NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 18, 2008

11:12 a.m.

REGULAR SESSION

SENATOR THOMAS P. MORAHAN, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT MORAHAN: The Senate will come to order.

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

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

(Pause.)

ACTING PRESIDENT MORAHAN: If you'll bear with me, we're waiting for our padre for the day. He's coming in by burro.

(Pause.)

ACTING PRESIDENT MORAHAN: Let's just hope it's a blessed day, folks, okay?

In the absence of clergy, will you please bow your heads for a moment of silence.

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

ACTING PRESIDENT MORAHAN: Reading of the Journal.

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

ACTING PRESIDENT MORAHAN:

Without objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

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

As a judge of the Court of Claims, Honorable Donald F. Cerio, of Canastota.

ACTING PRESIDENT MORAHAN:

Senator DeFrancisco.

SENATOR DeFRANCISCO: Thank you, Mr. President.

I rise and am very pleased to offer to the full Senate the nominations of six eminently qualified individuals. Five of them have been serving in their positions or on the bench and are reappointments to the Court of Claims, and one is a new appointment who is eminently qualified for that position.

We thoroughly reviewed the

backgrounds and the records of each of these individuals. And we had a full meeting of the Judiciary Committee this morning, and each of the individuals much were found to be well-qualified, and each was unanimously voted to bring them before the full Senate this morning.

And as a result, I would seek that each of these nominations be moved.

Since I was going to recognize Senator Valesky, but I don't see him here, the first nominee is Donald F. Cerio. And I would move his nomination for judge of the Court of Claims.

ACTING PRESIDENT MORAHAN: The question is on the nomination of Donald F. Cerio as judge of the Court of Claims. All in favor signify by saying yes.

(Response of "Aye.")

ACTING PRESIDENT MORAHAN: I said yes.

(Response of "Yes.")

ACTING PRESIDENT MORAHAN: That's better. I just wanted to make sure everybody was awake.

(Laughter.)

ACTING PRESIDENT MORAHAN: All opposed say nay.

(No response.)

ACTING PRESIDENT MORAHAN: The confirmation of Donald F. Cerio as judge of the Court of Claims is hereby confirmed.

Congratulations, Judge.

(Applause.)

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: As a judge of the Court of Claims, Honorable Frank A. Gulotta, of Woodbury.

ACTING PRESIDENT MORAHAN: Senator DeFrancisco.

SENATOR DeFRANCISCO: Mr. President, I'd request that you'd recognize Senator Marcellino to move the nomination.

ACTING PRESIDENT MORAHAN: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

I rise with pleasure to nominate a longstanding friend and a fine jurist, Frank

Gulotta, to succeed himself and stay on the court, because I believe he's done a fantastic job.

Over his years as a member of the Court of Claims, he has served in many capacities in several different areas. He has done a fantastic job. I have never heard, in all the years that I've known Frank and his time of being a practicing attorney -- active with the Bar Association, active in his community in many ways -- I've never heard a single individual say anything negative about him.

Whole communities, maybe, but never a single individual.

(Laughter.)

SENATOR MARCELLINO: Got to wake this crowd up. This is a slow crowd here today.

(Laughter.)

SENATOR MARCELLINO: Frank, it's a pleasure to put your name back in nomination.

You come from a family whose background and history and service to Long

Island, Nassau County, and New York State is well-known. Your father broke the barrier for Italian-Americans to be elected to government offices, the first one on Long Island, probably the first one in the state at the time. A fine man. Your brother is well-known to everybody on the island.

And I appreciate your service, we all appreciate your service on the court. We look forward to your service to continue for many years to come.

Congratulations, Frank, and to your whole family.

ACTING PRESIDENT MORAHAN: Senator Fuschillo.

SENATOR FUSCHILLO: I yield to Senator Skelos.

SENATOR SKELOS: I would yield to Senator Fuschillo if he wishes to go first. Go ahead.

SENATOR FUSCHILLO: I thank my senior colleague for the yield. Thank you, Senator Skelos.

I too want to rise and second the nomination and just echo the sentiments of

Senator Marcellino on Judge Gulotta. I agree with you, Senator Marcellino, there is not a person out there that will have anything negative to say about this individual, both as a jurist and his character.

He comes from a family that has dedicated their life to public service. And I see your brother sitting behind you beaming. That today is just another earmark in a long history of dedicated service to our state, our county, and our community from the Gulotta family.

Judge, you have done an outstanding job on the bench, and I know you'll carry that temperament and the qualities that you have demonstrated to this court. So I'm proud to rise to second your nomination, and I wish you the best of luck.

ACTING PRESIDENT MORAHAN: Thank you, Senator Fuschillo.

Senator Skelos.

SENATOR SKELOS: Thank you, Mr. President.

I too join my colleagues Senator Marcellino and Senator Fuschillo in

congratulating you, Judge Gulotta, on your confirmation.

The Gulotta family has really -- and I welcome you too, Tom, our former county executive -- really stood as a model of public service within the Nassau community, starting with Frank Gulotta, your dad, the DA, a member of the Appellate Division, and really set a tone for many young people such as myself when I was starting in politics and government.

Judge Gulotta, you have been an outstanding jurist. And I don't want to take away from your day, but I think it's also important that I speak a little bit about your dad, who so many of us have a tremendous amount of respect for. He is an individual who, as a young person, if he walked by, we were awed by.

And he would always take the time, as I know you do and your brother Tom does, to sit and talk with an individual who was aspiring to run for office or perhaps was new as an elected official.

So you've continued that tradition. I know how proud your mom and dad are of you.

And I'm just very happy to join and ask all my colleagues to support your nomination today.

Congratulations.

ACTING PRESIDENT MORAHAN: Thank you, Senator Skelos.

Senator Hannon.

SENATOR HANNON: Thank you, Mr. President. I just wanted to join with Senator Skelos and my other colleagues in congratulating Judge Gulotta.

You've done an outstanding job, and I'm delighted to support your service again.

Thank you.

ACTING PRESIDENT MORAHAN: Senator Craig Johnson.

SENATOR CRAIG JOHNSON: Thank you, Mr. President. I'll make it bipartisan congratulations for Judge Gulotta.

I welcome his brother, former County Executive Tom Gulotta here today. I had the pleasure of working with him in Nassau County.

For Judge Gulotta, congratulations. My father-in-law serves with you as a jurist in Nassau County. Your reputation is

outstanding, and we are fortunate to have you reappointed to the Court of Claims.

So congratulations and best wishes. Thank you.

ACTING PRESIDENT MORAHAN: Senator Valesky.

SENATOR VALESKY: Thank you, Mr. President.

Judge Gulotta, I also rise to congratulate you on this confirmation.

I'm also struck -- I was out of the chamber attending a meeting as the nomination of Judge Cerio came to the floor. Senator Skelos had mentioned something a few moments ago in regard to Judge Gulotta and how proud his mom and dad are of him. And I know that having known Judge Cerio's parents for many, many years, I know firsthand how proud, Judge, they are of you.

And it's great to have you and your wife, Renee, here again. We had the opportunity only a month and a half ago or so to confirm you as a judge of the Court of Claims, and we talked at that point in time about your distinguished career as the

district attorney in Madison County and certainly some of the other things you have been involved.

So I appreciate the opportunity to rise today and speak of on your behalf and wish you continued success.

Thank you.

ACTING PRESIDENT MORAHAN: Thank you, Senator Valesky.

And thank you for pointing out that Judge Cerio is accompanied by his wife, Renee, today.

The question is on the nomination of Frank A. Gulotta, of Woodbury, as a judge of the Court of Claims. All in favor say aye.

(Response of "Aye.")

ACTING PRESIDENT MORAHAN: Opposed, nay.

(No response.)

ACTING PRESIDENT MORAHAN: Judge Gulotta is now officially hereby confirmed.

Congratulations, Judge.

(Applause.)

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: As a judge of the Court of Claims, Honorable Martin Marcus, of Larchmont.

ACTING PRESIDENT MORAHAN: Senator DeFrancisco.

SENATOR DeFRANCISCO: I would move the nomination of Martin Marcus to the position of Court of Claims.

And Judge Marcus certainly has an impressive record of public service that I just wanted to mention in moving the nomination.

For four years he was with the New York County District Attorney's office in the Rackets Bureau. He then went into the New York State Organized Crime Task Force, was a first assistant for nine years, and since 1990 has been sitting as a Court of Claims judge, but sitting in Supreme Court doing all types of matters.

What a record of public service and a wonderful nomination by Governor Paterson. And I'd move his nomination.

ACTING PRESIDENT MORAHAN: Thank you, Senator DeFrancisco.

The question is on the nomination of Judge Martin Marcus, of Larchmont, for the Court of Claims. All in favor say aye.

(Response of "Aye.")

ACTING PRESIDENT MORAHAN: Opposed say nay.

(No response.)

ACTING PRESIDENT MORAHAN: Martin Marcus is now hereby confirmed as a judge of the Court of Claims.

Congratulations, Judge.

(Applause.)

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: As a judge of the Court of Claims, Honorable Robert A. Neary, of Pound Ridge.

ACTING PRESIDENT MORAHAN: Senator DeFrancisco.

SENATOR DeFRANCISCO: I'd move the nomination of Robert Neary to the position of Court of Claims and ask that you please recognize Senator Leibell to second the nomination.

ACTING PRESIDENT MORAHAN:

Senator Leibell.

SENATOR LEIBELL: Thank you, Mr. President.

And I've had the opportunity before to nominate Judge Neary, and it's always been a great and distinct pleasure for me. On a personal level, we go back a great, great many years, back when we were both young assistant DAs in Westchester County, just starting out.

Bob Neary has had a tremendous career, tried many, many felonies for the Westchester DA's office, got a great many convictions, was a great investigative prosecutor. And I might add he was someone who was a mentor for many young assistant DAs as well as for young lawyers generally.

So for me it is a great honor to rise here today on this occasion to congratulate a great judge and a dear friend and to move this nomination.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator Leibell.

Senator Stachowski.

SENATOR STACHOWSKI: I just too

would like to join Senator Leibell in congratulating the Governor on this appointment of Robert Neary to the Court of Claims.

As I've told you before, I've known Robert Neary since college. He was captain of the football team when I was a sophomore. He was a great leader then, he's a great leader now.

And the most important thing to me is he's a friend, and I'm glad to have the opportunity to stand and second his nomination.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

The question is on the nomination of Robert A. Neary, of Pound Ridge, as judge of the Court of Claims. All in favor say aye.

(Response of "Aye.")

ACTING PRESIDENT MORAHAN: Opposed say nay.

(No response.)

ACTING PRESIDENT MORAHAN: Robert A. Neary is now hereby confirmed as judge of the Court of Claims.

Congratulations, Judge.

(Applause.)

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: As a judge of the Court of Claims, Honorable Charles J. Tejada, of Brooklyn.

ACTING PRESIDENT MORAHAN: Senator DeFrancisco.

SENATOR DeFRANCISCO: I'd move the nomination of Charles J. Tejada, of Brooklyn, to the position of the Court of Claims.

Also an incredibly impressive record of public service, from the early days when he was a Legal Aid attorney in a Harlem neighborhood office for three years, became regional director of the United States Department of Education Office for Civil Rights, judge of the Civil Court of New York for three years, Family Court judge for four years, and then Court of Claims since 1990. His whole life has been public service.

And again, a wonderful nomination by Governor Paterson, and I proudly move that

nomination today.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

The question is on the nomination of Judge Charles J. Tejada as judge of the Court of Claims. All in favor say aye.

(Response of "Aye.")

ACTING PRESIDENT MORAHAN: Opposed say nay.

(No response.)

ACTING PRESIDENT MORAHAN: Charles J. Tejada is hereby confirmed as judge of the Court of Claims.

Congratulations, Judge.

(Applause.)

ACTING PRESIDENT MORAHAN: The judge is also accompanied by his wife, Jeannette.

The Secretary will read.

THE SECRETARY: As a judge of the Rockland County Surrogate Court, Honorable Thomas E. Walsh, of Haverstraw.

ACTING PRESIDENT MORAHAN: Senator DeFrancisco.

SENATOR DeFRANCISCO: I'd move

the nomination of Thomas E. Walsh to the position of judge of the Rockland County Surrogate Court. A new appointment, this is not a reappointment.

An excellent appointment by the Governor. Has judicial experience, having been a village justice and also was an assistant county attorney for some period of time, a long record of public service.

And I move the nomination of this particular nominee.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

The question is on the nomination of Thomas E. Walsh, of Haverstraw, as Rockland County Surrogate Court justice. All in favor say aye.

(Response of "Aye.")

ACTING PRESIDENT MORAHAN: Opposed say nay.

(No response.)

ACTING PRESIDENT MORAHAN: Thomas E. Walsh, of Haverstraw, is hereby confirmed as Surrogate Judge, County of Rockland.

Congratulations, Thomas.

(Applause.)

ACTING PRESIDENT MORAHAN: Judge Walsh -- if I may just add some personal notes about Judge Walsh, who I've known for a long, long time, maybe 30 years.

He enjoys a great reputation within the County of Rockland within the legal community, has served in all kinds of positions, comes to this position eminently qualified. Congratulations.

He's also accompanied by Stephen Lowe, Rabbi Bennie Breskin, and Rabbi Beck. Welcome, gentlemen.

Congratulations, Tom.

Senator Skelos.

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

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

SENATOR SKELOS: Mr. President, would you please recognize Senator Smith.

ACTING PRESIDENT MORAHAN: Senator Smith.

SENATOR SMITH: Thank you very much. Sorry, colleagues. And thank you very much, Senator Skelos.

I did want to come out just for a moment to speak about Tom Walsh. And I know that he might be getting ready to leave the chambers. I see Mr. Bennie up there, who is flagging and directing.

But I just wanted to make note of Tom Walsh and congratulate the Governor on a fine selection for someone to serve on the bench in Rockland County Surrogate Court.

He has been a tremendous lawyer, for many years served the public very well. His heart in the right place. And not only because of his background in the legal profession, but he also is a gentleman and concerned about the community. He is an excellent and I expect him to be an excellent judge.

I know he's accompanied by Mr. Bennie up there, who is everyone's friend, and everybody knows him.

So I wanted to point out and wanted to be on record as acknowledging a Fordham colleague, by the way, which is most important. He went to Fordham University and I just think deserves some recognition.

So with that, I thank you, Mr. President. Thank you for allowing me to speak on this nomination. Senator Skelos, I thank you as well. Thank you.

ACTING PRESIDENT MORAHAN: Thank you, Senator Smith.

Reports of select committees.

Communications and reports from state officials.

Motions and resolutions.

Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

On behalf of Senator Leibell, I wish to call up Senate Bill 5603A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 1599, by Senator Leibell, Senate Print 5603A,

an act to amend the Executive Law and the Military Law.

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

ACTING PRESIDENT MORAHAN: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

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

ACTING PRESIDENT MORAHAN: The amendments are received.

SENATOR LITTLE: Thank you.

Mr. President, on behalf of Senator Marcellino, on page number 38 I offer the following amendments to Calendar Number 1152, Senate Print Number 4364, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR LITTLE: Thank you,

Mr. President.

On behalf of Senator Bonacic, please place a sponsor's star on Calendar Numbers 1828 and 1906.

ACTING PRESIDENT MORAHAN: So ordered.

SENATOR LITTLE: Thank you.

On behalf of Senator Nozzolio, I move to recommit Senate Print Number 4064, Calendar Number 724 on the order of third reading, to the Committee on Consumer Protection, with instructions to said committee to strike out the enacting clause.

ACTING PRESIDENT MORAHAN: So ordered.

SENATOR LITTLE: Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

Senator Skelos.

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

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: On page 28, Senator Maltese moves to discharge, from the Committee on Civil Service and Pensions, Assembly Bill Number 10345 and substitute it for the identical Senate Bill Number 7298, Third Reading Calendar 866.

On page 35, Senator Larkin moves to discharge, from the Committee on Rules, Assembly Bill Number 9703 and substitute it for the identical Senate Bill Number 905B, Third Reading Calendar 1074.

On page 38, Senator Fuschillo moves to discharge, from the Committee on Consumer Protection, Assembly Bill Number 10686 and substitute it for the identical Senate Bill Number 7700, Third Reading Calendar 1146.

On page 47, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 10082A and substitute it for the identical Senate Bill Number 7018A, Third Reading Calendar 1310.

On page 53, Senator Alesi moves to discharge, from the Committee on Insurance, Assembly Bill Number 395A and substitute it for the identical Senate Bill Number 6385A,

Third Reading Calendar 1468.

On page 55, Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 10934 and substitute it for the identical Senate Bill Number 7537, Third Reading Calendar 1515.

On page 55, Senator Morahan moves to discharge, from the Committee on Mental Health and Developmental Disabilities, Assembly Bill Number 10811 and substitute it for the identical Senate Bill Number 8136, Third Reading Calendar 1519.

On page 56, Senator Smith moves to discharge, from the Committee on Rules, Assembly Bill Number 564A and substitute it for the identical Senate Bill Number 8407, Third Reading Calendar 1645.

On page 57, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 10324A and substitute it for the identical Senate Bill Number 7295A, Third Reading Calendar 1749.

On page 60, Senator Maltese moves to discharge, from the Committee on Rules, Assembly Bill Number 10343C and substitute it

for the identical Senate Bill Number 1282D, Third Reading Calendar 1913.

On page 60, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 6164 and substitute it for the identical Senate Bill Number 3410, Third Reading Calendar 1914.

On page 60, Senator Little moves to discharge, from the Committee on Rules, Assembly Bill Number 8059C and substitute it for the identical Senate Bill Number 5366C, Third Reading Calendar 1917.

On page 61, Senator DeFrancisco moves to discharge, from the Committee on Rules, Assembly Bill Number 9862 and substitute it for the identical Senate Bill Number 6915, Third Reading Calendar 1924.

On page 61, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 10508 and substitute it for the identical Senate Bill Number 7332A, Third Reading Calendar 1928.

On page 62, Senator Winner moves to discharge, from the Committee on Rules, Assembly Bill Number 10766 and substitute it

for the identical Senate Bill Number 7645, Third Reading Calendar 1931.

And on page 63, Senator Flanagan moves to discharge, from the Committee on Rules, Assembly Bill Number 11095 and substitute it for the identical Senate Bill Number 8350, Third Reading Calendar 1941.

ACTING PRESIDENT MORAHAN: Substitutions ordered.

Senator Little.

SENATOR LITTLE: Can we adopt the Resolution Calendar, please, Mr. President.

ACTING PRESIDENT MORAHAN: All in favor of adopting the Resolution Calendar say aye.

(Response of "Aye.")

ACTING PRESIDENT MORAHAN: Opposed, nay.

(No response.)

ACTING PRESIDENT MORAHAN: The Resolution Calendar is adopted.

Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

Could we please take up Resolution

Number 6649, by Senator Bruno, and have the title read. And it is open for sponsorship by all of the members of the Senate.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: By Senators Bruno and Maltese, Legislative Resolution Number 6649, commending B. Thomas Golisano upon the occasion of his designation as a 2008 Honoree at the annual Italian-American Legislators Conference.

ACTING PRESIDENT MORAHAN: All in favor of the resolution say aye.

(Response of "Aye.")

ACTING PRESIDENT MORAHAN: Opposed, nay.

(No response.)

ACTING PRESIDENT MORAHAN: The resolution is adopted.

Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

Could we please take up Resolution Number 6650, by Senator Bruno, have the title read, and open up the resolution to all

members of the Senate.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: By Senators Bruno and Maltese, Legislative Resolution Number 6650, commending Peter Cardella upon the occasion of his designation for special recognition as the 2008 Honoree of the Italian-American Legislators Conference.

ACTING PRESIDENT MORAHAN: All in favor say aye on the resolution.

(Response of "Aye.")

ACTING PRESIDENT MORAHAN: Opposed, nay.

(No response.)

ACTING PRESIDENT MORAHAN: The resolution is adopted.

And both resolutions just read are open for sponsorship. If you do not want to be on the resolution, please notify the desk.

Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

Could the Senate now stand at ease until the conclusion of the Finance Committee

meeting.

ACTING PRESIDENT MORAHAN: The Senate stands at ease.

(Whereupon, the Senate stood at ease at 11:43 a.m.)

ACTING PRESIDENT BONACIC: The Senate will come to order.

Senator Skelos.

SENATOR SKELOS: There will be a Majority conference at 12:20, and the Senate will stand at ease.

ACTING PRESIDENT BONACIC: Majority conference at 12:20.

The Senate will stand at ease.

SENATOR SKELOS: Thank you, Mr. President.

ACTING PRESIDENT BONACIC: You're welcome, Senator Skelos.

(Whereupon, the Senate reconvened at 2:10 p.m.)

ACTING PRESIDENT MAZIARZ: The Senate will come to order.

Senator Skelos.

SENATOR SKELOS: Mr. President, I believe there's some housekeeping at the desk.

ACTING PRESIDENT MAZIARZ:

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Yes. In the line of housekeeping, on behalf of Senator Larkin, Mr. President, I offer the following amendments on page 60, Calendar Number 1912, Senate Print 579, and I ask that that bill retain its place on the Third Reading Calendar.

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

SENATOR FARLEY: Mr. President, on behalf of Senator Lanza, on page 26 I offer the following amendments to Calendar Number 822, Senate Print 5702, and I ask that that bill retain its place.

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

SENATOR FARLEY: Mr. President, on behalf of Senator Leibell, I wish to call

up his bill, 3643A, it's recalled from the Assembly, and it's now at the desk.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 739, by Senator Leibell, Senate Print 3643A, an act to amend the Executive Law.

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

ACTING PRESIDENT MAZIARZ: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

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

ACTING PRESIDENT MAZIARZ: The amendments are received.

Senator Skelos.

SENATOR SKELOS: Mr. President, can we now return to reports of standing committees for the report of the Finance Committee.

ACTING PRESIDENT MAZIARZ: Reports of standing committees.

The Secretary will read.

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

As commissioner of the Division of Human Rights, Galen D. Kirkland, of New York City.

ACTING PRESIDENT MAZIARZ: Senator Johnson.

SENATOR OWEN JOHNSON: Move the nomination.

ACTING PRESIDENT MAZIARZ: Senator Perkins.

SENATOR PERKINS: Thank you, Mr. President.

I just want to take a brief moment to first extend my congratulations to my good friend Galen Kirkland on his recent appointment by the Governor.

We've known each other for a long time, we've been through a lot of community struggles together; we're from the same neighborhood. As a matter of fact, Galen once tried to have this seat during that period when there was a vigorous primary in the

neighborhood, and the Governor happened to be the opposition at the time, and who won the seat.

But Galen has really been an extraordinary member of the community, grew up in the neighborhood, came back to the neighborhood to work for the neighborhood in the housing movement, and has not only done well in terms of the neighborhood, but even on the broader sense as well, not only in the housing area, education area.

Really, we could not have found a better person to head up that agency on behalf of the state and on behalf of the people of our state and of our community.

So, Galen, to you and to your family, congratulations. And thank you so much for all that you've done for us over the years.

ACTING PRESIDENT MAZIARZ: Senator Stewart-Cousins.

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

I just wanted to also add a few words to this nominee. I had the privilege of

meeting him over the weekend but had not had an opportunity to have the full range of his experience. And he made a presentation today in the Finance Committee that was really exemplary. It told us every moment of his life was committed to what it is that he is undertaking on behalf of the State of New York.

And as someone who authored the Westchester County Human Rights Law, because we felt the state could do better, I can't tell you how pleased I am to welcome as the head of this commission this very, very fine man who, again, I'm sure, will bring the state to great heights in its quest for ensuring the human rights of all.

So I really congratulate you. Thank you for your service.

ACTING PRESIDENT MAZIARZ: Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

I want to congratulate the Governor and to congratulate this nominee. I have known him for a very long time as an activist

on many, many fronts. And I think the Governor has made a great appointment.

And I'm very much looking forward to working with the new commissioner. And congratulations to you and your family. And there's a great staff there, and I know you're going to provide wonderful leadership. So congratulations.

Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

It is really an honor to be able to rise here in support of this nominee, a great member of the West Side community, a great progressive Democrat in the George Maziarz tradition, and someone who is really --

(Laughter.)

SENATOR SCHNEIDERMAN: -- you know, is really a great example of the most important thing in social activism, and that is dedication.

Because it's easy to work for social justice, to work for social change for

a short period of time. But to do it year in, year out, through different positions, that takes a lot.

And it is a great, great privilege for all of us here to welcome him today. There are challenges ahead. Human rights is never an easy issue. But I know he's up to it.

And I think it is remarkable, Senator Perkins reminds me of an election many, many years ago when the candidates were Philip Reed, who went on to be in the City Council, Galen Kirkland, who is with us today, and David Paterson, for the New York State Senate. So in my neighborhood, Mr. President, we have good candidates.

Thank you. Congratulations.

ACTING PRESIDENT MAZIARZ: In my neighborhood we do too.

Anyone else wishing to speak on this nomination?

The question is on the nomination of Galen D. Kirkland, of New York City, to serve as the Commissioner of the Division of Human Rights. All in favor signify by saying

aye.

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(No response.)

ACTING PRESIDENT MAZIARZ: Galen D. Kirkland, you are hereby confirmed as Commissioner of the Division of Human Rights.

(Applause.)

ACTING PRESIDENT MAZIARZ: Commissioner Kirkland, on behalf of Senator Bruno and the entire New York State Senate, we want to welcome you here, congratulate you on this new chapter. You are here accompanied by your wife, Natalie Chapman.

And I heard from both Senator Perkins and Senator Schneiderman that you and Governor Paterson were opponents in an election one time. It's a good thing that we have a forgiving governor in the State of New York at this time.

Congratulations to you. Thank you.

The Secretary will read.

THE SECRETARY: As a member of the Board of Trustees of the City University

of New York, Peter S. Pantaleo, of New York City.

ACTING PRESIDENT MAZIARZ: Senator O. Johnson.

SENATOR OWEN JOHNSON: Move the nomination.

ACTING PRESIDENT MAZIARZ: Senator Krueger.

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

I too rise to support the nomination of Peter Pantaleo to be a member of the Board of Trustees of the City University of New York.

While I've only met Mr. Pantaleo today, I am very proud that he is a constituent in my district, a new constituent. But much more importantly, he has an incredibly impressive resume and history working in law on so many issues.

And the fact that as a newly returned New Yorker, as he explained to us today in both the Higher Ed Committee and in the Finance Committee, he has a true commitment to making our state a better place,

our city a better place, and has chosen to commit himself fully to the City University of New York.

There is no one in this chamber who does not understand the importance of strong leadership and commitment and dedication on the boards of both our city and state university systems, and I am delighted that he has taken on this challenge. Because, in fact, so often public service is a challenge, it demands a great deal of us, it demands a great deal of time and commitment and thoughtfulness.

And the fact that people like Mr. Pantaleo are willing to, on a voluntary basis, take on these responsibilities is a representation of why this is such a great state and will continue to have such wonderful higher education public universities.

Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Stavisky.

SENATOR STAVISKY: Thank you, Mr. President.

I too would like to commend the

Governor, not just for Mr. Pantaleo's nomination, but this morning in the Committee on Higher Education we had three unusual nominees, nominees who bring a breadth of experience and a commitment, a feeling for higher education that I know will be cherished for many years to come.

Mr. Pantaleo was a labor lawyer and a partner at the DLA Piper firm. But more importantly, in response to a question which I asked about his priorities, he spoke about how important it was for CUNY to be accessible and affordable and provide a quality education. Because CUNY has a long history going back to City College, the founding of City College over 160 years ago, as a place where the sons and daughters of immigrants can be educated.

That mission that has not changed. The same is true of the State University of New York. And the understanding that this is a university to serve an immigrant community I think is very important, as well as anybody who can benefit from higher education.

I think Mr. Pantaleo brings new life to a really terrific board. Both the

SUNY board and the CUNY boards are just perfect examples of what non-paying positions should be. And I welcome him, and I'm delighted with all three nominations.

Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Thank you, Senator.

Anyone else wishing to speak on this nomination?

The question is on the nomination of Peter S. Pantaleo, of New York City, for appointment as a member of the Board of Trustees of the City University of New York. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(No response.)

ACTING PRESIDENT MAZIARZ: Peter S. Pantaleo is hereby confirmed as a member of the Board of Trustees of the City University of New York.

Congratulations very much.

(Applause.)

ACTING PRESIDENT MAZIARZ: The

Secretary will read.

THE SECRETARY: As a member of the Board of Trustees of the State University State University, Carl Spielvogel, of New York City.

ACTING PRESIDENT MAZIARZ: Senator O. Johnson.

SENATOR OWEN JOHNSON: Move the nomination.

ACTING PRESIDENT MAZIARZ: The question is on the nomination of Carl Spielvogel, of New York City, for appointment as a member of the Board of Trustees of the State University of New York. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(No response.)

ACTING PRESIDENT MAZIARZ: Oh, I'm sorry, Senator Stavisky.

SENATOR STAVISKY: Thank you.

Before we confirm Mr. Spielvogel, let me indicate that he too will bring a new perspective to the SUNY board.

I was very impressed by his description of how is he a proud New Yorker, how he grew up, his father had passed away -- he is a graduate of Baruch College, a part of CUNY, obviously -- but has gone on to a remarkable career as an ambassador to the Slovak Republic.

Starting out, incidentally, as a reporter for the New York Times, a reporter and columnist for the New York Times. But he went on to a career in international and global marketing, advertising, and a renowned philanthropist, entrepreneur, and brings a sense of philanthropy to the SUNY board.

SUNY is about to select a new chancellor, and I know that he will have impressive contributions to make in the selection of a world-renowned chancellor, whoever that person may be. His commitment to give back to what Baruch has done for him I think speaks about the man's compassion, his concern for others.

And I think he's going to make a remarkable addition to the SUNY board, and I congratulate the Governor for this nomination.

Thank you.

ACTING PRESIDENT MAZIARZ: Thank you, Senator Stavisky.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I want to rise and also congratulate both the nominee and the Governor for making such a fine nomination.

I've known Mr. Spielvogel for some time. He and his wife embody the best of New York. They are constantly sponsoring, hosting and attending events in support of one good cause or another.

And I am tremendously impressed that he's going to take the time and put his energy now into making SUNY the great, great state university that we all know it should be and want it to be, and to carry out the vision that the Governor has set for it.

I thank him for his service up till now. I am confident that he will perform admirably going forward. And I think everyone here in this room that should understand that this is a true gentleman, a true

philanthropist -- not just in terms of giving out money, but giving of himself, opening his home. And he embodies the spirit we really do need in our trustees. It's a great good fortune to all of us that he's willing to serve.

Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Thank you, Senator Schneiderman.

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you. I also rise, not to repeat what my two colleagues have said, but, as the Senator representing Mr. Spielvogel and his family in my district, to thank him for taking on yet another responsibility.

As Senator Schneiderman just mentioned, the list of public service commitments that Carl Spielvogel has made to the State of New York, the City of New York, can actually just go on for pages. In my own district, he has been an extraordinary representative to the Metropolitan Museum of Art, to the Asia Society, to the Mount Sinai hospital. I'm sure the list is longer than

even is listed on his biography.

And the fact that he is openly excited and willing to take on challenges for the State University of New York board again is, I suppose, fitting of everything else he has been doing in his career for the people of New York. So I'm delighted to stand here in support of his nomination.

Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Thank you, Senator Krueger.

Senator Stachowski, on the nomination.

SENATOR STACHOWSKI: Yes, Mr. President, I too would like to rise and second the nomination.

I was struck in Finance by the conversation we had when we talked about SUNY being an economic engine, and particularly throughout the upstate area, as was seen in a recent vision. And Mr. Spielvogel picked up on that and said that his history is to get businesses involved with, for example, the Metropolitan Art Museum, and when he was the ambassador, to get that country going with

business, and he looks forward to doing the same thing for SUNY.

And I think that would make a great two-way street. And it's wonderful to have an advocate like that on the board, and I look forward to the many good things that we'll see happen by his participation and bringing his expertise to that board that's so important to so many of us in upstate New York.

And so I'm proud to second the nomination.

ACTING PRESIDENT MAZIARZ: Is there anyone else who would like to speak on the nomination?

The question is on the nomination of Carl Spielvogel, of New York City, for a term as a member of the Board of Trustees of the State University of New York. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(No response.)

ACTING PRESIDENT MAZIARZ: Carl Spielvogel is hereby confirmed as a member of

the Board of Trustees of the State University of New York.

(Applause.)

ACTING PRESIDENT MAZIARZ: Mr. Pantaleo and Mr. Spielvogel, on behalf of Senator Bruno and the entire New York State Senate, we want to congratulate you.

I thought it was very appropriate that while this confirmation process was going on, there were a whole bunch of future CUNY and SUNY graduates other there who just left. And thank you for volunteering your time for these two great institutions on behalf of those future graduates. Thank you.

The Secretary will read.

THE SECRETARY: As a member of the Metropolitan Transportation Authority, Robert C. Bickford, of Cold Spring.

ACTING PRESIDENT MAZIARZ: Senator O. Johnson.

SENATOR OWEN JOHNSON: Move the nomination.

ACTING PRESIDENT MAZIARZ: The question is on the nomination of Robert C. Bickford, of Cold Spring, as a member of the

Metropolitan Transportation Authority. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(No response.)

ACTING PRESIDENT MAZIARZ: The nominee, Robert C. Bickford, is hereby confirmed as a member of the MTA.

Congratulations to you, Mr. Bickford, and thank you very much for your service, on behalf of Senator Bruno and the Senate.

(Applause.)

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: As a member of the Metropolitan Transportation Authority, Jeffrey A. Kay, of Bayside.

ACTING PRESIDENT MAZIARZ: Senator O. Johnson.

SENATOR OWEN JOHNSON: Move the nomination. Thank you.

ACTING PRESIDENT MAZIARZ: Senator Flanagan.

SENATOR FLANAGAN: Thank you, Mr. President. I'd like to be heard on this nomination.

We just had a chance to hear about Robert Bickford, who is now a new member of the MTA board. And it was nice that Mr. Bickford took the time out of his schedule to actually appear in Albany, come before the committees, entertain questions, give some comments on his background.

The nominee before us is a gentleman named Jeffrey Kay. Now, I wouldn't know Mr. Kay if he was standing right in front of me. But frankly, that's the problem. He's not here. He didn't appear. He didn't appear before the Transportation Committee, he didn't appear before the Finance Committee. And yet we're reappointing this person to a full term as a member of the MTA board.

And that's a shame. That's not the way we should be doing business. These people should take these jobs as seriously as we do. And we are now talking about an agency that has a potential $500 million to $700 million deficit in the coming year. Fares have just

been raised, construction costs are going through the roof, projects are not being done on time. And frankly, we don't even have a chance to entertain comments and to ask questions of a nominee who is seeking reappointment.

That's bad business. That's not what our constituents expect. And frankly, we deserve better as a Legislature. I don't think Mr. Kay should be reappointed until he takes the time to reappear here in Albany.

And I'm going to give one example. Yesterday in the paper, many of us had a chance to read about the executive director of the MTA getting a $10,000 raise on a base salary of $350,000. That's bad. That's not the way we should be doing business. And frankly, that was unilaterally approved by the chair of the board of the MTA. No action taken by the board.

Senator Hassell-Thompson, I'm looking at her, you would like to get a $10,000 raise. We would all like to. But it's got to be vetted the right way. And the public looks that, and they say, "What are

they doing?" And they in turn look at us and say, "What are you folks doing?"

One of the ways we can keep their feet to the fire is to make sure they're up here to get a little grilling. Because, frankly, the MTA has a lot of problems. And Mr. Kay should have treated everybody in the state better by appearing here today.

And for that reason and many others, I'm voting against his reappointment.

ACTING PRESIDENT MAZIARZ: Any other Senators wish to speak on this nomination?

The question is on the nomination of Jeffrey A. Kay, of Bayside, for a term as a member of the Metropolitan Transportation Authority. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT MAZIARZ: In the opinion of the chairs, the ayes have it. The nominee is confirmed.

(Laughter.)

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: As a member of the New York State Thruway Authority, Donna J. Luh, of Depew.

ACTING PRESIDENT MAZIARZ: Senator O. Johnson.

SENATOR O. JOHNSON: Move the nomination.

ACTING PRESIDENT MAZIARZ: Senator Smith.

SENATOR SMITH: Yes, Mr. President, I rise to second the nomination of Donna Luh.

Obviously, the Governor has selected someone who has a tremendous background in transportation. She was once -- actually, she worked for the Niagara Frontier Transportation Authority; NFTA, as they call it.

She is clearly one who understands project management, as she ran a $186 million project for the Greater Buffalo International Airport. She runs her own consulting firm and

has been very committed in the long term to doing what's best for the State of New York.

She clearly is someone that understands what "one New York" is all about. And the fact that what she's going to be doing for the Thruway Authority clearly is a testament to the Governor with a fine selection, and also understanding someone who knows what's best for the State of New York.

So, Donna Luh, I extend my congratulations to you. The Governor made a fine choice. And I am proud to second the nomination of Donna Luh.

ACTING PRESIDENT MAZIARZ: Senator Thompson.

SENATOR THOMPSON: Thank you, Mr. President.

First, I'd like to thank Governor Paterson for nominating Donna Luh today for this very important appointment.

I'd also like to thank Leader Smith for his leadership in assisting with getting this appointment. And for the members of the Western New York delegation, I believe that every member of our delegation in the Senate

worked hard to make sure that this appointment would reach the floor.

This issue of the Thruway Authority is something that people in Western New York are very, very concerned about. And I believe that Donna Luh will be very compassionate and sensitive to the issues of the Legislature. For many years she's worked with lawmakers to keep them abreast as it relates to different issues when big government projects have come along her way.

Some of the things that I believe that she can be helpful with: Grand Island. The Grand Island Bridges is something that I know that the Thruway Authority is looking at. The issue of continuing to upgrade the roads and infrastructure. And something that I know this body has worked on before is the tolls in Western New York. And I know that Senator Stachowski, Senator Volker, and all the other members of the Western New York Senate delegation have always worked on this issue.

So I'm very excited to support the nomination of Donna Luh. She is a very professional businesswoman, owns her own

business. And I think she will be a tremendous asset to the New York State Thruway Authority.

ACTING PRESIDENT MAZIARZ: Senator Volker, on the nominee.

SENATOR VOLKER: Yeah, quickly, Mr. President; I was in and out of here. But I want to commend the Governor's nomination of Donna Luh also.

I've known her for many years, and her whole family. I have no doubt that she will make an excellent addition to the Thruway Authority and hopefully will help us straighten out the problems that we've had over the last few years with the Thruway Authority and tolls.

Thank you very much. Good luck.

ACTING PRESIDENT MAZIARZ: Thank you, Senator Volker.

Anyone else like to speak on this nominee before us?

The question is on the nomination of Donna J. Luh as a member of the New York State Thruway Authority. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(No response.)

ACTING PRESIDENT MAZIARZ: Donna Luh is hereby confirmed as a member of the New York State Thruway Authority.

Donna, congratulations to you on behalf of Senator Bruno.

As I look over this list here, Donna, we have nominees today from New York City, New York City, New York City, Bayside, Manhasset -- and one from Western New York. We know that you will do an excellent job on behalf of all the residents of New York State, but particularly those where you live in Western New York.

Thank you very much, and congratulations.

(Applause.)

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: As a member of the Metropolitan Transportation Authority, James L. McGovern, of Manhasset.

As members of the New York State Thruway Authority, E. Virgil Conway, of Bronxville, and Brandon R. Sall, of Rye.

As a member of the Adirondack Park Agency, Richard S. Booth, of Ithaca.

As a member of the Port of Oswego Authority, Richard L. Atkins, of Oswego.

As a member of the Board of Trustees of Cornell University, Howard Milstein, of New York City.

As banking members of the State Banking Board, Robert M. Fisher, of Owego, and Peter G. Humphrey, of Warsaw.

As a member of the Industrial Board of Appeals, Jean Grumet, of Larchmont.

As a member of the Republic Airport Commission, Robert W. Bodenmiller, of West Babylon.

As a member of the Allegany State Park, Recreation and Historic Preservation Commission, Lisa Feinberg-Duckett, of Wellsville.

As a member of the Niagara Frontier State Park, Recreation and Historic Preservation Commission, Gerard J. Mosey,

Ed.D., of Lewiston.

As a member of the Saratoga-Capital District State Park, Recreation and Historic Preservation Commission, Brian S. Cechnicki, of Canajoharie.

As a member of the Taconic State Park, Recreation and Historic Preservation Commission, Jane Alexander, of Dobbs Ferry.

As members of the Mental Health Services Council, John Kastan, Ph.D., of New York City; Glenn Liebman, of Albany; and Kathleen Coyne Plumb, of Mumford.

As members of the State Camp Safety Advisory Council, George G. Coleman, of Freeport, and Judith H. Reilly, of Utica.

As members of the State Hospital Review and Planning Council, Carolyn K. Callner, of Troy, and Anthony J. Lechich, M.D., of New York City.

As members of the Board of Visitors of the New York State Home for Veterans and Their Dependents at St. Albans, Elizabeth R. Carr, of Glen Oaks.

As a member of the Board of Visitors of the Bronx Children's Psychiatric

Center, Donna Chappell, of the Bronx.

As a member of the Board of Visitors of the Creedmoor Psychiatric Center, Gloria M. Allen, M.D., of Hollis.

As a member of the Board of Visitors of the Finger Lakes Developmental Disabilities Services Office, David H. Breen, M.D., of Dansville.

As a member of the Board of Visitors of the Hudson Valley Developmental Disabilities Services Office, Wilbur T. Aldridge, of West Haverstraw.

As a member of the Board of Visitors of the Queens Children's Psychiatric Center, Lorraine Jacobs, of South Ozone Park.

As a member of the Board of Visitors of the Rockland Children's Psychiatric Center, James Scaringe, of Orangeburg.

As members of the Board of Visitors of the Valley Ridge Center for Intensive Treatment, Albert B. Kochersperger, M.D., of Norwich, and Lee Wilhelm, of Norwich.

And as a member of the Board of Visitors of the Western New York Developmental

Disabilities Services Office, Mary Ellen Murphy, of West Seneca.

ACTING PRESIDENT MAZIARZ: Senator O. Johnson.

SENATOR OWEN JOHNSON: Move the nominations.

ACTING PRESIDENT MAZIARZ: The question is on the nominations as read by the Secretary. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(No response.)

ACTING PRESIDENT MAZIARZ: All the nominees as read by the Secretary are hereby confirmed.

Senator Morahan.

SENATOR MORAHAN: Yes, Mr. President, can we return to motions and resolutions. I believe there are some motions at the desk.

ACTING PRESIDENT MAZIARZ: Motions and resolutions.

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

On behalf of Senator DeFrancisco, I wish to call up Print Number 5076A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 1465, by Senator DeFrancisco, Senate Print 5076A, an act to amend the Insurance Law and the Civil Practice Law and Rules.

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

ACTING PRESIDENT MAZIARZ: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

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

ACTING PRESIDENT MAZIARZ: The amendments are received.

Senator Morahan.

SENATOR MORAHAN: Thank you, Mr. President. Can we now have the

noncontroversial reading of the calendar, please.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 238, by Senator C. Kruger, Senate Print 4541A, an act to amend the Family Court Act and the Domestic Relations Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 8. This act shall take effect on the 90th day.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 413, by Senator Golden, Senate Print 320A, an act to amend the Penal Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

November.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 440, by Senator Golden, Senate Print 6910, an act to amend the Civil Service Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 572, by Senator LaValle, Senate Print 3202, an act to amend the Tax Law.

ACTING PRESIDENT MAZIARZ: There is a local fiscal impact statement at the

desk.

Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 619, by Senator DeFrancisco, Senate Print 6466A, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 619: Ayes, 61. Nays, 1. Senator Montgomery recorded in the negative.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 623, by Senator Young, Senate Print 7224, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 2. Senators Bonacic and Little recorded in the negative.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 688, by Senator Seward, Senate Print 6982, Concurrent Resolution of the Senate and Assembly proposing an amendment to Section 8 of Article 4 of the Constitution.

ACTING PRESIDENT MAZIARZ: On the resolution, the Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The resolution is adopted.

THE SECRETARY: Calendar Number 689, by Senator Skelos, Senate Print 6996A, an act to amend the Education Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Skelos.

SENATOR SKELOS: Just to explain my vote.

This legislation addresses the recent series of incidents through which attorneys employed by both school districts and private law firms received duplicate payments for their services and became eligible for public pension and healthcare benefits.

This legislation will clearly prohibit independent contractors who are providing services to a school district from being classified as an employee of that school district.

In addition, the bill provides that any firm or individual that violates this prohibition will be liable for three times the amount illegally billed, and any individual who violates this section shall be guilty of professional misconduct.

I vote aye.

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

Announce the results.

THE SECRETARY: Ayes, 62. Nays, 0.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 731, by Senator Rath, Senate Print 1311B, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 836, by Senator Volker, Senate Print 4632, an act to amend --

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MAZIARZ: Lay the bill aside.

THE SECRETARY: Calendar Number 866, substituted earlier today by Member of the Assembly Lentol, Assembly Print Number 10345, an act to amend the Civil Service Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 879, by Senator Padavan --

SENATOR MORAHAN: Lay it aside for the day.

ACTING PRESIDENT MAZIARZ: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 883, by Senator Seward, Senate Print 5053, an act to amend the Insurance Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 3. This act shall take effect upon enactment into law by two compacting states of legislation.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number

959, by Senator Trunzo, Senate Print 3925, an act to amend the Executive Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1065, by Senator Little, Senate Print 7467, an act to amend the Correction Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Senator Montgomery.

SENATOR MONTGOMERY: Yes, to

explain my vote.

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

SENATOR MONTGOMERY: Yes, Mr. President, I am absolutely in favor of adaptive reuse and a plan for such. I think that we owe it to the local community, if a facility of the size and magnitude and significance of a correctional facility is going to be closed, there should be a planning process.

But I don't believe that we want to require that plan to come two years before the facility is to close. So I'm going to oppose this, only because I think that it really is not -- it's not workable.

But we do want and I do support a planning process and definitely adaptive reuse of any facility that we're closing upstate.

Thank you. I vote no.

ACTING PRESIDENT MAZIARZ: Senator Montgomery will be recorded in the negative.

Announce the results.

THE SECRETARY: Those recorded in

the negative on Calendar Number 1065 are Senators Adams, Hassell-Thompson, Montgomery and Perkins.

Ayes, 58. Nays, 4.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1074, substituted earlier today by Member of the Assembly Gunther, Assembly Print Number 9703, an act to authorize the Town of Chester in the County of Orange.

ACTING PRESIDENT MAZIARZ: 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 MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1096, by Senator Morahan, Senate Print 7535, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1146, substituted earlier today by Member of the Assembly Pheffer, Assembly Print Number 10686, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The

bill is passed.

THE SECRETARY: Calendar Number 1200, by Senator Larkin, Senate Print 7778, an act to amend the Highway Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1200 are Senators Duane, L. Krueger, Perkins and Schneiderman.

Ayes, 58. Nays, 4.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1202, by Senator Saland, Senate Print 1094A, an act to amend the Education Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 4. This act shall take effect July 1, 2008.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1204, by Senator Saland, Senate Print --

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

ACTING PRESIDENT MAZIARZ: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 1301, by Senator Maziarz, Senate Print 5706C, an act to amend the Economic Development Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 61. Nays,

1. Senator LaValle recorded in the negative.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1310, substituted earlier today by Member of the Assembly Alessi, Assembly Print Number 10082A, an act to amend the Tax Law.

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

Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1347, by Senator Winner, Senate Print 7407, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1354, by Senator Little, Senate Print 7913, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1421, by Senator Libous, Senate Print 7397, an act to amend the Highway Law.

ACTING PRESIDENT MAZIARZ: Read

the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1468, substituted earlier today by Member of the Assembly Morelle, Assembly Print Number 395A, an act to amend the Insurance Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Senator Alesi.

SENATOR ALESI: Mr. President, on the bill.

As you know, several years ago we founded the Healthy New York program, and it was aimed to help small businesses, primarily, get basic coverage that they otherwise would not be able to afford.

Unfortunately, when the bill was originally implemented, there was a requirement that said if small businesses had provided coverage for their employees within the past 12-month period, that they could not participate in Healthy New York.

Many small businesses then were forced to carry no coverages, because they couldn't afford regular coverage that was provided by commercial carriers.

This removes the 12-month requirement period, and it makes the field more fair for all small businesses to participate in Healthy New York, and therefore helps their employees and the owners of those small businesses to have basic healthcare coverage.

And I'm proud to be the sponsor of this bill, and thank my good friend in the Assembly, Assemblymember Morelle, for his

assistance in carrying the bill in that house.

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

Senator Seward.

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

I'm very pleased to rise in support of this legislation and to congratulate Senator Alesi for sponsoring this bill.

This legislation is one more step that this house is taking to make health insurance more available and affordable to more people and particularly, in this case, small businesses of New York State.

It is a big step we're taking today, and the result will be that more small businesses will be able to offer health insurance to their employees. That's good for everyone.

I vote aye.

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

Announce the results.

THE SECRETARY: Ayes, 62. Nays, 0.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

I just want to let the record reflect I was out of chamber, and had I been here, I would have voted no on Calendar Number 1200, S7778.

ACTING PRESIDENT MAZIARZ: The record will so reflect, Senator Connor.

SENATOR CONNOR: Thank you.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 1479, by Senator Seward, Senate Print 7765, an act to amend the Insurance Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1512, by Senator Morahan, Senate Print 6816, an act to establish a temporary task force.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1515, substituted earlier today by Member of the Assembly Ortiz, Assembly Print Number 10934, an act to amend the Geriatric Mental Health Act.

ACTING PRESIDENT LIBOUS: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1519, substituted earlier today by Member of the Assembly Rivera, Assembly Print Number 10811, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT LIBOUS: Read the last section.

THE SECRETARY: Section 3. This act shall take effect January 1, 2009.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1520, by Senator Morahan, Senate Print 8241, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT LIBOUS: Read

the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1560 --

SENATOR MORAHAN: Lay it aside for the day.

ACTING PRESIDENT LIBOUS: Lay that bill aside for the day.

THE SECRETARY: Calendar Number 1601, by Senator Young, Senate Print 5685A, an act to amend the Tax Law and others.

ACTING PRESIDENT LIBOUS: Read the last section.

THE SECRETARY: Section 7. This act shall take effect on the 180th day.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1632, by Senator Padavan, Senate Print 7728, an act to amend the Education Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LIBOUS: Senator Smith, to explain his vote.

SENATOR SMITH: Yes, Mr. President, I'd just like to explain my vote.

This particular bill that the sponsor has put forward is actually one of a series of bills that the trilevel task force that was organized last year and held hearings around the state has put forth.

A report that they recently put out called "Improving Public Confidence in Law

Enforcement and Our Criminal Justice System," by the trilevel task force, has a series of bills that we believe are law enforcement friendly, that will develop not only a better law enforcement team for the State of New York but also allow the community to have a better relationship with law enforcement.

This bill today will obviously help with retention of police officers. It will also provide incentives for them to do a better job performance. Last week we passed a bill that basically waived tuition payments for one year for anyone that was in a baccalaureate program in the CUNY system. This provides a waiver for two classes for a two-year period of time.

It's a good bill. It sends a good message to the police department within the City of New York. And I give a vote of confidence to the bill but also congratulate the sponsor for coming forward with such a great bill at a great time, as it is one that's in this report that says a lot about the people of the State of New York.

ACTING PRESIDENT LIBOUS: Senator

Malcolm Smith will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 62. Nays, 0.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1645, substituted earlier today by Member of the Assembly Wright, Assembly Print Number 564A, an act to amend the Executive Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LIBOUS: Senator Smith, to explain his vote.

SENATOR SMITH: Thank you, Mr. President.

Again, I rise to support this bill. This is another bill that was in our report on improving public confidence in law

enforcement.

This particular bill deals with diversity. And as you know, the State of New York is extremely diverse in the ethnic backgrounds that are here. And obviously a bill that will allow for better training of individual cultures and backgrounds only does well for how the law enforcement people will be policing the people of this state.

So again, I want to thank my colleagues and thank all those in the trilevel task force who worked so hard over the last year to bring out these series of bills which are being passed today.

Thank you very much, Mr. President.

ACTING PRESIDENT LIBOUS: Senator Smith will be recorded in the affirmative.

Results.

THE SECRETARY: Ayes, 62. Nays, 0.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1695, by Senator Leibell, Senate Print --

SENATOR MORAHAN: Lay it aside

for the day.

ACTING PRESIDENT LIBOUS: Lay that bill aside for the day.

THE SECRETARY: Calendar Number 1729, by Senator Leibell, Senate Print 8312, an act in relation to state aid payments.

SENATOR MORAHAN: Lay it aside for the day.

ACTING PRESIDENT LIBOUS: Lay that bill aside for the day.

THE SECRETARY: Calendar Number 1749, substituted earlier today by Member of the Assembly Millman, Assembly Print Number 10324A, an act to amend the Tax Law.

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

Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The

bill is passed.

THE SECRETARY: Calendar Number 1768, by Senator Seward, Senate Print 8435, an act to amend Chapter 549 of the Laws of 2005.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1831, by Senator Lanza, Senate Print 8020A, an act enacting Michelle and Jordan's Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1851, by Senator Maziarz, Senate Print 8481, an act to amend the Public Service Law.

ACTING PRESIDENT LIBOUS: Read the last section.

THE SECRETARY: Section 7. This act shall take effect on the first of January.

ACTING PRESIDENT LIBOUS: Senator Maziarz rises to explain his vote.

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

This is a very, very important bill that we are passing right now. There is agreement with the Assembly for introducing, approving net metering in the State of New York.

I first of all want to recognize my colleague Senator Owen Johnson. This is actually a series of three different bills, two of which were sponsored by Senator Owen Johnson and one by myself.

This is going to put New York in a great position for investment for green jobs,

green buildings, green energy.

I do want to acknowledge my counterpart in the Assembly who was appointed chairman of the Assembly Energy Committee about the same time that I took over chair here of the Energy Committee, Assemblyman Kevin Cahill, and Assemblyman Steve Englebright. We've worked very diligently, very hard on this particular issue of net metering.

Basically, meters in the State of New York are going to turn both ways. When you are using energy, you get charged. But when you're producing energy that you don't use, you're putting out onto the grid, you're going to get a credit on your electric bill for that.

I do want to acknowledge my ranking member, Senator Kevin Parker.

Senator Smith, Senator Malcolm Smith, I'm here throwing some bouquets at Senator Kevin Parker, and he's not here to hear it, so I wanted you to hear it so that you could tell him that I said it. Okay?

Yesterday, Senator Adams asked me

to meet with a group of high school students from his Senate district from the City of New York, and I showed them this particular book. I don't think this comes down to the prop rule that Senator Schneiderman broke Monday. But this book, put out by the Interstate Renewable Energy Council --

ACTING PRESIDENT LIBOUS: It may not, but you're close, sir.

SENATOR MAZIARZ: -- and the Solar Alliance, rates each state on where they are in net metering, and states that some of us have probably -- you know, are not very familiar with. Hawaii has a C, Indiana a D, Arizona an F. New York, unfortunately, unfortunately, has a D.

By voting for this legislation, by approving this legislation here today -- and the Assembly is going to do it tomorrow, because we're always ahead of them -- by approving this legislation and the Governor signing it, New York is going to go from a D to an A.

Senator Schneiderman didn't do that well in school. He never went from a D to an

A. But we are going to go from a D to an A thanks to the great efforts of Senator Owen Johnson, all of my colleagues on the Senate Energy Committee, and my colleagues in the Assembly.

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

ACTING PRESIDENT LIBOUS: Thank you, Senator Maziarz.

Senator Adams.

SENATOR ADAMS: Mr. President, you know, I too rise. I think that the issue of global warming, the issue of energy consumption, I just want to really commend --

ACTING PRESIDENT LIBOUS: Excuse me, Senator Adams.

Could we have a little order in the chamber, please. The Senator is addressing you on the floor.

Thank you.

SENATOR ADAMS: I want to commend my colleague Senator Maziarz on this bill.

I think when you start to look at the price of gas, when you start to look at the cost of energy, that we must start the

process of attacking this problem from all the different angles, from finding alternative fuel sources to using the whole concept of net metering. And it allows us to start to think about how do we ensure we combat and hit the issues of the global warming head on.

And I think that this is the innovative way that we can do -- oftentimes we look at that whole concept of what can one man do. But clearly the introduction of bills like this show that we can make an impact on how we start the process of turning our country around. And New York City and New York State can be the leader in doing so.

So again, I want to thank those who presented this bill, particularly Senator Maziarz. And I know Senator Parker also has me concerned about dealing with the issues of net metering and dealing with the issues of fuel consumption and what can we do as a state legislature to start the process of leading the nation on finding alternative forms of fuel.

We can no longer allow ourselves to be prisoners by those who are overseas when we

can do some things here in our great state to lead the entire nation.

Thank you.

ACTING PRESIDENT LIBOUS: Thank you, Senator Adams.

Senator Nozzolio.

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

I want to congratulate Senator Maziarz for his leadership in fashioning and constructing this legislation that will move us forward. It's a win-win for the consumers. It's a win for those of us who support the development of alternative energy sources.

It's a win for upstate and the upstate economy, and particularly the portions of the economy that are fighting hard to ensure that alternative sources of energy are fully developed and fully explored.

That that type of development will bring jobs to the upstate economy. It will enhance already businesses waiting for this type of legislation that will enhance our energy development and expand our energy supplies. Expand our energy supplies, I

hasten to add, with the development of alternative energy sources. And we in upstate are ideally poised for this. With net metering, we will see it develop.

So I thank, again, the sponsor, Senator Maziarz, as chair of the Energy Committee. I am very pleased to serve on that committee with him. And that we can expand our energy independence with this legislation.

Thank you, Mr. President.

ACTING PRESIDENT LIBOUS: Senator Nozzolio, I'm assuming you're voting in the affirmative.

SENATOR NOZZOLIO: Yes.

ACTING PRESIDENT LIBOUS: Senator Nozzolio in the affirmative.

Senator Owen Johnson.

SENATOR OWEN JOHNSON: Thank you, Mr. President.

I'd really like to add my congratulations to the chairman of the Energy Committee, the newly coined chairman. And he dug right in. And there were bills that were hanging around for a while on alternative energy, solar, and we didn't get very far

until Senator Maziarz took over the committee.

And the bill that I had, providing solar and biomass generation for commercial operations, has passed with his support. And now his bill, of course, with the wind energy is another plus.

So we really have a good package in this chairman as the one that helped to put it together. I want to congratulate him, I want to thank him for what he's done so far. And we are really on the right track because of his actions.

Thank you very much, George.

ACTING PRESIDENT LIBOUS: Senator Johnson votes in the affirmative.

Any other Senators want to explain their vote?

If not, could we complete the roll and have the results, please.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62. Nays, 0.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number

1870, by Senator Golden, Senate Print 6298A, an act to amend the Executive Law and the Social Services Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1913, substituted earlier today by Member of the Assembly Kavanagh, Assembly Print Number 10343C, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LIBOUS: Senator Connor, to explain his vote.

SENATOR CONNOR: Thank you, Mr. President.

I'm delighted to support this, and I want to congratulate Senator Maltese.

The one thing that this house has always done that I'm very proud of is take the lead on humane legislation, the way we treat our pets. And this bill gives new enforcement powers to police officers and peace officers to intervene when pets, companion animals, are locked in a car by negligent owners -- criminal owners, frankly -- during a hot or cold day, defenseless animals. And it allows for their immediate rescue, and that's a good thing.

And I know in this house Senator Padavan has often taken the lead on humane legislation. And I'm delighted to support this legislation, as I've supported similar legislation in the past.

So I vote aye, Mr. President.

ACTING PRESIDENT LIBOUS: Senator Connor, in the affirmative.

Senator Adams, to explain his vote.

SENATOR ADAMS: I too, Mr. President, rise in support of this legislation.

What was surprising to me that I've learned two weeks ago when we hit several series of 95-plus-degree weather is that although the State Department of Education has a requirement for cold-weather emergencies, we have no specifications for hot weather.

And so just as we look at how we treat animals inside cars, we have to reexamine how we're treating our children inside the classroom. Again, I point to global warming. We're moving into a period where the summers are going to become closer. During the month of June we experienced 95-plus-degree weather days. Normally our children are out of school by the time we reach the months of July and August, so we don't have to deal with the issues of heat. But that is not a reality now.

In some of the schools, particularly in the cafeteria area, the heat goes up to 120 degrees without any

ventilation, without any fans. We have a responsibility of how we treat our animals, and we have a greater responsibility of how we treat our children. We must reexamine how our children are dealt with in those very difficult climates.

Children, like seniors and animals, cannot control their body temperature at the same rate. And I commend this legislation that talks about the heat and animals, but at the same time I think we must go back to the drawing board and reexamine what is taking place in our old, antiquated school systems without air-conditioning units, and our young children are there under similar climates to be locked into makeshift classrooms without any form of air-conditioning, any form of ventilation and any form of relief from any form of heat or heat exhaustion.

So I thank Senator Maltese for this legislation, and I look forward to us dealing with the same aspect of heat and how it impacts our children in the future.

Thank you.

ACTING PRESIDENT LIBOUS: Senator

Adams in the affirmative.

Senator LaValle, to explain his vote.

SENATOR LaVALLE: To explain my vote.

I couldn't agree more with Senator Adams in terms of children and so forth. But I would also say that our animals, our companions, are part of our family and really need to be treated with the same degree of concern and respect.

And so I congratulate Senator Maltese for getting involved in this and speaking on behalf of people who can't speak for themselves.

Thank you, Mr. President.

ACTING PRESIDENT LIBOUS: Senator LaValle in the affirmative.

Results.

THE SECRETARY: Ayes, 62. Nays, 0.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1914, substituted earlier today by Member of

the Assembly Sweeney, Assembly Print Number 6164, an act to amend the Public Service Law and the Public Authorities Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1915, by Senator Hannon, Senate Print 4019A, an act to amend the Public Health Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The

bill is passed.

THE SECRETARY: Calendar Number 1916, by Senator Trunzo, Senate Print 5351A, an act to amend the Public Authorities Law.

ACTING PRESIDENT LIBOUS: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 180th day.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1917, substituted earlier today by Member of the Assembly Hoyt, Assembly Print Number 8059C, an act to amend the County Law and the New York State Urban Development Corporation Act.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1919, by Senator Padavan, Senate Print 5772, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1920, by Senator Lanza, Senate Print 6479A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: The leader has requested the bill be laid aside for the day.

THE SECRETARY: Calendar Number 1921, by Senator DeFrancisco --

SENATOR KLEIN: Lay it aside, please.

ACTING PRESIDENT LIBOUS: Lay this bill aside.

THE SECRETARY: Calendar Number 1922, by Senator Lanza, Senate Print 6745, an act to amend the Public Service Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1923 --

SENATOR MORAHAN: Lay it aside

for the day.

ACTING PRESIDENT LIBOUS: Lay this bill aside for the day.

THE SECRETARY: Calendar Number 1924, substituted earlier today by Member of the Assembly Magee, Assembly Print Number 9862, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1925, by Senator Winner, Senate Print 7062, an act to amend the Executive Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1926, by Senator Stewart-Cousins, Senate Print 7154, an act authorizing the Gate of Heaven Cemetery to transfer land.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1928, substituted earlier today by Member of the Assembly Brook-Krasny, Assembly Print Number 10508, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1929, by Senator Farley, Senate Print 7434, an act to amend the Banking Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1931, substituted earlier today by Member of

the Assembly Farrell, Assembly Print Number 10766, an act to amend the Tax Law and the Administrative Code of the City of New York.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1932, by Senator Maziarz, Senate Print 7664B, an act to amend the Public Service Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The

bill is passed.

THE SECRETARY: Calendar Number 1933, by Senator Young, Senate Print 7682, an act to amend the Highway Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1935, by Senator Winner, Senate Print 7850A, an act to amend the Executive Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1936, by Senator Flanagan, Senate Print 8000A, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61. Nays, 1. Senator Perkins recorded in the negative.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1937, by Senator Fuschillo, Senate Print 8036, an act to amend the Vehicle and Traffic Law and the State Finance Law.

ACTING PRESIDENT LIBOUS: Read the last section.

THE SECRETARY: Section 6. This act shall take effect April 1, 2009.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1939, by Senator Trunzo, Senate Print 8307A, an act to amend the Education Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1940, by Senator Padavan, Senate Print 8317, an act to amend the Private Housing Finance Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1941, substituted earlier today by Member of the Assembly Zebrowski, Assembly Print Number 11095, an act to amend Chapter 581 of the Laws of 2005.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1942, by Senator Griffo, Senate Print 8392, an

act to amend the Highway Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1943, by Senator Farley, Senate Print 8396, an act authorizing the Office of General Services.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1944, by Senator Lanza, Senate Print 8397, an act to amend the Public Authorities Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

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

SENATOR ADAMS: Yeah, I want to thank Senator Lanza for this bill. I introduced a similar bill.

You know, just the thought that when our constituents cross a bridge or a tunnel, the last thing anyone asks is are you a Democrat or a Republican; they have to pay the price. And Senator Lanza and I did a joint press conference where we called on the board to turn in their E-ZPasses.

I think that in order for anybody to understand what the full brunt of having to pay increased tolls, they need to ride the

trains and buses and pay the price. Men and women should not sit in a room and decide the impact on commuters without understanding what is the cost process affected. There's no reason why board members, many of them worth millions of dollars, were having a free E-ZPass to move to and from on our bridges in a free manner.

And I want to commend Senator Lanza for introducing this bill. I think it's important that we have to lead by example, to call on our board members, when you volunteer to be on the board, you do just that. And I will say over and over again, I'm a volunteer Boy Scout. I don't get free cookies for life. So we shouldn't be getting a free E-ZPass for life for whose who volunteer on the board.

Volunteerism is just that; you volunteer, you give back to the great state that permitted you to be a great leader in the first place. And I think that this bill is applicable to today's times, when tolls are increasing, gas prices are increasing, and the average public, the nine-to-five girl or man, is having the requirement to pay these high

costs. And our MTA board should do the same.

I vote in the affirmative.

ACTING PRESIDENT LIBOUS: Senator Adams in the affirmative.

I believe, sir, that the Girl Scouts sell cookies.

(Laughter.)

ACTING PRESIDENT LIBOUS: Results.

THE SECRETARY: Ayes, 62. Nays, 0.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1947, by Senator Flanagan, Senate Print 8485, an act to amend the Public Authorities Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The

bill is passed.

THE SECRETARY: Calendar Number 1948, by Senator Young, Senate Print 8486, an act in relation to adjusting certain state aid payments.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1951, by Senator Saland, Senate Print 8517, an act to amend the General Business Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1952, by Senator Volker, Senate Print 8520, an act to amend Chapter 989 of the Laws of 1958, creating a temporary state commission.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1953, by Senator Skelos, Senate Print 8530, an act to amend the Education Law and the Retirement and Social Security Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

November.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LIBOUS: Senator Skelos, to explain his vote.

SENATOR SKELOS: Thank you, Mr. President.

Currently, state law provides that a person who knowingly makes a false statement, falsifies or permits to be falsified any record or records of the retirement system in any attempt to defraud the system shall be guilty of a misdemeanor.

This legislation goes further by establishing a Class E felony if such person accrues a benefit of $1,000 or more as a result of such actions, and a Class D felony if they receive a benefit of $3,000 or more.

ACTING PRESIDENT LIBOUS: Senator Skelos in the affirmative.

Results.

THE SECRETARY: Ayes, 62. Nays, 0.

ACTING PRESIDENT LIBOUS: The

bill is passed.

THE SECRETARY: Calendar Number 1954, by Senator Saland, Senate Print 8531, an act to amend the Education Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT LIBOUS: The bill is passed.

Senator Morahan, that completes the noncontroversial calendar. What is your wish, sir?

SENATOR MORAHAN: May we please take up the controversial reading of the calendar, please.

ACTING PRESIDENT LIBOUS: Senator Morahan has requested that we now take up the controversial calendar. And if the Secretary will read.

Before the Secretary reads, we must

rings the bells so that members will come to the chamber and be in their seats for votes. Ring the bells, please.

The Secretary will read.

THE SECRETARY: Calendar Number 836, by Senator Volker, Senate Print 4632, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT LIBOUS: Is there an explanation asked for?

SENATOR SCHNEIDERMAN: Nah, I'll do my amendment.

ACTING PRESIDENT LIBOUS: Excuse me. Senator Schneiderman, why do you rise?

SENATOR SCHNEIDERMAN: I believe I have an amendment at the desk.

Mr. President, I would request that the reading be waived and I be allowed to proceed with the amendment.

ACTING PRESIDENT LIBOUS: The reading is waived, and you may be heard on your amendment, sir.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

This is a bill that is brought forward every year to restore the death

penalty in the State of New York. And the issue of the death penalty is obviously one of the most serious issues we face as a Legislature.

My amendment would add to this bill, to Senator Volker's bill, requirements that we make the law as exacting as possible when it comes to ensuring that innocent people are not wrongfully convicted.

And I respectfully suggest that anyone who's thinking about supporting the death penalty has really an ethical obligation to support this amendment as well.

This amendment would do several things. First of all, it would provide comprehensive structure and reform to our state's system of DNA databases.

We all know that DNA evidence is a wonderful tool for convicting the guilty and exonerating the innocent, but in the State of New York it is not effectively used in many, many cases, and in some entire areas of the state, because we do not have comprehensive statewide standards for the preservation and cataloguing of DNA evidence, we do not have a

rule that entitles every defendant to automatically be able to get a test of their DNA with the crime scene DNA.

Think of that, Mr. President. There are crimes -- and we've had instances in which this has taken place -- when a defendant was eventually exonerated, years after conviction, when they finally got a test of their DNA with the crime scene DNA. How many other people may be doing time because they have not been able to get that test?

This amendment would also establish a commission on the integrity of the criminal justice system, an innocence commission, that would study the errors made in wrongful conviction cases and help us improve the system. They would have the authority to look into all of the problems we face.

There have been problems with lineup procedures and wrongful eyewitness identification. There have obviously been problems with, you know, losing DNA or having rogue DNA databases that confuse the process. The commission on the integrity of the criminal justice system would enable us, going

forward, to ensure that every possible safeguard is provided that so that innocent people are not convicted.

And, finally, and this is something that many of us have been discussing already today, this amendment will require the videotaping of custodial interrogations in felonies.

This morning a group of us watched a videotape of the confession of a young man named Frank Esposito in the year 2001, when he was arrested and accused of lighting a fire in a stables in Brooklyn that killed 21 horses.

Mr. Esposito was taken into custody, he was 17 years old, he was told he could call a lawyer. He didn't know a lawyer. He wanted to call his mother, because he'd never been out all night by himself. They would not let him call his mother.

He was interrogated for 18 hours in a room that was posted with the pictures of dead horses and pictures of Mr. Esposito and his family, which the police lied and said reflected an ongoing surveillance of him.

He requested a polygraph

examination, requested a lie detector test. The police proffered a detective as a polygraph expert who was in fact not a polygraph expert, gave him a lie detector test -- which he passed -- and they told him he had failed the lie detector test.

They also told him that his alibi witnesses did not check out, when in fact the alibi witnesses did check out.

And after 18 hours, being told he couldn't call his mother unless he confessed, being told that if he apologized to the camera, things would go easy for him, he confessed.

Now, in that case his parents were able to raise almost $200,000, hire an extraordinary defense lawyer who then ended up doing a lot of his work pro bono, and produce the cellphone records and alibi witnesses to show that the young man was innocent.

That is a situation in which, had we had custodial interrogations videotaped, he would never have had to go through that.

Now, you know, many of you, some of my colleagues from Long Island know well the

case of Martin Tankleff, who was convicted wrongfully of having murdered both of his parents. If you can imagine anything worse than that, a 16-year-old kid was convicted of murdering his parents, DNA evidence eventually demonstrated that he didn't do it, and he's now awaiting the final review of his case.

He was told by the police, to induce his confession, that his father had stayed alive long enough to finger him and that his DNA was found under his mother's fingernails -- both untrue.

So, ladies and gentlemen, there's a real resistance to the notion that innocent people confess to crimes they did not commit. It happens all the time. The only way for us to ensure that every confession is a legitimate is to require the videotaping of custodial interrogations.

This is being done in jurisdictions around the country. And in case after case, while there's resistance to it by law enforcement at the beginning, they end up loving it, because this ensures that no sharp defense lawyer -- no offense to any of my

colleagues intended -- can undermine a legitimate confession, because there's no way to challenge it.

So I'm speaking at length about this issue because the videotape this morning -- and I would offer to my colleagues on the other side of the aisle a viewing of the videotape anytime you want -- is absolutely chilling. We have to prevent innocent people from going to jail. We have to allow a full and fair consideration of all DNA evidence. And we need an innocence commission going forward.

I do not see how in good conscience any of you supporters of the death penalty can vote for a death penalty bill without taking these additional steps, without also agreeing to this amendment, without ensuring that no innocent person is ever put to death by the State of New York.

I hope everyone will vote in support of this amendment, Mr. President.

ACTING PRESIDENT LIBOUS: Thank you, Senator Schneiderman.

Senator Volker.

SENATOR VOLKER: Mr. President, I have to say -- and normally I wouldn't speak -- but what you did was you should take out the death penalty entirely. The death penalty is not in this bill now. And you have inserted, and I understand, for public relations purposes, the language on DNA and on the confession stuff.

Some of what you said, by the way -- and we've checked out some of the assertions by the innocence group. Some of them are flat-out false, by the way. And I don't -- look it, but I will have to say, something is non-germane here. Either my bill is non-germane, or your amendment is non-germane.

Your amendment makes this bill strictly a bill that pertains to the commission on innocence and of course the photographing of all confessions, which is fine. By the way, as we sit here, we've had a couple more loony decisions by judges in this state that are letting more people out.

The one thing we don't have to worry about in this state is -- the ACLU was

in here saying we've got to worry about this partial DNA. Does anybody here truly believe that a judge in this state would accept that? Of course they wouldn't. I mean, the problem we have here is that a lot of the assertions we are making are kind of silly.

But I've got to tell you, anybody who'd vote for this -- you want to vote for it? Go ahead. It has nothing to do with the death penalty. This is a way of voting for all the stuff that DAs are saying would make prosecutions in some cases virtually impossible. Not necessarily because the theories are bad, but he just mentioned about a confession which was publicly made. I mean, a number of the people who the Innocence Project claims were innocent confessed publicly. And then they said, Well, we found some other evidence, so that confession was forced. Oh, yeah, sure. I'm sure that's probably true.

The problem you have is we have no evidence that anyone ever executed in this state was innocent. We also have found out that without even DNA, we found that some

people -- it is true, a handful were found guilty, by juries, who are innocent. Just a handful, by the way.

But my only thought is you go ahead and vote for this, but I've got to tell you, nobody who supports the death penalty should ever vote for this, because you'll be eliminating the death penalty and putting something in which has absolutely no application to anything.

Now, I don't mind -- by the way, we probably are doing -- as Senator Smith knows, your leader, we are doing, I believe, some tests on videotaping. You have to be careful, because remember, this probably is the most defense-conscious state in the nation. So that what the DAs are worried about, that somehow this could be used to find people innocent even if the evidence is clear.

As far as the public integrity stuff and the commission, eventually we'll do it. But I've got to tell you, we're going to make sure that we don't do what the Innocence Project does, is looking for people that are guilty to find them innocent. We want to find

people that are actually innocent. I'm not so sure that the Innocence Project really cares. They want to get people out of jail. But that's not what we should be about in this Legislature.

So I'd just ask my colleagues, you can't vote for this. Because if you do vote for this, you're saying we don't care about the death penalty, period. So I suppose, you know, anybody that's opposed to the death penalty, it's a good public relations move. But it has no application to criminal justice.

ACTING PRESIDENT LIBOUS: On the amendment, those Senators in agreement please signify by raising their hands.

THE SECRETARY: Those recorded in agreement are Senators Adams, Breslin, Connor, Diaz, Dilan, Duane, Hassell-Thompson, L. Krueger, Montgomery, Onorato, Oppenheimer, Perkins, Sabini, Savino, Schneiderman, Serrano, Smith, Stewart-Cousins and Thompson.

ACTING PRESIDENT LIBOUS: This amendment is not agreed to.

On the bill.

Senator Volker, do you wish to

speak on the bill?

SENATOR VOLKER: Yes.

ACTING PRESIDENT LIBOUS: Senator Volker to speak on the bill.

SENATOR VOLKER: And very honestly, I wouldn't have spoken on the amendment, except that it was not done quite the way it probably should have been done.

But, you know, it literally did take the whole death penalty piece out of it and made it a non-death penalty bill. I know that wasn't the intention, but I thought I should point that out.

But what you did if you voted for it, you just voted for the Innocence Project and all the rest of the stuff, you didn't vote for the death penalty.

I can only say this bill, essentially the same bill, passed 38 to 24.

You know, I have gotten a lot of mail from anti-death penalty people telling me that every study has shown the death penalty not to be a deterrent, which is a bald-faced lie. In fact, there was just one here by some of your favorite people -- and these,

surprisingly, were collegiate people. That is, they were law school people. There are some law schools that are not as crazy as NYU and some of the other places in this state, who, you know --

(Boos.)

SENATOR VOLKER: Let me -- let me tell you why I say that.

ACTING PRESIDENT LIBOUS: Can we have a little order in the chamber, please Senator Volker has the floor. Please keep your personal comments to yourself.

Senator Volker.

SENATOR VOLKER: When the Brennan Commission came out, which of course was -- we all upstate consider the Brennan Commission to be basically an attack on upstaters more than anything. But a professor from NYU, a very bright guy, wrote me a letter, Frank Padavan and I, and said he believed in the death penalty, but not for killers, because most of those people are really not bad people. He thought we ought to have the death penalty for big businesspeople who cheat people. And he was serious.

And I said -- I wrote him a letter and said, Sir, I think you maybe ought to check a little bit. And then he told me about all the times he'd been in prison.

You know, ladies and gentlemen, the biggest problem I have with what's happened in this state is that we have had judges that have overruled the Legislature on all sorts of things. And what we have here is a classic example. A lot of attorneys who oppose the death penalty told me that the jury nullification decision by the Court of Appeals was outrageous. And it was outrageous. I mean, their reasoning was completely crazy.

Just remember something. This state has been extremely cautious in dealing with the death penalty over the years. The problem we have is since the death penalty was overruled -- it was not declared unconstitutional, by the way, as some people say. That's not what happened. If it had been, we might have been able to go to the federal courts and overrule our Court of Appeals. It's possible.

A lot of police officers have died,

I mean a lot, in a short period of time. My conscience would not be clear if I didn't at least make an attempt to restore the death penalty.

There have been lots of studies that show the death penalty deters. Of course it does. I mean, the issue is that you overrule it with other issues. And the media is in a period when it's willing to listen to those who say, well, you know, things are going pretty good in criminal justice because fewer people have been getting killed across the country. Of course they ignore the fact that there's death penalties in a lot of states.

And they say, well, but in Europe, you don't have a death penalty. That's right, but something that people don't realize, the murder rate in Europe has been rising dramatically. Of course, this is the wealthiest country in the world, and what we do here is different than a lot of other places.

I can only say this -- and I realize that the Assembly is now safely

ensconced in a problem involving a lot of criminal justice stuff, and one of these is the death penalty. It will be restored, it's just a matter of time. We now believe that we probably have the votes in the Court of Appeals.

Although I'm the first to admit to you, we just had a judge that told us, ordered us to pay the judges, and a local newspaper believed you can do that, which is ridiculous. No judge can order this Legislature to pay them. In fact, I mean, when you think of it, it's insane. If people could just order this Legislature to do things -- we're elected by the people.

And my only response to what's been said here about innocence and all that, I realize this is a political year and I realize that there is a lot of animosity toward law enforcement right now. But I warn everybody here, the death penalty will be restored, it's just a matter of time. Because the people of this state will move to do it, and this house has always supported reasonable law enforcement. And we will continue to do that.

This bill does not change a thing in the law except to fix the Court of Appeals' what I call ridiculousness in saying, well, we think the jury might have been influenced by the way in which the bill was drafted. This fixes that.

I was the one, by the way, that put that provision in there, because I personally thought that provision was more favorable to people that were killers. Only by that I meant that it would influence people to do the right thing. Because whether people realize it or not, I was very worried about innocence, anybody being innocent.

We in this state have the most extensive defense mechanism in the United States of America. People from across the country said if we had to have a death penalty bill, the one you did should be the one. We had a -- and the DAs kind of complained, because of course you know, we had a Capital Defender's Office, which we'll have to restore someday because we will restore the death penalty.

But I can only say if you vote for

this bill, you vote for sanity in the criminal justice system. Yeah, you're going to be voting against some media people. But I represent the people of my district and of the State of New York, and I'm going to vote for the death penalty because I think it's the right thing to do.

ACTING PRESIDENT LIBOUS: Senator Krueger, do you want to speak on the bill?

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

Well, we've dealt with this bill before. And we're dealing with it again. And with all due respect to Senator Volker and the speech he just made, it's not just a bunch of people at NYU Law School, it's law schools around the country, it's judges around the country, it's district attorneys around the country.

Here in this state the Innocence Project report from six months ago, "Lessons Not Learned," when you look at the people who reviewed the evidence to document 23 people exonerated, I see on that list district attorneys and judges who I actually know were

pro the death penalty at some point in their history.

The research is clear. The death penalty is not a law we need in New York State. It is not a law that deters violent crime. It is not a law that can be assured of a guarantee that no innocent person might be put to death. And in fact, the data from around the country documents that in fact innocent people have been put to death under the death penalty.

We don't need this law in New York State. We should not be revisiting passing this law. The documentation is detailed, it is complete, it is scientific. We've spent over $200 million in the State of New York during the period that we had a death penalty not putting people to death, but not being spent to improve our criminal justice system to protect people, not being put into effect to try to decrease the reasons that we have violent criminals and people who are victims of such.

We have spent years and years, perhaps not on the floor of the Senate, but in

public hearings more often done by Assembly to listen to people come and document the evidence against the death penalty, the unfairness of the death penalty, the fact that we don't have a criminal justice system that can guarantee that we don't make mistakes and that we don't make mistakes sometimes biased against people who might have a darker color skin or a lower socioeconomic base, because that's also the data that is so disturbing from around the country about the unequal justice system we still have in this country and in New York State.

But I suppose most importantly, I would argue, the reason we don't need to move again down the road of a wrongheaded death penalty law in New York State is we can protect people without it. We have life in prison without parole for people who we do not believe can ever be rehabilitated or have any justification of being let out of our prison system. We have an alternative. It is safer, it is stronger, it is cheaper, it is more morally appropriate, it is constitutional.

We have the laws in place we need.

We do not need to revisit the death penalty. I urge all of my colleagues (A) do some homework on the facts and (B) vote no on this bill.

Thank you, Mr. President.

ACTING PRESIDENT LIBOUS: Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President.

I rise up to express my opposition to the death penalty. Mr. President, there are many reasons why I should oppose the death penalty. Many reasons. I'm black, I'm Puerto Rican, with the kinky hair and broken English. So there are plenty of reasons why I should oppose the death penalty.

One reason, those who murder whites are more than twice as likely to face the death penalty as those who murder blacks. That's a good reason why to oppose the death penalty. But that's not why I'm opposing the death penalty. That's not why.

Of the 500 defendants indicted for first-degree murder since 1995, almost 60 percent were black, 20 percent Hispanic.

So blacks and Hispanics are more easy to get indicted than whites. But that is not why I am opposing the death penalty.

Of the 58 defendants where prosecutors filed a death notice, 47 percent were black and 42 percent were white. But that's not why I am opposing the death penalty, Mr. President.

Of the 62 counties in New York, six of the 62 counties in New York account for 56 percent of all the death-noticed cases in the state. And those counties are upstate. But that is not why I'm opposing the death penalty.

Some of you here stand up to oppose the death penalty for these reasons and many others.

And I can understand why someone would like to impose the death penalty to an adult that go and buys a gun, puts six bullets in it, and decides that he or she will go into a bodega and kill a bodeguero for his or her money. I could understand why you would like to impose the death penalty.

I could understand why people would

like to impose a death penalty for a person who buys a gun, loads it with six or eight bullets, gets into a taxi and kills that taxi driver to take his money, leaving a family, a widow and a family, children without a father.

I can understand why you would like to impose a death penalty. You might have valid reasons. I can understand why someone would like to impose the death penalty on a person that goes and assaults a senior citizen, like that young guy the other day that took that teacher in Brooklyn and punched them to take the money. And some people that kill a senior citizen, I could understand why you want to give that person the death penalty.

But I'm against the death penalty. What I don't understand, what I don't understand is why some of you would like to defend the indefensible -- like a person that goes into a bodega and kills a bodeguero, knowingly, a person that goes into a taxi driver and kills the tax driver knowingly, a person that kills a senior citizen or any other citizen, knowingly, why you would like

to defend that person and you are not defending the unborn, the innocent, the people -- the one that doesn't even know anything.

They have not committed any crime. They have not committed any crime. The only crime that they have committed was an adult, a person, a woman and a man decided to get into a sexual relationship, and she got pregnant. She knew what she was doing. But now you want to kill that baby, that unborn -- you want to kill that baby. You want to kill that innocent.

But you want to defend the one that kills the bodeguero, and you want to defend the one that knowingly goes into a senior citizen's home or into a taxi driver's cab and kills that person, knowingly, to take his or her money.

Why? I don't understand that. I don't understand why you want to defend the killers and kill the innocents. That's why I'm opposing the death penalty, because I believe that life is sacred, in all stages, since conception to the end. God gave life,

God should take it away. Thou shalt not kill, the Bible says.

So we should respect life. The same way that you are defending the killers of the bodegueros or the senior citizens or the taxi drivers, the same way you defend the killers of an innocent state citizen, defend also the innocents, the unborn, the one that have no knowledge, the one that have no -- the one that has not committed any crime.

So, ladies and gentlemen, no, I cannot, Mr. President, I cannot vote for the death penalty. Not because a person that goes into a bodega with a gun and kills a bodeguero don't deserve the death penalty. I believe maybe, maybe, maybe there is a reason, there is some reason there to give that person the death penalty. But I don't support that, because I believe that life is sacred, in all stages.

I defend the unborn. I protect the unborn. I believe that if a woman and a man goes and have a good time and she gets pregnant, too bad, baby. Take care of that baby. Don't kill it.

But to defend -- again, I'm going to repeat myself -- to defend criminals -- and I'm going to say that again -- to defend the criminal's life and to kill the innocents makes no sense at all. I'm voting no for those reasons, because life is sacred.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Thank you, Senator Diaz.

Is there any other Senator wishing to be heard?

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Mr. President, on the bill very briefly.

This is a tremendously serious matter, and I would like to urge all of my colleagues that, as has been said quite a few times in the last few days in this chamber, we're all entitled to our own opinions, we're not entitled to our own facts.

There is no scientific evidence, there are no peer-reviewed studies that have not been completely rebutted that demonstrate that states with the death penalty or nations with the death penalty have lower crime than

anywhere else. It doesn't work.

And as my colleagues have pointed out, the worst criminals do not go to death row. The determinants of whether or not you end up on the death row are the race of the victim, the race of the defendant, and the wealth and education of the defendant. This we know to be true.

Ladies and gentlemen, I do not see how, after we've discussed today and what you all know to be true about innocent people being convicted in the State of New York under our current system, you can implement the ultimate sanction without taking every step to ensure that that never takes place in the future. I vote no, and I urge everyone to vote no.

ACTING PRESIDENT ROBACH: Debate is closed.

SENATOR CONNOR: Mr. President.

ACTING PRESIDENT ROBACH: Marty, you're a little late, but go ahead.

SENATOR CONNOR: I was standing, Mr. President.

ACTING PRESIDENT ROBACH: Sorry.

SENATOR CONNOR: Thank you, Mr. President.

I've certainly debated this death penalty many times before. My position remains what it's always been.

And I've heard debate on this floor many times over the death penalty. People have statistics that say, oh, it will deter crime, it will save lives. People have statistics that say no, it doesn't deter crime, it doesn't affect murder rates. Other people will say, well, but it's a fundamental form of justice, an eye for an eye. And others say no, that's not how we should do our penalties.

For me, Mr. President, certain things in my mind are indisputable. That is, very, very wealthy people do not have the death penalty inflicted upon them. They hire teams of top lawyers and investigators, and they generally escape that penalty. It goes back to one of the -- probably one of the most brutal, calculating murders in U.S. history, Leopold and Loeb. They didn't get the chair. They didn't get the chair. Sacco and Vanzetti

got the chair. The poor, working-class people got the chair.

I once had a chance to look at a book that examined the death row log in New York State. And if you go back to the late part of the nineteenth century, most of the people executed had Irish names. And then there were Italian names. And then you started seeing Latino and names that appeared to be those of African-Americans.

What does that tell us? That one group or the other is more prone to crime? No. It tells you who was on the bottom of society at that period of time and for those decades. They got the chair. They weren't the only ones who committed the murders, but they got the chair.

The death penalty has never, ever -- as much as we've tried, as much as people build things into law about comparability and so on, the death penalty has simply never been evenly applied. Because frankly, Mr. President, in our criminal justice system, probably the best the world has come up with, there's still a flaw. It's

a human system, created by humans, administered by humans, and it will make mistakes.

And the problem with the death penalty is you can't go back and say let's do it over. You can't let somebody out after you've executed them. When in fact we know that many people, and as DNA evidence now makes it conclusive in many cases, many people who are innocent are convicted in our system, based on all sorts of circumstantial evidence.

The fact of the matter is fundamentally, with our current technology and ability to secure the penal system, we don't need a death penalty to protect people, we can incarcerate people for life without parole, we can do it effectively, we can do it as safely as possible. And therefore we ought not use this final, irreversible penalty because of what its use says about us, that we will deliberately take a life, albeit a life not well-lived, albeit someone who has committed heinous crimes.

We, the State of New York and its agents, should not be inflicting the death

penalty. It is a penalty that's unworthy of a civilized society, as most advanced nations in the world have recognized.

It's time for us to stop this political dance about let's have the death penalty. It's lost its political bite. I said on this floor many, many years ago, when the death penalty was enormously popular and the polls showed everybody wanted it, I quoted someone, talking to a clergyman about the death penalty.

He said: "Well, you know, vox populi, vox dei." The voice of the people is the voice of God. They want the death penalty. And I said, "Does God change his mind every twenty years or so?" Because the public does.

The public now recognizes it just -- I'm out there, no one in my district comes up to me anymore and says, "What about the death penalty? It hasn't been used. Are you going to restore it?" No one asks the question. People have different concerns.

Crime is down. No one in this state has been executed since 1965. Crime is

down. If that doesn't prove anything, it proves we can deal with crime and reduce crime without using the death penalty.

Mr. President, I'm against the death penalty. I urge my colleagues to oppose it. There is no reason we need this penalty. There is no reason it's fitting and appropriate, and it certainly is not worthy of our civilization.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Thank you, Senator Connor.

Senator Volker.

SENATOR VOLKER: Yeah, I'm going to speak very quickly.

You know, Marty, I always kind of resent -- by the way, I'm Irish too. And I know why Irish men were executed, so many, because the Irish neighborhoods were very, very tough places in those days. The Italian neighborhoods later. You know, some of the -- a lot of the killings were multiple killings.

And when you mentioned the fact that life without parole has worked so well, there's the case of Lemuel Smith, who murdered

a woman in prison. He was a wonderful guy. We know he killed five people, we suspected he killed as many as 10 people. I won't get into details about his murders on the streets of Schenectady, but they were brutal.

Now, Lemuel Smith was an African-American. But I want to tell you something about this country. Most of the people executed in this country since the death penalty was restored are Caucasian. Now, a lot of people believe that's the sensitivity toward African-Americans. It may be. In fact, there was a lawsuit saying too many Caucasians were being executed.

You know, this is the United States of America. I know a lot of people don't like juries anymore. But do remember one thing about the difference between Europe and the United States. In Europe, governments execute people. Governments. That's why the pope was opposed, and he was right. Communists, socialists, Nazis, they used it as a political tool. In this country, we don't do that. We use juries.

And I understand that we have heard

a lot of nonsense about the death penalty and "every reputable study." Every reputable study done by anti-death penalty people. The ones done by non-anti-death penalty, the ones done by people who are neither side, have all shown a deterrent. But you don't hear about that, because the media doesn't even report that.

You could say all you want. Why is our murder rate down, why is our violence down? Because we have the death penalty. When we restored the death penalty, all of a sudden the murder rate started to plunge. And not only the murder rate, but the violent crime rate. Now, by the way, what you haven't heard is it's beginning to rise again. It's beginning to rise.

We are the only state in the union that has had a declining violent crime rate, a declining crime rate in general, and a declining inmate population. Well, unfortunately, that's changing. The inmate population is beginning to go up, although it's mostly because we're bringing back so many parole violators. But still, the inmate

population is starting to rise again. And the murder rate, especially in New York City, is beginning to rise. There's no question. And so is the violent crime rate.

I'll tell you, you could say the people -- yeah, the people have been told by many in the media that we don't need the death penalty and after all, there's all these innocent people. We're having trouble finding all these innocent people, but that's neither here nor there.

Yes, I know. I'm being told, by the way, that somebody doesn't want me to speak anymore, and I understand it. But I have to say to you, and I'm going to finish very quickly, I'll admit that this is a very emotional issue for me. Primarily because I know there are people who are dead today because we don't have a death penalty. I know they're dead because they would have been executed, and they killed people afterwards.

I also know murderers who got away with it. And that's hard for me. A lot of them. They weren't even arrested. And you're right about that, in this state, most

criminals don't even get arrested. And that's sad.

But I have to tell you, I don't agree with all this stuff about civilization. If civilization is allowing murders in the streets, and rapes, then I guess I missed something. I can only say I realize that -- people say: Oh, you're tough, you're hard-nosed. I am when it comes to killing and when it comes to extinguishing life.

So all can I say is I realize you're going to vote against it. I know the politics of it. But I can only say someday you'll regret it, I'll guarantee you.

ACTING PRESIDENT ROBACH: 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 5. 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 836 are Senators Adams, Aubertine, Breslin, Connor, Diaz, Dilan, Duane, Hassell-Thompson, L. Krueger, Montgomery, Oppenheimer, Perkins, Sabini, Savino, Schneiderman, Serrano, Smith, Stavisky, Stewart-Cousins, Thompson and Valesky.

Absent from voting: Senators Gonzalez, C. Kruger, Huntley, Parker and Sampson.

Ayes, 36. Nays, 21.

ACTING PRESIDENT ROBACH: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Thank you, Mr. President.

With the agreement of the Minority, can we return to the noncontroversial reading of the calendar and take up Calendar Number 1921.

ACTING PRESIDENT ROBACH: The Secretary will read Calendar Number 1921, noncontroversial.

THE SECRETARY: Calendar Number 1921, by Senator DeFrancisco, Senate Print 6660A, an act to amend the Public Officers 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, 62.

ACTING PRESIDENT ROBACH: The bill is passed.

That completes the calendar, Senator Morahan.

SENATOR MORAHAN: Yes, Mr. President.

There's going to be an immediate meeting of the Rules Committee in the Majority Conference Room, and we'll stand at ease in the interim.

ACTING PRESIDENT ROBACH: Immediate meeting of Rules Committee in the Majority Conference Room.

The Senate will stand at ease temporarily.

(Whereupon, the Senate stood at ease at 4:24 p.m.)

(Whereupon, the Senate reconvened at 4:36 p.m.)

ACTING PRESIDENT ROBACH: The Senate will come to order.

Senator Skelos.

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

ACTING PRESIDENT ROBACH: Reports of standing committees.

The Secretary will read.

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

Senate Print 1585A, by Senator Libous, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law;

2074, by Senator Padavan, an act to amend the Education Law;

2970C, by Senator Fuschillo, an act

to amend the General Business Law;

3060, by Senator Golden, an act to amend the Elder Law;

3236, by Senator Winner, an act to amend the State Finance Law;

3972A, by Senator O. Johnson, an act to amend the State Finance Law and the General Municipal Law;

4675A, by Senator Hannon, an act to amend the Insurance Law;

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

5786, by Senator Hannon, an act to amend the Public Health Law;

6242B, by Senator Alesi, an act authorizing;

6888, by Senator Breslin, an act to amend Chapter 405 of the Laws of 2005;

6995, by Senator Libous, an act to provide;

7163, by Senator Golden, an act to amend the Tax Law;

7264A, by Senator Nozzolio, an act to amend the Education Law;

7585C, by Senator DeFrancisco, an

act to amend the Elder Law and the Public Health Law;

7746, by Senator Klein, an act to amend Chapter 619 of the Laws of 2006;

7749A, by Senator Hannon, an act to amend the Public Health Law;

7775, by Senator Leibell, an act to amend the Public Health Law;

7870, by Senator Libous, an act to amend the Vehicle and Traffic Law;

7918, by Senator Bonacic, an act to amend the Executive Law;

8035, by Senator Flanagan, an act to amend the Executive Law and the Social Services Law;

8062, by Senator Young, an act to amend the Tax Law;

8123, by Senator Farley, an act to amend Chapter 148 of the Laws of 2001;

8152, by the Senate Committee on Rules, an act to amend the Tax Law;

8162, by the Senate Committee on Rules, an act to amend the County Law;

8181, by Senator Padavan, an act to amend Chapter 890 of the Laws of 1982;

8277, by Senator Nozzolio, an act to amend the Education Law;

8313A, by Senator Rath, an act to authorize;

8345, by Senator Volker, an act in relation to establishing;

8365A, by Senator Bruno, an act authorizing the City of Rensselaer;

8415, by Senator O. Johnson, an act to amend the Public Service Law;

And Senate Print 8519, by Senator Saland, an act to amend the General Municipal Law and the Education Law.

All bills ordered direct to third reading.

ACTING PRESIDENT ROBACH: Senator Griffo.

SENATOR GRIFFO: I would like to make a motion to accept the Committee on Rules report.

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

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Those

opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: The report is accepted.

Senator Griffo.

SENATOR GRIFFO: Mr. President, can we return to motions and resolutions, please.

ACTING PRESIDENT ROBACH: Motions and resolutions.

Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. President.

On behalf of Senator Golden, on Supplemental Calendar 61A I now offer the following amendments to Calendar Number 1960, Senate Print Number 3060, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR BONACIC: Thank you, Mr. President.

On behalf of Senator Rath, on

Supplemental 61A, I offer the following amendments to Calendar Number 1985, Print Number 8313A, and ask that said bill will retain its place on the Third Reading Calendar.

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

SENATOR BONACIC: On behalf of my good friend Senator Lanza, Mr. President, on page number 21 I offer the following amendments to Calendar Number 626, Senate Print Number 7024, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR BONACIC: And last but not least, on behalf of Senator Volker, Mr. President, on page number 37 I offer the following amendments to Calendar Number 1142, Senate Print Number 4029C, and ask that that bill retain its place on the Third Reading Calendar.

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

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

ACTING PRESIDENT ROBACH: Thank you, Senator Bonacic.

Senator Griffo.

SENATOR GRIFFO: Mr. President, may we now take up the noncontroversial reading of Calendar 61A.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Calendar Number 1958, by Senator Padavan, Senate Print 2074, 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, 62.

ACTING PRESIDENT ROBACH: The

bill is passed.

THE SECRETARY: Calendar Number 1959, by Senator Fuschillo, Senate Print 2970C, an act to amend the General Business Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1961, Senator Winner moves to discharge, from the Committee on Finance, Assembly Bill Number 4683 and substitute it for the identical Senate Bill Number 3236, Third Reading Calendar 1961.

ACTING PRESIDENT ROBACH: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

1961, by Member of the Assembly Koon, Assembly Print Number 4683, an act to amend the State 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, 62.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1962, Senator O. Johnson moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 361B and substitute it for the identical Senate Bill Number 3972A, Third Reading Calendar 1962.

ACTING PRESIDENT ROBACH: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1962, by Member of the Assembly Destito,

Assembly Print Number 361B, an act to amend the State Finance Law and the General Municipal 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, 62.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1963, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 10884A and substitute it for the identical Senate Bill Number 4675A, Third Reading Calendar 1963.

ACTING PRESIDENT ROBACH: Substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1963, by Member of the Assembly Morelle, Assembly Print Number 10884A, an act to amend

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, 62.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1964, by Senator Saland, Senate Print 5671, 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, 62.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number

1965, by Senator Hannon, Senate Print 5786, 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, 62.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1966, Senator Alesi moves to discharge, from the Committee on Local Government, Assembly Bill Number 9166B and substitute it for the identical Senate Bill Number 6242B, Third Reading Calendar 1966.

ACTING PRESIDENT ROBACH: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number --

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

ACTING PRESIDENT ROBACH: Lay it aside for the day.

THE SECRETARY: In relation to Calendar Number 1967, Senator Breslin moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 9899 and substitute it for the identical Senate Bill Number 6888, Third Reading Calendar 1967.

ACTING PRESIDENT ROBACH: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1967, by Member of the Assembly Canestrari, Assembly Print Number 9899, an act to amend Chapter 405 of the Laws of 2005 amending the Tax Law.

ACTING PRESIDENT ROBACH: A home-rule message is 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, 62.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1968, by Senator Libous, Senate Print 6995, an act to provide that the period of probable usefulness of the construction of an addition.

ACTING PRESIDENT ROBACH: A home-rule message is 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, 62.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1969, by Senator Golden --

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT ROBACH: The bill is laid aside.

THE SECRETARY: Calendar Number

1970, by Senator Nozzolio, Senate Print 7264A, 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, 2009.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1973, Senator Klein moves to discharge, from the Committee on Rules, Assembly Bill Number 10519 and substitute it for the identical Senate Bill Number 7746, Third Reading Calendar 1973.

ACTING PRESIDENT ROBACH: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1973, by Member of the Assembly Paulin, Assembly Print Number 10519, an act to amend Chapter 619 of the Laws of 2006, amending the

Vehicle and Traffic Law.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1974, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 6811B and substitute it for the identical Senate Bill Number 7749A, Third Reading Calendar 1974.

ACTING PRESIDENT ROBACH: Substitution ordered.

SENATOR GRIFFO: Lay it aside for the day.

ACTING PRESIDENT ROBACH: Lay it aside for the day.

THE SECRETARY: In relation to Calendar Number 1975, Senator Leibell moves to

discharge, from the Committee on Rules, Assembly Bill Number 10970 and substitute it for the identical Senate Bill Number 7775, Third Reading Calendar 1975.

ACTING PRESIDENT ROBACH: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1975, by Member of the Assembly Eddington, Assembly Print Number 10970, 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, 62.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1976, by Senator Libous, Senate Print 7870, 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, 62.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1977, by Senator Bonacic, Senate Print 7918, an act to amend the Executive Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1978, Senator Flanagan moves to discharge, from the Committee on Codes, Assembly Bill Number 4988 and substitute it

for the identical Senate Bill Number 8035, Third Reading Calendar 1978.

ACTING PRESIDENT ROBACH: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1978, by Member of the Assembly Eddington, Assembly Print Number 4988, an act to amend the Executive Law and the Social Services Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1979, by Senator Young, Senate Print 8062, an act to amend the Tax 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, 62.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1980, by Senator Farley, Senate Print 8123, an act to amend Chapter 148 of the Laws of 2001, relating to authorizing the City of Gloversville and the Town of Johnstown.

ACTING PRESIDENT ROBACH: A home-rule message is 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, 62.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1981, Senator Bruno moves to

discharge, from the Committee on Rules, Assembly Bill Number 11497 and substitute it for the identical Senate Bill Number 8152, Third Reading Calendar 1981.

ACTING PRESIDENT ROBACH: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1981, by the Assembly Committee on Rules, Assembly Print Number 11497, an act to amend the Tax Law and the Administrative Code of the City 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, 62.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1982, Senator Bruno moves to discharge, from the Committee on Rules,

Assembly Bill Number 10954 and substitute it for the identical Senate Bill Number 8162, Third Reading Calendar 1982.

ACTING PRESIDENT ROBACH: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1982, by Member of the Assembly Miller, Assembly Print Number 10954, an act to amend the County Law.

ACTING PRESIDENT ROBACH: A home-rule message is 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, 62.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1983, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 10741 and substitute it

for the identical Senate Bill Number 8181, Third Reading Calendar 1983.

ACTING PRESIDENT ROBACH: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1983, by Member of the Assembly Silver, Assembly Print Number 10741, an act to amend Chapter 890 of the Laws of 1982, relating to the establishment.

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, 62.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1984, by Senator Nozzolio, Senate Print 8277, 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, 62.

ACTING PRESIDENT ROBACH: The bill is passed.

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President. I regret to rise in the latter part of that roll call, but I wish to explain my vote. Thank you very much.

Mr. President and my colleagues, we are just enacting a very important piece of legislation that allows those young men and women who have answered the call, who have volunteered their services to serve our nation in the armed forces, allows them, who are engaged during the period between their junior and senior year in extensive basic training for the armed forces, returning to their high school in their senior year, this legislation allows them to participate in fall athletics.

And this applies both to young men

and young women who are engaged in serving their country. And at the same time, this opportunity allows them to enjoy a period in their senior year to participate in football and soccer and other fall sports.

The law now forbids that participation unless they have a certain number of practices, even though they're going through a very intense basic training with intense physical exercise.

In this day and age, when it's harder and harder to recruit young men and women into our armed forces, this measure will certainly help in that endeavor and allow them to enjoy a very significant part of their education in their senior year in high school.

Thank you, Mr. President. I vote aye, and I appreciate very much the support of my colleagues to close this loophole.

ACTING PRESIDENT ROBACH: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number Calendar Number 1986, by Senator Volker, Senate Print 8345, an act in relation to

establishing.

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

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, 62.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1988, by Senator O. Johnson, Senate Print 8415, an act to amend the Public Service Law.

ACTING PRESIDENT ROBACH: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2008.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1989, by Senator Saland, Senate Print 8519, an act to amend the General Municipal Law and the Education Law.

ACTING PRESIDENT ROBACH: Read the last section.

THE SECRETARY: Section 28. This act shall take effect immediately.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ROBACH: The bill is passed.

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

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

However, I would ask you that the bill that is on that calendar, Calendar Number 1969, by Senator Golden, if we could just lay that aside for the day.

ACTING PRESIDENT ROBACH:

Calendar Number 1969 is laid aside for the day.

Senator Griffo.

SENATOR GRIFFO: If we can return to motions and resolutions.

ACTING PRESIDENT ROBACH: Motions and resolutions.

Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. President.

On behalf of myself, on page number 65 I offer the following amendments to Calendar Number 930, Print Number 7363, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR BONACIC: Thank you, Mr. President.

Again, on behalf of myself, on page number 65 I offer the following amendments to Calendar Number 929, Senate Print Number 7359, and ask that that bill retain its place on the

Third Reading Calendar.

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

And thank you for that self-promotion.

SENATOR BONACIC: Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Senator Griffo.

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

And I would ask that you recognize Senator Connor.

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

The chair recognizes Senator Connor.

SENATOR CONNOR: Thank you, Mr. President. If I may make a statement under Rule 9, Section 4(b).

Mr. President, I want to call my

colleagues' attention to an issue that's very, very important to my constituents and many constituents in New York City.

Just this year, $8.24 billion was sent by the state, by this Legislature passing the budget, to New York City's school system. That represents $643 million in additional dollars over last year, and last year we gave them another half-billion dollars in additional money.

Yet we hear in the City of New York the mayor is cutting budgets in schools, cutting them severely. There's no excuse for this, Mr. President. There's no excuse in view of the money we send. And he's saying it's our fault, the state's fault.

What's the impact of this? In my district in Lower Manhattan, the schools are bursting at the seams. After 9/11 I testified before a committee considering the rebuilding of Lower Manhattan. The mayor said the future of Lower Manhattan is residential. I testified if you're going to do that, where are the schools, parks, playgrounds and libraries?

The school in TriBeCa, for Lower Manhattan, is at 160 percent capacity. It's one of the best elementary schools in Manhattan, it's considered that. Yet condos are going up, under the city's overdevelopment policies. Real estate people are saying come here, we have the best school. They don't tell people there's no room in the school for your child.

Just this year the Assemblymember there, Speaker Silver, and I were able to get a new school under construction on the West Side of Lower Manhattan and a new school in Battery Park City, the first all-green school. We'll add 1100 seats.

Yet that's not enough. Projections show the population booming down there. Parents are upset, they can't get their children into kindergarten. The mayor announced recently the highest birth rate in America is in TriBeCa. Yet the Department of Education, under the mayor, has failed abysmally to plan for this, to plan for something the administration brought about.

In my district in Carroll Gardens,

in downtown Brooklyn -- rezoned, condos going up everywhere -- people are calling me and saying "I can't get my child into kindergarten. The schools are full."

On the Lower East Side, parents come to me and say: "Nobody listens at the Department of Education, under mayoral control. No one is listening. They move our children around, they give our school buildings to charter schools, we have nowhere for our children to go."

Mr. President, this has got to stop. Why, why, why, when we send all this? We appropriated two years ago over $11 billion in a school construction program. Why haven't they built the schools? Don't they have demographers? When they called a turning neighborhood residential seven and eight years ago, don't they know they need schools now, now?

They can't wait, Mr. President. Next year when we revisit mayoral control, I'll have a lot to say about that. This Department of Education has failed our parents, failed our children, and failed our

city miserably.

ACTING PRESIDENT BONACIC: Thank you, Senator Connor, for your remarks.

Senator Griffo.

SENATOR GRIFFO: Mr. President, the Senate stands at ease pending the report of the Rules Committee.

ACTING PRESIDENT BONACIC: The Senate will stand at ease until the Rules Committee reports.

(Whereupon, the Senate stood at ease at 5:02 p.m.)

(Whereupon, the Senate reconvened at 5:25 p.m.)

ACTING PRESIDENT BONACIC: The Senate will come to order, please.

Senator Griffo.

SENATOR GRIFFO: Mr. President, can we return to motions and resolutions and recognize Senator Little.

ACTING PRESIDENT BONACIC: Motions and resolutions.

Senator Little.

SENATOR LITTLE: Thank you.

Mr. President, on page number 58 I

offer the following amendments to my bill, Calendar Number 1819, Senate Print Number 7915A, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR LITTLE: Thank you.

Mr. President, I wish to call up Calendar Number 1966, on behalf of Senator Alesi, Assembly Print Number 9166B.

ACTING PRESIDENT BONACIC: The Secretary will read.

THE SECRETARY: Calendar Number 1966, by Member of the Assembly John, Assembly Print Number 9166B, an act to authorizing the Town of Riga.

SENATOR LITTLE: I now move to reconsider the vote by which this Assembly bill was substituted for my bill, Senate Print Number 6242B, on June 18th.

ACTING PRESIDENT BONACIC: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

SENATOR LITTLE: I now move that Assembly Bill Number 9166B be committed to the Committee on Rules and my Senate bill be restored to the order of the Third Reading Calendar.

ACTING PRESIDENT BONACIC: So ordered.

SENATOR LITTLE: Thank you, Mr. President.

ACTING PRESIDENT BONACIC: Thank you, Senator Little.

Senator Griffo.

SENATOR GRIFFO: Mr. President, I would ask that we return to Supplemental Calendar 61A and take up Calendar Number 1966, noncontroversial, by Senator Alesi.

ACTING PRESIDENT BONACIC: The Secretary will read.

THE SECRETARY: Calendar Number 1966, by Senator Alesi, Senate Print 6242B, an act authorizing the Town of Riga.

ACTING PRESIDENT BONACIC: 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 BONACIC: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT BONACIC: The bill is passed.

Senator Griffo.

SENATOR GRIFFO: Please recognize Senator Nozzolio, on motions and resolutions.

ACTING PRESIDENT BONACIC: Motions and resolutions.

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

On behalf of Senator Morahan, on page number 52 I offer the following amendments to Calendar Number 1433, Senate Print Number 8051A, and ask that said bill retain its place on Third Reading Calendar.

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

Senator Griffo.

SENATOR GRIFFO: Mr. President, may we now return to reports of standing committees. And I believe there's a report of the Rules Committee at the desk.

ACTING PRESIDENT BONACIC: Reports of standing committees.

The Secretary will read, please.

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

Senate Print 1645, by Senator Sabini, an act to amend the General Business Law;

4165A, by Senator Little, an act to amend the Navigation Law;

6232, by Senator Stachowski, an act to amend Chapter 276 of the Laws of 1993;

6543A, by Senator Flanagan, an act to amend the Election Law;

7364, by Senator Bonacic, an act to amend Chapter 915 of the Laws of 1982;

7675, by Senator Libous, an act to amend the Town Law.

7752, by Senator Hannon, an act to

amend the Surrogate's Court Procedure Act;

8291, by Senator Winner, an act to amend the Tax Law;

8328A, by Senator Winner, an act to amend the Real Property Tax Law;

8380, by Senator Winner, an act to amend the Vehicle and Traffic Law;

8427A, by Senator Padavan, an act to amend the Real Property Tax Law;

8460, by Senator Padavan, an act to amend the New York State Financial Emergency Act for the City of New York;

8477A, by Senator Skelos, an act to amend the Education Law;

8497, by Senator Saland, an act to amend the Education Law;

8498, by Senator Saland, an act to amend the Education Law;

8503, by Senator Larkin, an act to authorize;

8510, by Senator Libous, an act to amend the Highway Law;

8515, by Senator Nozzolio, an act to adjust certain state aid payments;

8516, by the Senate Committee on

Rules, an act to amend the Insurance Law;

8521, by the Senate Committee on Rules, an act to amend the Executive Law;

8535, by Senator Golden, an act to amend the Executive Law;

8537, by Senator Volker, an act in relation to transportation contracts;

8538, by Senator Robach, an act validating;

8539, by Senator Libous, an act to amend the Civil Service Law;

8543, by Senator Flanagan, an act to amend Chapter 672 of the Laws of 1993;

8544, by Senator Winner, an act to amend the Navigation Law;

8545, by Senator Morahan, an act to amend the Mental Hygiene Law;

8550, by the Senate Committee on Rules, an act to amend the Civil Practice Law and Rules.

And Senate Print 8555, by Senator Little, an act to amend Part X of Chapter 62 of the Laws of 2003.

All bills ordered direct to third reading.

ACTING PRESIDENT BONACIC:

Senator Griffo.

SENATOR GRIFFO: Mr. President, I move that we accept the report of the Rules Committee as presented.

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

(Response of "Aye.")

ACTING PRESIDENT BONACIC:

Opposed, nay.

(No response.)

ACTING PRESIDENT BONACIC: The report is accepted.

Senator Griffo.

SENATOR GRIFFO: Mr. President, is there any other business before the desk?

ACTING PRESIDENT BONACIC: There is none.

SENATOR GRIFFO: There being none, then I move that the Senate stand adjourned until Thursday, June 19th, at 11:00 a.m.

ACTING PRESIDENT BONACIC: On motion, the Senate stands adjourned until

Thursday, June 19th, at 11:00 a.m.

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