This is the type of person we are lucky wants to serve as a judge in New York State.

And in this family of those of us who toil on criminal justice issues in the Legislature, Dan has been a tremendously important member. And the members of this house owe him a particular debt of gratitude. Think of all the irresponsible tough-on-crime one-house bills we get to vote for knowing that Dan would shut them down in the other house -- 25 years for littering, whatever it is we want to do. Dan Conviser has kept the balance, and I'm sure he as a judge he will keep the balance.

Congratulations. I'm glad we're finally doing this. You will be badly missed here. But Senator Volker, be assured that Joe has a group of people that are just as intractable and ideologically driven as Dan to take over when he leaves.

Congratulations, Your Honor. About time.

ACTING PRESIDENT WINNER: The question is on the nomination of Daniel P. Conviser, of Brooklyn, as a judge of the Court

of Claims. All those in favor of the nomination signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT WINNER: Opposed, nay.

(No response.)

ACTING PRESIDENT WINNER: Daniel P. Conviser, of Brooklyn, is confirmed as a judge of the New York State Court of Claims.

Congratulations.

(Applause.)

ACTING PRESIDENT WINNER: Senator Larkin.

SENATOR LARKIN: Mr. President, there will be an immediate meeting of the Rules Committee in the Room 332, the Majority Conference Room.

The Senate will stand in rest until we get back.

ACTING PRESIDENT WINNER: The Senate stands at ease.

(Whereupon, the Senate stood at ease at 5:26 p.m.)

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

ACTING PRESIDENT WINNER: Senator Skelos.

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

ACTING PRESIDENT WINNER: Reports of standing committees.

The Secretary will read.

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

Senate Print 476, by Senator Bonacic, an act to amend the Public Health Law;

705B, by Senator Nozzolio, an act to amend the Correction Law;

1064, by Senator Maltese, an act to amend the Retirement and Social Security Law;

1137A, by Senator Little, an act to amend the Vehicle and Traffic Law;

1517, by Senator Stachowski, an act to amend the Real Property Tax Law;

1666A, by Senator Padavan, an act

to amend the Education Law;

2423A, by Senator Trunzo, an act to amend Chapter 666 of the Laws of 1990;

2444, by Senator Morahan, an act to amend the Criminal Procedure Law;

2450A, by Senator Golden, an act to amend the Public Health Law;

2967, by Senator Seward, an act relating to increasing;

3309A, by Senator Wright, an act to amend the Highway Law;

3663, by Senator Seward, an act relating to increasing;

3682, by Senator Lanza, an act to amend the Highway Law;

3764, by Senator DeFrancisco, an act to amend Chapter 203 of the Laws of 2005;

3776, by Senator Young, an act to amend the Environmental Conservation Law;

4048A, by Senator Griffo, an act to amend the Tax Law;

4098C, by Senator Robach, an act to establish;

4099, by Senator Robach, an act to amend the Tax Law;

4158B, by Senator Skelos, an act to amend the Insurance Law;

4307A, by Senator Fuschillo, an act to amend the Education Law;

4429, by Senator Leibell, an act to amend the Military Law;

4471A, by Senator Volker, an act to amend the Executive Law;

4575, by Senator Young, an act to amend the Tax Law;

4662A, by Senator Hannon, an act to amend the Public Health Law;

4707A, by Senator Skelos, an act to amend the Education Law;

4796, by Senator Lanza, an act to amend the Criminal Procedure Law;

4817, by Senator Nozzolio, an act to amend the General Municipal Law;

5121, by Senator Hannon, an act to authorize;

5778, by Senator Flanagan, an act to amend the Criminal Procedure Law;

5921, by Senator Padavan, an act to amend the Real Property Actions and Proceedings Law;

6016, by the Senate Committee on Rules, an act to amend the Tax Law;

6028, by Senator Seward, an act changing the name;

And Senate Print 6216A, by Senator Little, Concurrent Resolution of the Senate and Assembly.

All bills ordered direct to third reading.

ACTING PRESIDENT WINNER: Senator Skelos.

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

ACTING PRESIDENT WINNER: All in favor of accepting the report of the Rules Committee signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT WINNER: Opposed, nay.

(No response.)

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

Senator Skelos.

SENATOR SKELOS: Mr. President,

the calendars are now being placed on each member's desk. We'll wait about 30 seconds and then take up the calendar, noncontroversial.

ACTING PRESIDENT WINNER: Thank you, Senator Skelos.

The Secretary will conduct the noncontroversial reading of Senate Supplemental Calendar Number 63A.

THE SECRETARY: Calendar Number 1769, by Senator Bonacic, Senate Print 476, an act to amend the Public Health Law and the Tax Law.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WINNER: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 1771, by Senator Maltese, Senate Print 1064, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WINNER: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 1772, by Senator Little, Senate Print 1137A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WINNER: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 1773, by Senator Stachowski, Senate Print 1517, an act to amend the Real Property Tax Law.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WINNER: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 1774, by Senator Padavan, Senate Print 1666A, an act to amend the Education Law.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WINNER: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 1775, by Senator Trunzo, Senate Print 2423A, an act to amend Chapter 666 of the Laws of 1990.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WINNER: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 1776, by Senator Morahan, Senate Print 2444, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WINNER: Announce the results.

THE SECRETARY: Ayes, 59. Nays, 2. Senators Duane and L. Krueger recorded in the negative.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 1777, by Senator Golden, Senate Print 2450A, an act to amend the Public Health Law.

ACTING PRESIDENT WINNER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the same date as Section 24 of Part B of Chapter 58 of the Laws of 2007.

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WINNER: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1778, Senator Seward moves to discharge, from the Committee on Rules, Assembly Bill Number 5972 and substitute it for the identical Senate Bill Number 2967, Third Reading Calendar 1778.

ACTING PRESIDENT WINNER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1778, by Member of the Assembly Magee, Assembly Print Number 5972, an act relating to increasing availability.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 1779, by Senator Wright, Senate Print 3309A, an act to amend the Highway Law and the Vehicle and Traffic Law.

ACTING PRESIDENT WINNER: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 120th day.

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WINNER: Announce the results.

THE SECRETARY: Ayes, 60. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 1780, by Senator Seward, Senate Print 3663, an act relating to increasing availability.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WINNER: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 1781, by Senator Lanza, Senate Print 3682, an act to amend the Highway Law.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WINNER: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1782, Senator DeFrancisco moves to discharge, from the Committee on Finance, Assembly Bill Number 6290A and substitute it for the identical Senate Bill Number 3764, Third Reading Calendar 1782.

ACTING PRESIDENT WINNER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1782, by Member of the Assembly Weinstein, Assembly Print Number 6290A, an act to amend Chapter 203 of the Laws of 2004.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 1783, by Senator Young, Senate Print 3776, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 2. Senators Duane and Serrano recorded in the negative.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 1784, by Senator Griffo, Senate Print 4048A, an act to amend the Tax Law.

ACTING PRESIDENT WINNER: Read

the last section.

THE SECRETARY: Section 3. This act shall take effect on the first day of a sales tax quarterly period.

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 1785, by Senator Robach, Senate Print 4098C, an act to establish a home visiting program.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WINNER: Senator L. Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you, Mr. President. I hope your root canal is fine. Just to explain my vote.

In general I'm uncomfortable passing bills which are budget bills without being in the context of the budget. I do think this is an important program. It's actually a program we haven't put enough money into in the state budget year after year, so we're only serving about 10 to 14 percent of the eligible families throughout the state.

I'll vote yes, but I am concerned that we are choosing to build this program for just one county, Monroe County, rather than looking at this holistically for the children in need throughout the State of New York. So it's a yes, but I wish we did things with a broader perspective in this house.

Thank you, Mr. President.

ACTING PRESIDENT WINNER: Senator Krueger will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 1786, by Senator --

SENATOR CRAIG JOHNSON: Lay it

aside, please.

ACTING PRESIDENT WINNER: The bill is laid aside.

THE SECRETARY: Calendar Number 1787, by Senator Skelos, Senate Print 4158B, an act to amend the Insurance Law.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WINNER: Senator Seward, to explain his vote.

SENATOR SEWARD: Yes, thank you, Mr. President.

I'm going to be supporting this legislation. I commend Senator Skelos and the other sponsors for dealing with this issue to help women who are experiencing a high risk of developing breast cancer bring some new technology to them.

However, I would like to point out that this house, along with the Assembly, in

our budget that we passed at the end of March did create a health insurance mandate commission. And going forward, I would hope that bills of this type would be sent to that commission to give us good, sound data in terms of what the cost and benefits are of proposed new mandates.

Going forward, I hope that this type of legislation will be considered by this mandate commission. For the moment I'm going to be supporting this bill because I certainly see the merits of it.

ACTING PRESIDENT WINNER: Thank you. Senator Seward will be recorded in the affirmative.

Senator Skelos.

SENATOR SKELOS: Mr. President, I thank Senator Seward for his support.

You know, recently a study by the American Cancer Society states that certain women with especially high risk of breast cancer should get an MRI scan along with their yearly mammogram.

This bill would require health insurers to provide coverage of annual MRIs to

women 30 or older who have high risk of developing breast cancer. Certainly I think this will improve detection and then also the cure of this dreaded disease.

ACTING PRESIDENT WINNER: Senator Skelos will be recorded in the affirmative.

Senator Hassell-Thompson to explain her vote.

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

Last Friday night in the city of Mount Vernon we had a Relay for Life walk for breast cancer. And it was -- it's very interesting that one of the concerns that were expressed was how many of the insurance companies do not or are not required to make in a major priority.

So, Senator Skelos, I thank you and I will be very pleased to report back to many of the women and people who marched with us on Friday night that this bill has been put in. And we need to make sure that it does become law, because for the significant numbers of women who are at risk and who really don't know that they're at risk because of the cost

of these mammograms, it will in fact make a tremendous difference. And for that I am grateful to you and more than happy to support this bill.

ACTING PRESIDENT WINNER: Senator Hassell-Thompson will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 1788, by Senator Fuschillo, Senate Print 4307A, an act to amend the Education Law.

ACTING PRESIDENT WINNER: Read the last section.

THE SECRETARY: Section 9. This act shall take effect on the first of July.

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number

1789, by Senator Leibell, Senate Print 4429, an act to amend the Military Law.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 1790, by Senator Volker, Senate Print 4471A, an act to amend the Executive Law.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 1791, by Senator Young, Senate Print 4575, an act to amend the Tax Law.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 1792, by Senator Hannon, Senate Print 4662A, an act to amend the Public Health Law.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WINNER: The

bill is passed.

THE SECRETARY: Calendar Number 1793, by Senator Skelos, Senate Print 4707A, an act to amend the Education Law.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

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

SENATOR SALAND: Thank you, Mr. President.

Mr. President, I would like to commend Senator Skelos for improving the bill that he passed last year, Chapter 630 of the Laws of 2006, which authorized fingerprinting of prospective employees in private schools, nonpublic schools.

I at that time, I believe, was the only vote in the house in opposition to that measure. And my concern was not merely the fact that it dealt with merely authorization,

not requiring, but my concern at that time based upon the original bill which we had enacted some six or so years previously was that the bill didn't provide for the required or mandated reporting by current employees.

And while this bill certainly is a vast improvement over last year's bill, I certainly still do believe that there should be a reporting requirement and feel constrained, once again, I'm sure to be the only person in the house to vote in opposition to this bill.

Thank you, Mr. President. I vote in the negative.

ACTING PRESIDENT WINNER: Senator Saland will be recorded in the negative.

Announce the results.

THE SECRETARY: Ayes, 60. Nays, 1. Senator Saland recorded in the negative.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 1794, by Senator Lanza, Senate Print --

SENATOR CRAIG JOHNSON: Lay it aside, please.

ACTING PRESIDENT WINNER: The bill is laid aside.

THE SECRETARY: Calendar Number 1795, by Senator Nozzolio, Senate Print 4817, an act to amend the General Municipal Law.

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

Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 1796, by Senator Hannon, Senate Print 5121, an act to authorize St. John's.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 1. Senator Bonacic recorded in the negative.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1797, Senator Flanagan moves to discharge, from the Committee on Rules, Assembly Bill Number 8255 and substitute it for the identical Senate Bill Number 5778, Third Reading Calendar 1797.

ACTING PRESIDENT WINNER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1797, by Member of the Assembly Conte, Assembly Print Number 8255, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 2. Senators Duane and L. Krueger recorded in the negative.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1798, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 8955 and substitute it for the identical Senate Bill Number 5921, Third Reading Calendar 1798.

ACTING PRESIDENT WINNER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1798, by Member of the Assembly Lancman, Assembly Print Number 8955, an act to amend the Real Property Actions and Proceedings Law.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 1799, by Senator Seward, Senate Print 6028, an act changing the name of the Bridgewater, Leonardsville.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 1800, by Senator Little, Senate Print 6216A, Concurrent Resolution of the Senate and Assembly proposing an amendment to Section 1 of Article 14 of the Constitution.

ACTING PRESIDENT WINNER: The Secretary will call the roll on the resolution.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WINNER: The resolution is adopted.

THE SECRETARY: In relation to Calendar Number 1833, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 9034 and substitute it for the identical Senate Bill Number 6016, Third Reading Calendar 1833.

ACTING PRESIDENT WINNER: A local fiscal impact notice is at the desk.

The Secretary will read.

THE SECRETARY: Calendar Number 1833, by the Assembly Committee on Rules, Assembly Print Number 9034, an act to amend the Tax Law.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WINNER: The bill is passed.

That completes the noncontroversial reading of Calendar 63A, Senator Skelos.

SENATOR SKELOS: Thank you, Mr. President.

There will be an immediate meeting of the Majority in the Majority Conference Room.

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

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 5:52 p.m.)

(Whereupon, the Senate reconvened at 6:17 p.m.)

SENATOR SKELOS: Mr. President.

THE PRESIDENT: Hope everyone enjoyed my impression of Senator Robach.

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

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1786, by Senator Robach, Senate Print 4099, an act to amend the Tax Law.

SENATOR CRAIG JOHNSON: Explanation, please.

THE PRESIDENT: Senator Robach, an explanation has been requested.

SENATOR ROBACH: I would be very happy to, Mr. President.

This bill would create a way for companies who have already accrued earned income tax credits through investments, job creation, and other good things who, under current law, if they are continuing to invest and do the things we want to do by creating jobs, improving facilities, can't really recoup it under the current code, allow them to transfer those earned income tax credits into what we're calling an economic resurgence initiative credit, where they would be able to utilize that credit more readily.

And maybe this will head off further questions -- not that I'm trying to do that -- i.e., if you take a company who has an earned income tax credit who isn't doing well

and reinvesting in their company or creating more jobs, they under current law are eligible to collect the net tax credit.

For a company who is growing and is investing here in New York State, they are unable to do that under existing law. We are trying to rectify that and really applaud, rather than on conjecture, or support companies that might be investing in creating jobs, actually making it easier for the ones that are already spending the money, have the earned income tax credits for investments and job creation and growth in New York State currently.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: Mr. President, if through you the sponsor would yield, please.

SENATOR ROBACH: Gladly, Mr. President.

THE PRESIDENT: The Senator yields.

SENATOR LIZ KRUEGER: Thank you.

And I want to apologize first to the sponsor for having missed the beginning of

your explanation. So if I am duplicative, I apologize in advance.

SENATOR ROBACH: Love is never having to say you're sorry.

SENATOR LIZ KRUEGER: That's so lovely. Thank you. Excuse me. I have to recompose myself, Mr. President.

THE PRESIDENT: Maybe the two of you could offer your congratulations to each other through the chair.

(Laughter.)

SENATOR LIZ KRUEGER: Yes, thank you. The days tick on.

Through you, Mr. President, if the sponsor could explain to me who are these companies that aren't using up their investment tax credits and therefore need a new option for them.

THE PRESIDENT: Senator Robach.

SENATOR ROBACH: Well, right now -- and I guess this is sort of the concerning part -- while we know they may in the future, I can't give you the individual names of every company but I can tell you that there's $1.5 billion sitting in a pipeline

that companies could use. And it's my contention that the ones that can't use it under existing law are in fact the ones that are and have the ability and the desire to continue to invest and grow their companies.

So while I can tell you some of the companies that I've met with, I can't tell you every individual company. But I can tell you that even through the Department of Taxation there's 1.5 billion of these eligible that they're either going to have to push out to future years when they're not investing because they're at their maximum or change it so they can use it more expeditiously.

Again, I think that this would almost be -- you know, originally when I learned of this, I was concerned. But I almost think it would be revenue-neutral.

Again, a lot of companies that are investing and want that money for investment are again the ones that are creating positive generation of economic development because they're companies that are growing, usually paying good wage, and adding jobs -- not the ones that are decreasing -- they are currently

very eligible to use that tax credit.

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

THE PRESIDENT: Senator Robach, do you yield for another question?

SENATOR ROBACH: Absolutely.

THE PRESIDENT: The Senator yields, Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

Senator, my understanding is that the companies that aren't using these investment tax credits -- and again, you said they're unused; technically, we just passed a law that we changed over the years to extend the number of years now to 15 years for you to be able to roll over these tax credits -- that the companies who aren't using these tax credits or maximizing them are, you're right, in fact companies who are investing and keeling their shops open, their facilities modernized, that they are investing in keeping their plants and their equipment and their resources, you know, solid and here in

New York State.

And that the reason they have all these extra tax credits is because they have don't have any taxes to pay. That they've actually figured out how not to have taxes to pay. Therefore, they can't draw down on the all the possible tax credits they're eligible for because they've already figured out how to avoid taxes through a series of changes we made in reducing business tax levels so low in the last 15 years that -- you can only use a tax when you owe a tax, and they just don't have any to pay.

So why we would we want to create a new model for them to in fact draw even money out of the state budget when they seem to be healthy and growing and thriving and doing the things that business ought to be doing but not actually paying taxes to the State of New York?

SENATOR ROBACH: I'm not sure if there's a question. But I guess I would say while it's related, I think it's a little bit different.

So there may be a lot of different

reasons why someone's total tax structure or the amount of taxes they're paying -- i.e., Company A compared to Company B. But I think this specifically talks about not the base but tax credits that they've earned that they want to use and have to use to reinvest in their company. I think that's very different.

And I guess my reason for this, and I don't know this answers the question -- I don't know what the question is exactly on the whole tax structure -- I think while we do a lot of things for economic development and we may have different agreements or everyone may have a different opinion, would be a better way to put it, on what's the most efficient and most effective, I feel a lot of what we do sometimes might be on conjecture of what might happen.

This is on what's already occurring and wants to occur. And I feel strongly that whether you're a company in New York City, whether you're a company in upstate New York, that investment credits are very, very important, because that's what we want them to do.

I could just as easily make the argument if we're not giving them an investment tax credit, no matter who's been running Empire State Development, when they want to invest, if we don't give it to them that way, they don't do it on their own or, as you say, they're not thriving, they usually come to the state, oftentimes, for money to put together a package as part of a deal.

So while it's all very complex, I'm going to encourage my colleagues to vote for this because I really do believe this, despite all the other structures or tax rules, would be something that would stimulate the economy. And while it may more quicker take out these tax credits, even though they can now spread them out longer, I believe with the benefit it will do of putting people to work in construction, reinvestment, more jobs, it will actually in the aggregate be very good for the economy and the tax structure or taxes taken in here in New York State.

SENATOR LIZ KRUEGER: Thank you.

Mr. President, on the bill.

THE PRESIDENT: Senator Krueger,

on the bill.

SENATOR LIZ KRUEGER: Thank you.

I appreciate my colleague's discussion with me about this. And he's right, tax credits get complicated.

And maybe I'm going to oversimplify, but, one, it's not that there's $1.5 billion in unused tax credits that are just sort of floating out there in the ether and will have no impact if New York State tries to use them. It would be $1.5 billion more not in our budget. Because an unused tax credit means we're actually taking in the tax money and then spending that on the costs of operating the State of New York.

Second, though, he is right, to some degree it is a theoretical discussion, because the investment tax credit law was implemented decades ago when we had higher business tax rates and the theory behind the tax credit was if you continue to invest in your company we will give you a credit against your business taxes. And so it was intended to incentivize businesses to stay and to grow by offering them lower tax rates if they made

investments. That's why it was called an investment tax credit.

So again, to reiterate one of my questions to the sponsor, it is my understanding that the reason we have unused investment tax credits -- which already allow a rollover of up to 15 years -- is because the businesses who once upon a time actually could have drawn down these tax credits against the bills they owed the State of New York don't have any bills they owe the State of New York, because we have reduced the business tax level to such a low rate that at this point in time they can't use up a tax credit because they have no taxes to want deducted from their bills.

So I could argue that if we raised the business tax level, then there would be a need to have a tax credit, a new model for using tax credits. Or I could argue if we raised the business tax level in this state that these businesses would actually have tax bills to need credit against.

But as I read your bill, it basically says they can't figure out how to

use the tax credits because they don't have any bills to pay us for taxes, and so let's just create something we call a new tax credit and hope that we give them more years -- because this lets them carry it forward even further -- and then maybe they'll figure out a way to use it.

Now, the way for them to use it is for us to raise the business taxes and then see who actually becomes eligible under a higher tax rate. But I suspect you don't want to call for an increase in the business tax. I suspect most people in this house -- you're shaking your head no -- are not going to support raising the business tax. I get that. I'm not making the argument to raise the business tax.

But I am making the argument that it doesn't make any sense to continue to try to extend even further into time and hypothetical usage tax credits that cannot be used because we're not billing them for the taxes in the first place.

So we could argue whether it's good or bad that we have large numbers of companies

who don't seem to have any tax bills to pay -- and I think we could argue the equity of that, because I think we could all name a bunch of businesses in this state who are still paying business taxes.

I would argue that our tax model is to the advantage of large companies and to the disadvantage of small businesses. So I'd be happy to have a discussion on this floor about how we provide tax equity for businesses as well as citizens and change our entire tax structure.

But the large companies in this state who are not paying taxes now, in my opinion don't need any more favors from us of extending out into even more future years the possibility of a get-out-of-jail-free card if they ever got a tax bill from us. I don't think this makes any sense. And I'm going to vote no.

Thank you, Mr. President.

THE PRESIDENT: Is there any other Senator that wishes to speak on this bill?

Debate is closed.

The Secretary will ring the bell.

The Secretary will read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1786 are Senators Adams, Duane, Hassell-Thompson, Huntley, L. Krueger, Parker, Perkins, Sabini, Schneiderman and Serrano.

Ayes, 51. Nays, 10.

THE PRESIDENT: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 1794, by Senator Lanza, Senate Print 4796, an act to amend the Criminal Procedure Law.

SENATOR LIZ KRUEGER: Explanation, please.

THE PRESIDENT: Senator Lanza, an explanation has been requested by Senator L. Krueger.

SENATOR LANZA: Yes, thank you,

Mr. President.

Sadly, an act of domestic violence occurs every 15 seconds in this country. And in more than 80 percent of those cases the victim is a woman. In this state alone, as demonstrated by the last statistics in 1999, there were more than 55,000 reported cases of domestic violence in the state of New York.

Frequently during the pendency of cases or as a result of sentencing in a case of domestic violence, the courts order orders of protection as a means to protect the victims in these cases. Because as we know with respect to domestic violence, the aggressor, the perpetrator, often has a single specific victim in mind and there is often recidivism involved in these sorts of cases.

One of the terms of the order of protection is that they lay out things that the perpetrator cannot do -- come in contact with or in the vicinity of the victim, for instance. It is a crime to violate the terms of that order of protection already, as a matter of law.

This bill would require that any

person against whom an order of protection is issued to be required to wear an electronic monitoring device. So that the moment the person against whom the order of protection is issued violates the law and commits a crime by violating the terms of that order of protection, specifically by coming in contact or in the vicinity of the victim, there will be the opportunity for there to be an alert so that local law enforcement can take action with respect to the already occurring commission of a crime.

THE PRESIDENT: Senator Sampson.

SENATOR SAMPSON: Mr. President, would the sponsor yield for a few questions.

SENATOR LANZA: Yes, Mr. President.

THE PRESIDENT: The sponsor yields.

SENATOR SAMPSON: Through you, Mr. President, does this apply to temporary orders of protection or permanent orders of protection?

SENATOR LANZA: To both, Mr. President.

SENATOR SAMPSON: Through you, Mr. President, would the sponsor continue to yield.

SENATOR LANZA: Yes, Mr. President.

THE PRESIDENT: The sponsor yields.

SENATOR SAMPSON: How long would it take for this electronic monitoring device to get set up?

SENATOR LANZA: I don't understand the question, Mr. President. Do you mean -- may I ask a question?

SENATOR SAMPSON: Yeah.

SENATOR LANZA: Set up as far as put in place, registered --

SENATOR SAMPSON: Put in place, yes.

SENATOR LANZA: I don't know the answer to that, Mr. President.

SENATOR SAMPSON: The reason I'm asking that question is because when you get arraigned the court usually issues a temporary order of protection. So between that time and the next court date, there's a temporary order

of protection in place.

So at the point of once a temporary order of protection is issued at the arraignment until the first court appearance in actual court, is the electronic bracelet supposed to be set up at that point in time?

THE PRESIDENT: Just one moment, Senator Lanza. I'd appreciate if everyone in the chamber would respect that Senator Lanza and Senator Sampson are trying to discuss an important piece of legislation.

The chair recognizes Senator Lanza.

SENATOR LANZA: Thank you, Mr. President. Through you, that is the intention of the legislation.

SENATOR SAMPSON: And my question again is, what would be the time frame for that system to be set up? Because if there's only a three-week adjournment between arraignment and the first court appearance, how long would it take for that electronic bracelet to be put online?

SENATOR LANZA: Through you, Mr. President, I don't know the precise time that it would take, but I do know that given

today's technology, it's a fairly simple process, a fairly inexpensive process. And I would imagine that it could be done with all due speed and deliberation.

SENATOR SAMPSON: Through you, Mr. President, would the sponsor continue to yield.

SENATOR LANZA: Yes, Mr. President.

THE PRESIDENT: The sponsor yields, Senator Sampson.

SENATOR SAMPSON: And would there be any exceptions with respect to this electronic bracelet?

SENATOR LANZA: Mr. President, through you, no exceptions are contemplated in this legislation.

I would remind my colleague that whether the order of protection is temporary or permanent, it is an order of the court backed by criminal sanctions already. Violation of any order of protection, whether temporary or permanent, is already a Class A misdemeanor in this state.

SENATOR SAMPSON: Through you,

Mr. President, would the sponsor continue to yield.

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

SENATOR LANZA: Yes, Mr. President.

THE PRESIDENT: The sponsor yields.

SENATOR SAMPSON: What do we do in those situations where we have -- take, for instance, a landlord-tenant relationship where there's an order of protection issued against a landlord but there needs to be some sort of limited access, so therefore the court issues a limited order of protection. So how would this electronic bracelet work in that instance?

SENATOR LANZA: Mr. President, through you, those terms are typically spelled out within the actual order of protection with respect to the conduct which is prohibited by the order of protection. And so this legislation would not in any way, shape or form come into conflict with the terms of any of order of protection.

SENATOR SAMPSON: Through you, Mr. President, would the sponsor continue to yield.

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

SENATOR LANZA: Yes, Mr. President.

SENATOR SAMPSON: Senator, what do we do in those situations where an individual is issued an electronic bracelet and there happens where the complaining witness and the alleged perpetrator are within the same vicinity of one another, no coincidence? What to we do in those situations?

SENATOR LANZA: Mr. President, through you, I suppose we would do what we do under current law based on the facts and due process that is afforded the defendant.

The good news, though, is if we enact this legislation, the victim would be alerted to the fact that the perpetrator is in violation of the terms of the order of protection, which puts them in violation of the law, which means they are committing a

crime.

And this legislation would allow us -- would allow the victim and law enforcement to be notified in that event. And the good news is it would perhaps save victims from repeated aggression. Because we know that perpetrators who violate orders of protection by and large don't do it accidentally. It is because they have one object in mind, and that is to perpetrate further aggression with respect to specified victims. As I said, in over 80 percent of the cases they happen to be women.

SENATOR SAMPSON: Through you, Mr. President, would the sponsor continue to yield.

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

SENATOR LANZA: Yes, Mr. President.

SENATOR SAMPSON: Senator, is there a range in which this electronic operating device operates -- 1,000 feet, 2,000 feet, 3,000 feet -- that the alleged individual can't come in contact with the

complaining witness?

SENATOR LANZA: Mr. President, through you, the device and the technology allows for the devices to be set consistent with and in compliance with the order of protection.

SENATOR SAMPSON: So that needs to be spelled out in the order of protection, then.

SENATOR LANZA: Mr. President, through you, that is the case presently. Terms, when ordered by the court in orders of protection, are always specified with respect to what the perpetrator, the aggressor, can or cannot do, whether it's stay away from the home or place of business of the victim, whether it's to stay away from the family of the victim.

But those terms in each order of protection are specified. Many of the terms are standard. And sometimes the court has discretion to add terms based on the specific fact of a case.

And so all this would do is in the event that a perpetrator violates the order of

protection, which already would mean that that person -- typically, he -- would be committing a crime. This would alert law enforcement, this would alert the victim of that crime and hopefully, hopefully allow that victim to be protected from further acts of aggression.

SENATOR SAMPSON: Through you, Mr. President, would the sponsor continue to yield to continue to yield for one last question.

THE PRESIDENT: Senator Lanza, would you yield for one last question?

SENATOR LANZA: Yes, Mr. President.

SENATOR SAMPSON: Senator, what does the defendant do in those situations where the complaining witness comes within the vicinity of where the defendant is and at that point the electronic monitoring device goes off and the police are alerted?

SENATOR LANZA: Mr. President, this law would not change any of the current situations that occur already with respect to orders of protection.

An order of protection is

court-ordered. It specifies what a defendant or a convicted criminal can and cannot do with respect to coming into contact with a victim. This would only give the victim and law enforcement the opportunity to know precisely when a convicted criminal or alleged perpetrator is already in violation of an order of protection.

SENATOR SAMPSON: No further questions. Thank you.

THE PRESIDENT: Senator Adams.

SENATOR ADAMS: Through you, Mr. President, would the sponsor yield for a question.

THE PRESIDENT: Senator Lanza, would you yield for a question from Senator Adams?

SENATOR LANZA: I'd be glad to, Mr. President.

SENATOR ADAMS: I think that my colleague Senator Sampson, the reason he was asking so many questions is because we are too concerned about the issue of domestic violence. And my colleague has been doing a lot in Brooklyn on this issue of domestic

violence. So our concern is to make sure that it addresses the need.

Senator Lanza -- through you, Mr. President -- exactly how does the system operate? Is the police notified directly?

SENATOR LANZA: I'm sorry, Mr. President, notify whom?

SENATOR ADAMS: Is the police notified directly? How is the police informed if the person is within the space that's required?

SENATOR LANZA: Yes, Mr. President, through you, it would operate such that the local sheriff's department or police department would actually be the monitoring agency.

SENATOR ADAMS: Would the Senator continue to yield, Mr. President?

SENATOR LANZA: Yes, Mr. President.

THE PRESIDENT: The Senator yields.

SENATOR ADAMS: Do you know the technical aspects of how the police is notified? Is it through a computer system?

Is there a GPS system? Do you know exactly how they're notified?

SENATOR LANZA: Mr. President, I believe it's through GPS system. The monitoring is such that movements of the person against whom the order of protection is issued and would be wearing the monitoring device are not reported until there's a violation of the order of protection.

SENATOR ADAMS: Would the sponsor continue to yield?

SENATOR LANZA: Yes, Mr. President.

THE PRESIDENT: The sponsor yields, Senator Adams.

SENATOR ADAMS: I'm trying to understand, and I'm not really understanding currently.

You're aware there's several orders of protection that are issued to a person? You're aware of that?

SENATOR LANZA: Yes, I am, Mr. President. Each of which is an order of the court, each of which compliance -- noncompliance of is a crime.

SENATOR ADAMS: Would the sponsor continue to yield?

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

SENATOR LANZA: Yes, Mr. President.

SENATOR ADAMS: You are aware that some of the orders of protection that are issued have nothing to do with coming in contact with the person?

SENATOR LANZA: Yes, Mr. President, I'm aware of that. And in those case this legislation would not apply.

SENATOR ADAMS: Would the sponsor continue to yield?

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

SENATOR LANZA: Yes, Mr. President.

SENATOR ADAMS: So the judge would -- based on what you're stating, the judge would indicate which case the individual will wear the bracelet or the device?

SENATOR LANZA: Through you, Mr. President, yes, based on whether or not one of

the terms of the order of protection is for the perpetrator to stay away from the home or place of business or of the victim.

SENATOR ADAMS: Would the sponsor continue to yield?

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

SENATOR LANZA: Yes, Mr. President.

THE PRESIDENT: Senator Lanza yields.

SENATOR ADAMS: Okay. A stipulation for the wearing of the bracelet is if the person is told not to enter the home or to stay away from the home.

SENATOR LANZA: Mr. President, typically that is a standard provision of any order of protection. And typically that term, when the facts are determined by a judge not to be necessary, are actually stricken from the standard order of protection form.

SENATOR ADAMS: Would the sponsor continue to yield, Mr. President?

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

SENATOR LANZA: Yes, Mr. President.

SENATOR ADAMS: You said typically that's a statement from the judge. I tend to disagree with that.

But my question is, do you know the percentage of those orders that are issued telling the individual to stay away from the location based on orders of protection that are issued telling the person to cease carrying out a certain behavior? Would you know the percentage or the difference?

SENATOR LANZA: Mr. President, I don't know the answer. Only anecdotally.

My experience in the Manhattan DA's office for six years, I would say a large percentage of the orders of protection that are issued against those who have committed crimes against domestic partners, a large percentage -- when a judge determines that the safety of the victim requires that an order of protection be issued to protect the victim from further acts of aggression, the majority of the cases that I've had the experience to deal with as a prosecutor involved the

perpetrator having to stay as a term and condition of the order of protection away from the home and place of business of the victim of their crime.

SENATOR ADAMS: Mr. President, on the bill.

THE PRESIDENT: Senator Adams, on the bill.

SENATOR ADAMS: I am going to support the bill, because I believe anything we can do to assist a victim of domestic violence is a plus. I believe that a countless number of citizens, both men and women -- although there's a large number of women who are attacked -- the response seems to be far too wide in ensuring that the police responds in a number of times.

I think that Senator Lanza is thinking outside the box to find creative ways of addressing the issues of domestic violence. I don't believe we do enough. And I commend him for this legislation.

I am, you know -- I would love to see exactly how the police department and how the procedure were actually carried out. But

I think that this legislation is one of many, many that we need to do, for far too many individuals repeat-violate an order of protection. And I don't believe enough is done. And I think that we need to examine what we can do to deal with those repeated offenders.

We had, in a ten-day period, we had three incidents where individuals lost their lives. One was a stabbing, another was shooting, and an entire family was a victim of a repeated offender of an order of protection.

I would hope a piece of legislation like this can start the process of addressing and we won't continue to ignore the shame of those who violate orders of protection. I'm going to support the bill.

THE PRESIDENT: Senator Liz Krueger.

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

SENATOR LANZA: Yes, Mr. President.

SENATOR LIZ KRUEGER: Thank you. I appreciate your comments so far to both of

my colleagues' questions.

Just going back to the technicalities of the bill. So in your memo you talk about in 1999 there were 55,000 police reports of family offenses. You know, and you gave very good data about how serious a problem domestic violence is, and I share your concern.

But clearly if we were to know the number of actual orders of protection that are issued a year in the state of New York -- particularly now that my colleague Senator Sampson has educated me to the fact that everyone arraigned ends up with an order of protection -- we're talking about tens of thousands of these per year in New York State.

And under your bill, even though there was some discussion with Senator Adams about who it would apply to and who it wouldn't, in your bill it says any person against whom an order of protection is issued shall be required to wear an electronic monitoring device.

So are you saying that we will be putting these bracelets on tens of thousands

of New Yorkers every year?

SENATOR LANZA: Mr. President, through you, this legislation would require that only those people who are accused of committing an act of domestic violence or aggression against a partner or have been convicted and as part of the sentence have been issued a permanent order of protection where a judge decided, based on testimony from both the prosecutor and from the defense, that the safety of the victim requires that an order of protection be issued.

So it would be only against those people after a trial or during the process, during the trial process, that a judge had decided an order of protection was necessary to protect the victim.

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

THE PRESIDENT: Senator Lanza, would you yield for another question from Senator L. Krueger?

SENATOR LANZA: Gladly, Mr. President.

SENATOR LIZ KRUEGER: Thank you. In following up on my question, I guess I would recommend that you relook at your bill, because I think it would need a technical amendment to limit it to that subuniverse you just limited it to.

But again -- I'm sorry.

SENATOR LANZA: Mr. President, through you, it should be noted that this technology is not a constant monitoring of a person wearing the device. It would only alert law enforcement the moment a defendant violates the terms of the order of protection. It would be set to be consistent with the terms of that order of protection.

So not until a defendant or a convicted criminal already violated the law and committed another crime -- specifically, the violation of the order of protection -- would an alert occur.

SENATOR LIZ KRUEGER: Thank you, Mr. President. If through you the sponsor would continue to yield.

SENATOR LANZA: Yes, Mr. President.

SENATOR LIZ KRUEGER: Thank you.

So if I'm hearing you correctly, while we may or may not agree that your law is technically written the way you describe, because now I'm hearing that only people convicted of a crime already -- no?

SENATOR LANZA: No. Any person against whom an order of protection has been issued by a court of law.

And I would just add, once again, in those cases it is already a crime to violate the terms of those orders of protection, whether or not they're temporary, permanent, issued during the pendency of a crime or issued as part of a sentence.

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

SENATOR LANZA: Yes, Mr. President.

SENATOR LIZ KRUEGER: Thank you, sponsor.

So I've just been provided some data that New York State has about 400,000 calls on domestic violence a year. So in fact

the numbers are even greater than I think you and I imagined.

And so some number of people will be assigned to wear these bracelets, most likely in the tens of -- let's say 10,000 out of 400,000 calls will be required to wear these bracelets. And the bracelet is a monitoring bracelet.

Statewide, who is this bracelet hooked up to? Who is going to see a buzzer go off? And does such a system exist yet, or would we need to build a large statewide system for tracking tens of thousands of people with these monitoring bracelets so that, as Senator Adams pointed out, the police could then go out when they saw, on some system I'm not familiar with, bells and whistles going off saying so-and-so is getting too close to Liz Krueger, who had filed an order of protection with the court? How would that work?

SENATOR LANZA: Mr. President, through you, the technology does exist. It is a GPS-based technology.

The numbers and statistics cited by

my colleague Senator Krueger I think speak even stronger for the need for this legislation. The fact that there are so many perpetrators in this state committing crimes against domestic partners -- their wives, husbands or partners, sometimes their children -- I think speaks to the need for us to utilize current technology to afford society and law enforcement the opportunity to know precisely the moment that a perpetrator has broken the law.

And that, I think, is the important part of this legislation. When there is an order of protection issued, regardless of what the facts underlying the case are, it is not the victim who files for an order of protection, it is the court that orders an order of protection.

And so regardless of whether or not there is a monitoring device or not, the moment someone against whom an order of protection is issued violates the terms of those -- of that order of protection, they are committing a crime. And sadly, typically, we know why they're doing that in cases where

orders of protection are issued, and that is to commit another crime against the same intended victim.

And so this legislation would allow us to utilize existing technology in order to alert law enforcement so that hopefully we can prevent that crime from occurring.

SENATOR LIZ KRUEGER: Thank you, Mr. President. If through you the sponsor would continue to yield.

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

SENATOR LANZA: Yes, Mr. President.

SENATOR LIZ KRUEGER: Thank you.

Actually, in the types of cases Senator Sampson was describing earlier, the court might just order an order of protection. In most domestic violence cases, the victim actually goes and asks the court for an order of protection.

And at least in -- you were in Manhattan, so I know you know this, because this is unfortunately a growing pattern in New York City and perhaps throughout the

state. If I am the victim of domestic violence and I go and I call the police and I report that I have been abused and I'm advised by perhaps a police counselor to go and get an order of protection in the court, statistically it's quite possible that my abuser will then also go to court in what we call a retaliatory order of protection, so that it's a he said/she said scenario.

Would both of us wear the bracelets, under your law?

SENATOR LANZA: Mr. President, through you, the short answer is yes.

But it should be noted once again that when an order of protection is issued -- if my colleague Senator Krueger is raising the issue of whether or not orders of protection are appropriately ordered by courts, that I think is a discussion that we can have.

But the fact that a court has issued an order of protection, the violation of that order of protection presently -- whether or not we have monitoring devices or not, whether you agree with the court or not in ordering that order of protection --

violating the terms of that order of protection is already a crime.

And so this would merely, under circumstances in which orders of protection were issued by a court, would alert law enforcement the moment the person against whom it was issued breaks the law.

SENATOR LIZ KRUEGER: Thank you.

Mr. President, on the bill.

THE PRESIDENT: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: I appreciate Senator Lanza's patience in answering many questions. And I have more, but I think I will just tell you my dilemma.

Of course I want us to do more to protect victims of domestic violence, victims of any kind of violence. But -- and I think that perhaps your bracelet model, in the right piece of legislation, could work. But your bill leaves too many blanks there. It doesn't actually explain who under the categories would be affected, who wouldn't.

It doesn't, most important to me, explain how we'd actually get protection to

the person when the bracelet buzzed somewhere, because we don't have a system in place anywhere where those bells and whistles would buzz and an NYPD officer would rush to get there.

And maybe we should have a system where they would, almost an auto-press, you know, the buzzer goes off and a police officer is immediately sent out to -- not necessarily where I am, if I'm in this case the victim, but where the person wearing the bracelet is.

But I have to tell you, your bill doesn't even talk about money. And I envision this as costing millions and millions and millions of dollars. Maybe well worth millions of dollars, I don't know, to set up a giant GPS tracking system for tens of thousands of people throughout the state of New York. Maybe that's a good use of the money.

But even then I guess I have the question of do the experts in domestic violence think this would be the best use of millions and millions and millions of dollars, or are they still begging us for investments

in the kinds of things that they already know exist and work?

And I talked to them, and they said we have such a long list of money that we need for protecting victims of domestic violence, for coordinating with police departments, to educating our local police, to ensuring that there is a response when someone calls.

That instead of doing that, that we have a bill where we spend, again, I have to say probably just tens of millions of dollars to try to create this, I would guess, even as a pilot project.

I'm also very concerned that what Senator Sampson points out, that it would be a much larger universe of people than just a domestic violence situation, raising all kinds of other good questions that he raised.

And I'm also concerned that judges, in response to hearing that if they give an order of protection that they're sending a bill to the police department and to the district attorney's office and to basically ordering what right now we'd say is an unfunded mandate, that they will stop issuing

order of protection, that they will say, oh, no, my mayor's getting hysterical, my county executive is getting hysterical, my state legislator is getting hysterical, we have to create this giant system, if I keep doing orders of protection, when we have no money to build this system. And so we will actually discourage the appropriate orders of protection that judges ought to be issuing.

And again, if you don't have it all in place, it's not clear at all what this piece of legislation does.

So I don't want to vote no, because I want to protect victims. I think you were trying to get there also. I don't think this could work. I don't think it can work. There's no money and there's no technical details.

And while we know how a GPS bracelet works for house arrest, where buzzers go off for you if you actually leave a specific area because you're connected electronically to a device in your home, that automatically sets the buzzer off when you get farther than X amount of distance from it,

you're talking a model like what we talk about with GPS honing devices for our bus system -- which I hope we get in New York City someday: Where is the bus? Can you track it?

And I just don't see us in a scenario where this is going to happen without unbelievable infrastructure investment and a total change in how our police departments operate.

So I'll vote yes, but I don't see how this can possibly get us to where you want us to go.

Thank you, Mr. President.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

My amendment to cut all the funding for Rockland County is at the desk -- oh, thank you, Senator Morahan.

(Laughter.)

SENATOR SCHNEIDERMAN: I'd like to ask if the sponsor would yield for just a few very brief questions.

THE PRESIDENT: Senator Lanza,

would you yield for a question from Senator Schneiderman?

SENATOR LANZA: Yes, Mr. President.

SENATOR SCHNEIDERMAN: As drafted, this bill provides no discretion for the court to require or waive the electronic transmission monitoring device in any situation in which an order of protection is given. Is that correct?

SENATOR LANZA: Mr. President, through you, the only discretion a court has is the discretion they have already, which is whether or not to issue an order of protection. Which I would imagine they intend to be complied with.

SENATOR SCHNEIDERMAN: Thank you.

And most orders of protection, all the orders that of protection that I've seen in domestic violence cases are principally focused on keeping the perpetrator away from the victim. Is that not correct?

SENATOR LANZA: Mr. President, through you, that is the reason why orders of protection are issued.

SENATOR SCHNEIDERMAN: And unless the victim is also required to wear a device, how in any existing technology would anyone be able to tell if the perpetrator went close to the victim?

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

SENATOR LANZA: Yes, Mr. President.

And that is the case today under existing law. And those are issues for courts to decide, as to whether or not the victim of an order of protection is using it as a shield or using it, as they say, as a sword.

But the fact is is that the violation of an order of protection is a crime and typically people violate orders of protection to commit acts of aggression or assaults or worse on the victim who is being protected by that order of protection.

SENATOR SCHNEIDERMAN: Thank you. I thank the sponsor for his answers.

On the bill.

THE PRESIDENT: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I concur with my colleagues, several of whom have noted that this is I believe a well-intentioned piece of legislation.

But it seems to me to be a piece of legislation that cannot possibly work with the technology as it exists now, for a very simple reason. The idea of an order of protection is to keep a perpetrator away from a victim. And there's no technology that could possibly tell anyone when a perpetrator gets close to a victim. A perpetrator can follow a victim, stalk a victim, go anywhere.

I mean, it's virtually -- it's very, very difficult to even tell when a perpetrator goes to a particular location. But it is impossible to tell if a perpetrator is in proximity to another individual unless you're going to require victims to wear bracelets, which is not in this bill and which I think everyone would have a problem with.

Furthermore, this presents a very real problem of causing judges to be more cautious about issuing orders of protection because it does impose this additional

requirement.

And finally, there's no reference to how this is going to work, how it's going to be funded, who is going to do it and what technology is going to be applied.

So I would suggest that this is one that needs to go back to the workshop. I understand the appeal of having electronic monitoring devices. And I see what the sponsor is trying to get at. I don't believe that this bill, as it's presently drafted, could possibly work, would have the beneficial effect for which it's intended.

I don't think it's going to pass the Assembly, so I think it's good that we've got this on the table as a basis for discussion.

But there is no way this legislation would do anything except impose a requirement that is absolutely unfulfillable. You might as well ask judges to fly out the window -- well, actually, Senator Maziarz has done with that with some judges. I don't know if he's here. But you might as well ask them to fly or levitate their desks as ask them to

require an electronic monitoring device that would actually track the victim and the perpetrator together. It doesn't exist. It's never existed.

So based on the doctrine of impossibility, as I remember it from law school, I'm going to actually vote against this legislation.

Thank you, Mr. President.

THE PRESIDENT: Are there any other Senators wishing to speak on the legislation that has come before us?

Senator Sampson.

SENATOR SAMPSON: Would the sponsor yield for one last question that I forgot to ask.

THE PRESIDENT: Senator Lanza, would you be willing to yield for one last question from Senator Sampson?

SENATOR LANZA: Gladly.

SENATOR SAMPSON: Through you, Mr. President. Senator, who pays for this electronic monitoring system? Is it the defendant, or does the court pay for it?

SENATOR LANZA: I'm sorry, the

question, Mr. President, is who pays for the technology?

SENATOR SAMPSON: Yeah, who pays for the hooking up of this electronic monitoring device?

Because I know in several instances, especially in federal courts, the defendant has a responsibility to pay for this usually included in his bail package when they're seeking bail, as a bail requirement.

SENATOR LANZA: Mr. President, through you, it is my understanding that payment as contemplated by this legislation would be made by local departments of probation. The cost also, to my understanding, is no more than two or three dollars per week.

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

THE PRESIDENT: Is there any Senator that wishes to ask any question before this debate is closed? Senator Farley? Senator Robach?

Debate is closed.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Robach.

SENATOR ROBACH: Yes, very quickly to explain my vote.

We've done a lot of bills to protect people not to be discriminated against in the workplace, that have been victims of domestic violence in housing markets, even to get out of their lease.

And I just want to say that listening to the debate has been very interesting to me, but I can assure you that while I don't know what every advocate says, for the victims of domestic violence -- which I worked very closely with in my time at Monroe County Department of Public Safety, and in a lot of legislation -- what they fear the most is being victimized again.

This uses today's technology to try and stop that from happening. I applaud Senator Lanza and happily cast my vote in the affirmative.

THE PRESIDENT: Senator Robach will be recorded in the affirmative.

Senator Onorato, to explain his vote.

SENATOR ONORATO: To explain my vote.

I'm going to vote for this, Senator. But I have a lot of misgivings about it. And I'm not an expert in the electronics, but when you put a bracelet on someone, you expect that right now, to my knowledge, it only follows you if you leave your home, but it doesn't tell you where you're going, are you're going towards the victim or are you going to work? Is the work anywhere near the victim?

It sort of puts a false sense of security on a victim when there really is none. Unless you have something on the victim itself. Once you order the perpetrator to have a bracelet, there should be some device on the victim that would allow the police department to know when he is approaching her and give them some opportunity to help her out.

But I'm going to vote for it and hope maybe we will revisit this with an amendment. I vote aye.

THE PRESIDENT: Senator Onorato will be recorded in the affirmative.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: No, no, just waving.

THE PRESIDENT: Senator Schneiderman will be recorded as waving.

The Secretary will announce the results on Calendar Number 1794.

THE SECRETARY: Those recorded in the negative on Calendar Number 1794 are Senators Dilan, Duane, Montgomery, Parker and Schneiderman.

Ayes, 56. Nays, 5.

THE PRESIDENT: The bill is passed.

That completes the controversial reading of the calendar, Senator Skelos.

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

THE PRESIDENT: Senator Griffo.

SENATOR GRIFFO: Mr. President,

on behalf of myself, I would like to restore an amended Senate bill.

On page 33, Calendar Number 1120, I move to amend Senate Bill Number 5482C by striking out the amendments made on June 18th and restoring it to Senate Print 5482A. And I ask that said bill retain its place on Third Reading Calendar.

THE PRESIDENT: So ordered, Senator. And the bill will retain its place on the Third Reading Calendar.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

On behalf of Senator Valesky, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Number 5959.

THE PRESIDENT: Bill Number 5959, so ordered.

Senator Skelos.

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

Room.

We will report the agenda, but it will not be taken up this evening.

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

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 7:14 p.m.)

(Whereupon, the Senate reconvened at 7:31 p.m.)

ACTING PRESIDENT STACHOWSKI: Senator Skelos.

SENATOR SKELOS: Thank you, Mr. President. If we could return to reports of standing committees, there's a report of 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 820, by Senator

Montgomery, an act to amend the General Business Law;

2663, by Senator Stavisky, an act to amend the Penal Law;

4798, by Senator Winner, an act to amend the Real Property Tax Law;

4813, by Senator Nozzolio, an act to amend the Energy Law;

4967A, by Senator Fuschillo, an act to amend the Environmental Conservation Law;

5017, by Senator Hannon, an act to amend the Public Health Law;

5250A, by Senator Winner, an act to amend the General Municipal Law;

5427A, by Senator Marcellino, an act to amend the Environmental Conservation Law;

5494, by Senator O. Johnson, an act to amend the Environmental Conservation Law;

5514, by Senator Bonacic, an act to amend the Environmental Conservation Law;

5593, by Senator Flanagan, an act to amend the Economic Development Law;

5890A, by the Senate Committee on Rules, an act to amend the Tax Law;

5917A, by Senator Saland, an act to amend the Correction Law;

5931, by Senator Saland, an act to amend Chapter 658 of the Laws of 2002;

5946, by Senator Winner, an act to amend the Environmental Conservation Law;

5947, by Senator Bonacic, an act to amend the Insurance Law;

6009B, by Senator Maltese, an act to amend the Administrative Code of the City of New York;

6030, by Senator Farley, an act in relation to affecting;

6031A, by Senator Farley, an act in relation to affecting;

6036, by Senator Hannon, an act to amend Chapter 505 of the Laws of 1995;

6086, by Senator Trunzo, an act to authorize;

6088, by Senator Marcellino, an act to amend the Tax Law;

6092, by Senator Maltese, an act to amend the Retirement and Social Security Law;

6098, by Senator Saland, an act to amend the Environmental Conservation Law;

6112A, by Senator Golden, an act to amend the Retirement and Social Security Law;

6138, by Senator Morahan, an act to amend Chapter 478 of the Laws of 2006;

6149, by Senator Bonacic, an act to amend Chapter 109 of the Laws of 2006;

6157, by Senator DeFrancisco, an act to provide;

6160A, by Senator Skelos, an act to amend the Tax Law;

6162, by Senator Trunzo, an act to amend the Legislative Law;

6174, by the Senate Committee on Rules, an act to amend the Agriculture and Markets Law;

6190, by Senator Wright, an act to amend the Energy Law;

272, by Senator Alesi, an act to amend the Social Services Law;

1288A, by Senator Golden, an act to amend the Social Services Law;

2339A, by Senator Hannon, an act to amend the Public Health Law;

2578A, by Senator C. Kruger, an act to amend the Social Services Law;

2881A, by Senator Griffo, an act to amend the Alcoholic Beverage Control Law;

3761A, by Senator DeFrancisco, an act to amend the Environmental Conservation Law;

3994, by Senator Padavan, an act to amend the Retirement and Social Security Law;

4045, by Senator Lanza, an act to amend the Vehicle and Traffic Law;

4108, by Senator Morahan, an act to amend the Executive Law;

4218, by Senator Leibell, an act to amend the Executive Law;

4261A, by Senator Wright, an act to amend Chapter 519 of the Laws of 1999;

4333A, by Senator Young, an act to amend the Agriculture and Markets Law;

4415, by Senator O. Johnson, an act to amend the Executive Law;

4422A, by Senator LaValle, an act to amend the Tax Law;

4447, by Senator Morahan, an act to amend the Retirement and Social Security Law;

4856, by Senator Nozzolio, an act to amend the Highway Law;

5059A, by Senator Morahan, an act to amend the Public Service Law;

5108A, by Senator Little, an act directing;

5123, by Senator Hannon, an act authorizing;

5309, by Senator Marcellino, an act to amend the Education Law;

5506, by Senator Flanagan, an act to amend the Labor Law;

5774, by Senator Saland, an act to amend the Education Law;

5964, by Senator Maziarz, an act authorizing;

5996, by Senator Leibell, an act to amend the Domestic Relations Law;

6023A, by Senator Padavan, an act to amend the Private Housing Finance Law;

6032, by the Senate Committee on Rules, an act making an appropriation;

6041, by Senator Hannon, an act to amend Chapter 521 of the Laws of 1994;

6065, by Senator Seward, an act to amend the Vehicle and Traffic Law;

6106A, by Senator Padavan, an act

to amend the Administrative Code of the City of New York;

6114, by Senator Golden, an act to amend the Retirement and Social Security Law;

6150, by Senator Bonacic, an act to amend the Executive Law;

6153, by Senator Bruno, an act providing;

6179, by Senator Wright, an act to amend the Public Authorities Law;

6200, by Senator LaValle, an act to amend Chapter 434 of the Laws of 1999;

And Senate Print 6224, by the Senate Committee on Rules, an act to amend the Workers' Compensation Law.

All bills ordered direct to third reading.

ACTING PRESIDENT STACHOWSKI: Senator Skelos.

SENATOR SKELOS: 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.

SENATOR SKELOS: There being none, I move we stand adjourned until Wednesday, June 20th, at 11:00 a.m.

ACTING PRESIDENT STACHOWSKI: On motion, the Senate stands adjourned until Wednesday, June 20th, at 11:00 a.m.

(Whereupon, at 7:37 p.m., the Senate adjourned.)