NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

April 18, 2012

3:18 p.m.

REGULAR SESSION

SENATOR ELIZABETH O'C. LITTLE, Acting President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT LITTLE: The Senate will come to order.

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

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

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

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

ACTING PRESIDENT LITTLE: The reading of the Journal.

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

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Libous.

SENATOR LIBOUS: Thank you, Madam President.

On behalf of Senator Ball, I wish to call up his bill, Senate Print 6305, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 239, by Senator Ball, Senate Print 6305, an act to amend the Public Health Law.

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

ACTING PRESIDENT LITTLE: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT LITTLE:

Senator Libous.

SENATOR LIBOUS: I offer up the following amendments.

ACTING PRESIDENT LITTLE: The amendments are received.

Senator Libous.

SENATOR LIBOUS: Madam President, on behalf of Senator Marcellino, on page 17 I offer the following amendments to Calendar Number 394, Senate Print 5006, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT LITTLE: The amendments are received.

Senator Libous.

SENATOR LIBOUS: Thank you, Madam President.

I believe at the desk is a resolution by Senator Robach, 3931. I ask that you please read it in its entirety and, before its adoption, call on Senator Robach.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Legislative

Resolution Number 3931, by Senator Robach, congratulating the East High School Varsity Girls Basketball Team upon the occasion of capturing of New York State Class A Championship.

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

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

"WHEREAS, On Saturday, March 17, 2012, at Hudson Valley Community College in Troy, New York, the 2011-2012 East High School Varsity Girls Basketball Team captured the New York State Public High School Athletic Association Class A title by defeating Averill Park by a score of 43-35; and

"WHEREAS, The Class A championship

won by the 2011 East High School Varsity Girls Basketball Team was the first-ever girls basketball New York State championship captured by a Rochester City School District team; and

"WHEREAS, In the competition leading up to the Class A championship game, the East High School Varsity Girls Basketball Team defeated Pittsford-Mendon on March 2, 2012, by a score of 51-48 to win the Section 5 title; it defeated Grand Island of Section 6 in the quarterfinals, and Section 11's John H. Glenn High School by a score of 66-49 in the semifinal contest; and

"WHEREAS, The 2011-2012 East High School Varsity Girls Basketball Team's overall record was an outstanding 21 and 3, its regular season record was a perfect 10 and 0 in the Rochester City League. After beginning the season with a record of 1 and 3, the team won 20 straight games en route to the New York State championship; and

"WHEREAS, The athletic talent displayed by this team is due in great effort to the efforts of Head Coach Mario Velazquez, and Assistant Coaches Lisa Turchetti and Ken Sutton,

skilled and inspiration mentors, respected for their ability to develop potential into excellence; and

"WHEREAS, The team's overall record is outstanding, and the team's members were loyally and enthusiastically supported by family, fans, friends and the community at large; and

"WHEREAS, The hallmarks of the 2012 2011 East High School Varsity Girls Basketball Team, from the opening game of the season to participation in league play and in the New York State Public High School Athletic Association Tournament, were a sisterhood of athletic ability, of good sportsmanship, of honor and of scholarship, demonstrating that these team players are second to none; and

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

"WHEREAS, Head Coach Mario Velazquez and Assistant Coaches Lisa Turchetti and Ken Sutton have done a superb job in guiding, molding and inspiring the 2011-2012 East High

School Varsity Girls Basketball Team members toward their goals; and

"WHEREAS, Sports competition instills the values of teamwork, pride, and accomplishment. Head Coach Mario Velazquez and Assistant Coaches Lisa Turchetti and Ken Sutton and the 2011-2012 East High School Varsity Girls Basketball Team's outstanding athletes have clearly made a contribution to the spirit of excellence which is a tradition of their school; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to congratulate the 2011-2012 East High School Varsity Girls Basketball Team, its members, and Head Coach Mario Velazquez and Assistant Coaches Lisa Turchetti and Ken Sutton on their New York State Class A Championship and their outstanding season; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the members and coaching staff of the 2011-2012 East High School Varsity Girls Basketball Team."

ACTING PRESIDENT LITTLE: Thank you. Senator Robach.

SENATOR ROBACH: Yes, Madam President. I am very happy to not only sponsor this resolution and add my applause to these wonderful young women for their academic and athletic achievements, being the first women's team in the Rochester City School District to win a state championship, but I'm also very, very happy to have them in the chamber today.

They took a tour, got a chance to talk. And I just want to welcome Rose Ayala, Khamia Gause, Gabrielle Howell, Taylor Hosbey, Janelle Young, Tara Jones, Daijah Spinks, Nastasia White, Carly Jones, Aaliyah Dunbar, Renetta Fordham, and Gymmika Manor; all the coaches, Velazquez, Sutton and Turchetti here, and also my special friend, or friend of the community, Tony Boler, who accompanied the team here, who is a radio personality in our community and the cohost of "Memory Lane," the number-one weekend show on WDKX Radio in Rochester, all here really to celebrate, again, these wonderful young women and what they've accomplished.

They have not only really made East High alumni very proud, and their classmates, but they've really brought a lot of

joy and honor and put a smile on everybody's face in the City of Rochester.

And they are a shining example of some of the good things that young people are doing in our community. I want to applaud them, welcome them to the chamber, and wish them continued success in their academic endeavors and their basketball careers as well. They're beautiful young people.

And if you can welcome them to the chamber, I'd appreciate it greatly, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Robach.

Senator Alesi.

SENATOR ALESI: Thank you, Madam President and my colleagues.

I'm very happy to join my good friend Senator Robach as we welcome this team of superb young athletes and commend them on their success in winning the state championship. It's a testament to what happens when you work hard and when you exercise teamwork and leadership.

And I'd also like to commend the coaches, the families, all of your friends and

schoolmates as well, the entire community supporting you now, recognizing you here in the State Capitol in the Senate chambers.

And probably more important than anything, as you savor your success and move on to the future, that you can look proudly over your shoulders to those young athletes that will be coming up behind you and learn from your example what teamwork and hard work can do: It can propel you to a state championship.

And I congratulate you and welcome you to Albany.

ACTING PRESIDENT LITTLE: Thank you. Are there any other Senators wishing to be heard? Thank you.

All in favor of adopting Resolution Number 3931 signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: And on behalf of all of the members in the New York State Senate, let me congratulate you on your wonderful success in winning a New York State

championship. That's a major achievement. And may you have much success going forward.

The resolution is adopted.

Congratulations.

(Applause.)

ACTING PRESIDENT LITTLE: Senator Libous.

SENATOR LIBOUS: Madam President, Senator Robach would certainly like to open up the resolution up to all members. If there's a member here who wishes not to be on the resolution for any reason, please let the desk know.

ACTING PRESIDENT LITTLE: The resolution is open for all members to join. Members should notify the desk if you are not willing to be on it.

Senator Libous.

SENATOR LIBOUS: Thank you, Madam President.

At this time could you call on Senator LaValle, please, for the purposes of an announcement.

ACTING PRESIDENT LITTLE: Thank you.

Senator LaValle.

SENATOR LaVALLE: Thank you, Madam President.

It is with a great deal of pride that I announce in the chamber the cheerleading squad from the 2011-2012 cheerleaders from Rocky Point, the other end of the state, on Long Island.

This group of young ladies has achieved six Long Island championships. And, Madam President, for the second year in a row, this group of young ladies is here, they have won their second national championship in cheerleading. Quite an accomplishment to win a national championship.

They are led by their coach, Anna Spallina, who has done a remarkable job in building a sisterhood, who has built a synergy between academics and athletics, and they have built a spirit -- because you don't win a national championship two years in a row without good synergy between each one of the members of this squad.

So I just want to read one thing from the resolution that passed in early March.

And it says "Sports competition instills the values of teamwork, pride, and accomplishment, and Coach Anna Spallina and the 2011-2012 Rocky Point High School Varsity Cheerleaders, outstanding athletes, have clearly made a contribution to the spirit of excellence which is a tradition of their school."

And I might add there is no community that has greater spirit than the community of Rocky Point. And I enjoy representing that community so much.

Ladies, congratulations on your second national championship.

ACTING PRESIDENT LITTLE: Thank you, Senator LaValle.

And all of my colleagues join with me in congratulating you. What a wonderful experience to attend a national competition, to win it once, and then go back and defend that championship and win it a second time.

So I'm only sorry that we can't see a demonstration --

(Laughter.)

ACTING PRESIDENT LITTLE: -- but I know it takes a lot of time and effort, and we're

very proud of you.

So thank you and congratulations.

(Applause.)

ACTING PRESIDENT LITTLE: Senator Libous.

SENATOR LIBOUS: Madam President, thank you.

And at this time there will be an immediate meeting of the Rules Committee in Room 332. That will be an immediate meeting of the Rules Committee in Room 332.

I would ask, Madam President, the quicker the members of the Rules Committee can get there, the quicker we can commence and come back and do session.

ACTING PRESIDENT LITTLE: Thank you. There is an immediate meeting of the Rules Committee in Room 332 of the Capitol.

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:35 p.m.)

(Whereupon, the Senate reconvened at 3:49 p.m.)

ACTING PRESIDENT LITTLE: The Senate will come to order, please.

Senator Libous.

SENATOR LIBOUS: Thank you, Madam President.

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

ACTING PRESIDENT LITTLE: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Skelos, from the Committee on Rules, reports the following bills direct to third reading:

Senate Print 1707A, by Senator Griffo, an act to amend Chapter 912 of the Laws of 1920;

And Senate Print 6960, by Senator Robach, an act to amend the Civil Service Law.

Both bills ordered direct to third reading.

ACTING PRESIDENT LITTLE: Senator Libous.

SENATOR LIBOUS: Thank you, Madam President. I move to accept the report of the Rules Committee.

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

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: The report is accepted.

Senator Libous.

SENATOR LIBOUS: Thank you, Madam President.

Could we go back to motions, please. On behalf of Senator Zeldin, I have a motion.

ACTING PRESIDENT LITTLE: Motions and resolutions.

Senator Libous.

SENATOR LIBOUS: Thank you, Madam President.

On behalf of Senator Zeldin, on page 15 I offer the following amendments to Calendar Number 358, Senate Print 5634C, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Libous.

SENATOR LIBOUS: Thank you, Madam President. At this time could we do the reading of the noncontroversial calendar.

ACTING PRESIDENT LITTLE: Thank you. The Secretary will read.

THE SECRETARY: Calendar Number 200, by Senator Saland, Senate Print 1416, an act to amend the Penal Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55. Nays, 3. Senators Duane, Montgomery and Parker recorded in the negative.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number

272, by Senator Young, Senate Print 6480, an act to amend the Private Housing Finance Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 316, by Senator Farley, Senate Print 4210A, an act to amend the Banking Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Announce the results.

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

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 325, by Senator Gallivan, Senate Print 4827A, an act to amend the Election Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Announce the results.

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

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 331, by Senator Johnson, Senate Print 2734A --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

THE SECRETARY: Calendar Number 332, by Senator DeFrancisco, Senate Print 2899, an act to amend the New York State Printing and Public Documents Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 335, by Senator Maziarz, Senate Print 256 --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

THE SECRETARY: Calendar Number 338, by Senator Marcellino, Senate Print 946, an act to amend the Penal Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect on the first of November.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Announce the results.

THE SECRETARY: Ayes, 56. Nays, 2. Senators Montgomery and Parker recorded in the negative.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 353, by Senator Ball, Senate Print 6623, an act to amend Chapter 266 of the Laws of 1981.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Announce the results.

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

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 379, by Senator Little, Senate Print 6663, an act to amend the Economic Development Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Announce the results.

THE SECRETARY: Ayes, 56. Nays, 2. Senators Duane and Parker recorded in the negative.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 380, by Senator Maziarz, Senate Print --

SENATOR LIBOUS: Lay it aside for the day.

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

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

THE SECRETARY: Calendar Number 382, by Senator Nozzolio, Senate Print 468, an act to amend the Executive Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Senator Krueger to explain her vote.

SENATOR KRUEGER: Thank you very much, Senator -- excuse me, Madam President.

I am voting for this bill. It is similar but not exactly alike to a bill I've carried myself.

I think the goal of the bill is correct. It is an attempt to separate politics from who is the head of the New York State Police. There have been any number of incidents where there was inappropriate political demands made on the Superintendent of State Police. We

should be legislating to protect from that happening again.

But unfortunately, I don't think this bill will ultimately get us where we need to get to, because it is too short a time frame for an appointment, still allowing a Governor to fire a superintendent for inappropriate reasons during his tenure.

So I'm supporting the bill, but I'm hoping that through the process of moving through both houses this bill may be amended.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Senator Krueger votes in the affirmative.

Announce the results.

THE SECRETARY: In relation to Calendar Number 382, those recorded in the negative are Senators Dilan, Duane, Montgomery and Parker.

Ayes, 54. Nays, 4.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 386, by Senator Klein, Senate Print 3414A, an act to amend the State Finance Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Senator Krueger to explain her vote.

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

I'll be voting no on this bill. There are several serious concerns about this becoming law, one being that there's no exemption for public health and safety concerns. And large public projects can in fact often find themselves up against community-protection violations of federal law. There are reasons to not want this to become law.

It is also not clear how the law would impact subcontractors having rights in relationship to a municipality or county who never contracted with them. They contract with a contractor, and suddenly there are new obligations and financial costs relating to

subcontractors.

So I unfortunately don't think this bill has thought through all the questions and the answers that would be needed. I'll be voting no. Thank you.

ACTING PRESIDENT LITTLE: Thank you. Senator Krueger votes in the negative.

Senator Klein to explain your vote.

SENATOR KLEIN: Thank you, Madam President.

I of course support this legislation and vote yes.

And this is just a commonsense approach to make sure that contractors and subcontractors around the state, when they do work for a municipality, for a public entity, actually get paid what they're supposed to.

What happens in this business is oftentimes in the middle of a job, after a contract has been signed, there's a change order. And usually subcontractors and contractors are told "Well, we'll work it all out at the end of the project." And when the project is over, the municipality often tries to negotiate down, thus not giving the contractor

what they deserve.

So I think this is a way to make sure the hardworking contractors and those workers who work for the contractors are paid what they deserve. And I vote yes, Madam President.

ACTING PRESIDENT LITTLE: Thank you. Senator Klein votes in the affirmative.

Announce the results.

THE SECRETARY: In relation to Calendar Number 386, those recorded in the negative are Senators Adams, Addabbo, Avella, Dilan, Espaillat, Krueger, Montgomery, Parker, Rivera, and Stavisky.

Ayes, 48. Nays, 10.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 411, by Senator Maziarz, Senate Print 259, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the

roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Senator Maziarz to explain his vote.

SENATOR MAZIARZ: Thank you very much, Madam President, to explain my vote.

This piece of legislation has been designated as Jilly's Law, named in memory of Jill Cahill, a victim of a horrific domestic violence incident perpetrated by her husband, James Cahill.

It allows the court to consider any record of violations of court orders, authorizes the court to consider any history or pattern of threats or violent acts against an alleged victim.

Madam President, obviously I support this legislation. What happened to Jill Cahill, who was murdered by her husband after numerous beatings, the second to last of which he hit her in the head with a baseball bat eight times, put her in the hospital, saw that she was recovering, then he broke into the hospital and poisoned her to death.

James Cahill was actually sentenced

to death, he was given the death penalty under the statute that this Legislature adopted in 1995 and was overturned because of the personal political beliefs of Judith Kaye and four other members of the Court of Appeals. If anyone deserved the death penalty, it was James Cahill.

James Cahill exists today in a New York State prison and still to this very day harasses the family of Jill Cahill.

If the judge had been allowed to consider the previous actions of James Cahill, Jill Cahill would be alive today. She would be a great mother to her two children. And the fact that she is not is just, I think, an abomination. It's a shame.

This Senate has passed this bill with very few negative votes, I think this is the at least the third or fourth time. It's just a shame that the New York State Assembly will not even allow this bill onto the floor, where it would pass overwhelmingly.

This would save the lives of domestic violence victims more than any other piece of legislation that we could come up with. I vote in the affirmative.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you. Senator Maziarz votes in the affirmative.

Announce the results.

THE SECRETARY: In relation to Calendar Number 411, those recorded in the negative are Senators Hassell-Thompson, Krueger, Montgomery, Parker and Rivera.

Ayes, 53. Nays, 5.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 443, by Senator Larkin, Senate Print 4240A, an act to amend the General Municipal Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Announce the results.

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

ACTING PRESIDENT LITTLE: The bill is passed.

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

SENATOR LIBOUS: Madam President, can we now have the controversial reading.

ACTING PRESIDENT LITTLE: The Secretary will read.

I'm sorry. Senator Hassell-Thompson, why do you rise?

SENATOR HASSELL-THOMPSON: Thank you.

Madam President, as I was entering the chambers coming from the Rules Committee, you were voting on Bill Number 1416, Calendar 200. And because I wasn't exactly in my seat, you didn't see my hand. So I think that I heard that Senator Duane was the only one who voted in the negative. So I'm asking with consent that my vote be counted.

ACTING PRESIDENT LITTLE: With unanimous consent, Senator Hassell-Thompson, you will be recorded in the negative on that bill.

Senator Libous.

SENATOR LIBOUS: Madam President,

I believe we're on the reading of the controversial calendar. And I believe the first one up is Number 331, by Senator Johnson.

But before we do that, Calendar 335 should have been laid aside for the day. So if we can do that at this time.

ACTING PRESIDENT LITTLE: Calendar Number 335 will be laid aside for the day.

Senator Libous.

SENATOR LIBOUS: Thank you, Madam President.

So I believe, on the controversial calendar, we'll take up Calendar Number 331.

ACTING PRESIDENT LITTLE: The Secretary will ring the bell for the controversial calendar.

The Secretary will read.

THE SECRETARY: Calendar Number 331, by Senator Johnson, Senate Print 2734A, an act to amend Chapter 635 of the Laws of 1987.

SENATOR STAVISKY: Explanation.

ACTING PRESIDENT LITTLE: An explanation has been requested, Senator Johnson.

SENATOR LIBOUS: Madam President, before Senator Johnson gives an explanation on

the bill, I'd like to have order in the house.

Thank you very much.

ACTING PRESIDENT LITTLE: If members will refrain from conversations while we're debating the bill. Thank you.

Senator Johnson.

SENATOR JOHNSON: Can everyone hear me?

This is a good environmental bill. This bill provides -- well, 25 years ago I created a bill, I passed a bill creating the Oak Brush Plains Preservation Area. It was about a hundred acres. That was part of the Pilgrim State Hospital grounds.

Since then, they've abandoned a lot of these structures in Pilgrim State Hospital. And my bill I passed at that time provided that future land available from Pilgrim State Hospital to be added to this groundwater preserve area.

And so this is the bill that does it. This adds the rest of the empty land there to the area groundwater preservation area already designated by that. So we're expanding that groundwater preservation area and avoiding any future economic development or construction in

that area.

And so it's all going to be a much larger -- almost a thousand acres all told of groundwater preservation on Long Island. That's about it.

ACTING PRESIDENT LITTLE: Thank you.

Senator Stavisky.

SENATOR STAVISKY: Yes. Would the Senator yield for a couple of questions.

ACTING PRESIDENT LITTLE: Senator Johnson, do you yield for a question?

SENATOR STAVISKY: Through you, Madam President, how does this bill differ from the one that was vetoed last year by the Governor? Aside from the change in date.

SENATOR JOHNSON: I don't think the bill differs at all from the previous one that was vetoed. It was vetoed for some reasons I think not legitimate. Let me see if I can find the reasons for the veto.

It's funny, this says this bill was vetoed by Governor Paterson because it would reduce truck traffic on Long Island, in the Bronx and Queens. That was not a good reason to veto

the bill, certainly. That was a reason we should have the bill.

But I think what they wanted to do with our bill, we eliminated the banning of truck traffic completely in this area. And so -- but it just -- the major part of this bill put new land in the area.

SENATOR STAVISKY: Through you, if the Senator would yield.

ACTING PRESIDENT LITTLE: Senator Johnson, do you yield?

SENATOR JOHNSON: Yeah, I didn't really explain it too well. We can start over again whenever you're ready.

SENATOR STAVISKY: No, let's not start over.

SENATOR JOHNSON: Go ahead.

SENATOR STAVISKY: As I understand it, the legislation would have created an intermodal truck rail complex on this location. And the purpose of that was to reduce traffic on the Long Island Expressway, which as we both know has lots and lots of truck traffic. Is this correct?

SENATOR JOHNSON: Yes. That

project was not considered to be appropriately located in this area. Because this is a developed area, housing all around it, factories all around it. It's not a good area to put that truck intermodal thing because there's too much traffic there already.

But we have identified three or four other locations farther out on Long Island, out of the congested area, out of the commercial area, where the LITRIM, they call it, project could be located.

So that's why we're taking it out of here. It's in the neighborhood, residential neighborhood.

SENATOR STAVISKY: On the bill.

ACTING PRESIDENT LITTLE: Thank you. Senator Stavisky on the bill.

SENATOR STAVISKY: I have voted no in the past, and I'm going to continue to vote no because I think the rail aspect is a very important one and I would like to see some of the traffic reduced on the Long Island Expressway and to be put onto the rail structure.

So I will be voting no.

ACTING PRESIDENT LITTLE: Thank

you.

Are there any other Senators wishing -- Senator Krueger.

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

ACTING PRESIDENT LITTLE: Thank you. Senator Johnson, will you yield to a question?

SENATOR JOHNSON: Yes, I will.

ACTING PRESIDENT LITTLE: Thank you. The Senator yields.

SENATOR KRUEGER: Thank you.

So again, in follow-up to my colleague Senator Stavisky, I'm also looking at the veto message on your bill from 2008. And it talks about the fact that some of this land that your bill would propose to be incorporated into a forest preserve is land that is in not good condition, is industrially damaged, would require a significant amount of money to bring back to the mitigation of environmental damage that would be called for for it to be defined as forest preserve.

Where is the funding if this section of land were to become part of the

existing preserve?

SENATOR JOHNSON: That's an interesting question. The community in the neighborhood have volunteers galore who have already been going through this property cleaning up environmental messes because they don't want their neighborhood to be congested with trash and they don't want to drink polluted water.

So they are picking up and taking stuff out of that area to keep it clean. They're going to continue and so do that same volunteer program in the balance of the area if it's turned over to them.

SENATOR KRUEGER: Through you, Ms. -- Madam President. Not Ms. President. Although I guess it could be Ms. President. But I meant Madam President. If the sponsor would continue to yield.

ACTING PRESIDENT LITTLE: Thank you.

Senator Johnson, will you continue to yield? Yes.

SENATOR KRUEGER: Thank you.

So again, my understanding is the intention of the Department of Transportation in

trying to site a LITRIM or Long Island Truck-Rail Intermodal site on this piece of land, but perhaps should be on some other piece of land, is with the intention of reducing truck traffic by 156,000 truck trips per year by shifting freight from trucks to rail.

On Long Island, only 1 percent of your freight moves by rail, when the national average is 15 percent.

And again, we've all been on the Long Island Expressway, and we all have great empathy for the people of Long Island trying to get on and off and through their island on one major thoroughfare.

If not at this location, as your bill would prevent, where should this go? Is there an alternative that has been found? Because this I believe has been going on now for six or seven years.

ACTING PRESIDENT LITTLE: Senator Johnson.

SENATOR JOHNSON: You see, since the original idea to make that LITRIM project in this neighborhood, the neighborhood has developed considerably, getting more congested, more

traffic in that area.

And obviously we had to take a look for a place where it would be suitable to locate it, and several locations have been located farther east on Long Island. And not in developed neighborhoods, but an open area where you can put it with no trouble, trucks getting in and out, it wouldn't bother anybody.

So those locations are available, and that's where I think it obviously should be built.

SENATOR KRUEGER: Thank you.

On the bill, Madam President.

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

SENATOR KRUEGER: I want to thank the sponsor for his answers.

I'm also going to continue to vote no on this bill.

I empathize with the community's position that this is a good thing to have but not in this location. I suspect that if this bill is passed by both houses again this year, the Governor is likely to veto. But perhaps someone will then sit down and actually explore

where on Long Island in Suffolk County this type of site ought to exist.

Because I do believe that it is a win/win for the people of Long Island, for the environment, for the State of New York to ensure that we are moving and expanding our freight rail system. And I can think of few better examples than the Island of Long, or Long Island, to ensure that there is a system for rail freight and a decrease in environmentally polluting trucks going back and forth along the island.

So I hope, Senator Johnson, that a solution can be found, because I think the goal here is very good. And you and I may disagree about whether this state land should be used for this purpose, but I hope for the sake of the people of your district and other districts on Long Island, some solution can be found soon.

I'll be voting no. Thank you.

ACTING PRESIDENT LITTLE: Thank you. Are there any other Senators wishing to be heard?

Hearing none, the debate is closed. The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Senator Martins to explain his vote.

SENATOR MARTINS: Thank you. Thank you, Madam President.

I rise in support of this bill. I find it incredibly ironic to sit here in this chamber and to hear colleagues from outside and off of Long Island questioning infrastructure improvements on Long Island.

These are issues that we have grappled. Certainly I grappled with them for years, prior to coming to this chamber, as a mayor of a local village as we dealt with just these types of issues.

So whether we're talking about the third track, whether we're talking about a rail tunnel under the Hudson River that would connect Long Island to the mainland, whether we're talking about this particular facility, the communities on Long Island have spoken.

My community has spoken against a third track being built on the Long Island Railroad. The communities in question here have spoken against the idea of siting a rail facility there. They want open space.

So why is it that we from other parts of New York State who so often protect our own rights and the rights of our own communities to make those decisions for themselves, why today would we stand and question the ability of a community on Long Island to get exactly what they want?

They want open space. Something to be admired at a time when we're dealing with more and more congestion, more and more urbanization of our suburban communities.

This is the right thing to do. The community has reviewed the idea of a rail yard. The community has rejected the idea of a rail yard. We should respect the community's ability to do that, and we should respect the community's representative to continue to push the community's wishes, notwithstanding what the state may necessarily want.

I support this bill, and I

encourage our entire body to support it as well. Madam President, I'll be voting aye.

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

Announce the results.

THE SECRETARY: In relation to Calendar Number 331, those recorded in the negative are Senators Dilan, Duane, Krueger, Parker and Stavisky.

Absent from voting: Senator Perkins.

Ayes, 52. Nays, 5.

ACTING PRESIDENT LITTLE: The bill is passed.

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

SENATOR LIBOUS: Thank you, Madam President.

We have a supplemental calendar before us. It's Number 33A. Could we please have the noncontroversial reading of the supplemental calendar.

ACTING PRESIDENT LITTLE: Thank you. The Secretary will read.

THE SECRETARY: Calendar Number 494, by Senator Griffo, Senate Print 1707A, an act to amend Chapter 912 of the Laws of 1920.

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

THE SECRETARY: Calendar Number 495, by Senator Robach, Senate Print 6960, an act to amend the Civil Service Law.

SENATOR LIBOUS: Madam President, I believe that bill is high, so we should lay it aside for the day.

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

Senator Libous, that completes the noncontroversial reading of the supplemental calendar.

SENATOR LIBOUS: Madam President, at this time could we have the controversial reading of the supplemental calendar.

ACTING PRESIDENT LITTLE: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 494, by Senator Griffo, Senate Print 1707A, an

act to amend Chapter 912 of the Laws of 1920.

ACTING PRESIDENT LITTLE: Thank you. Senator Krueger.

SENATOR KRUEGER: Thank you, Madam President. If the sponsor would please yield to some questions.

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

SENATOR GRIFFO: I most certainly do, Madam President.

ACTING PRESIDENT LITTLE: Thank you. The Senator yields.

SENATOR KRUEGER: Thank you very much.

Senator -- excuse me, through you, Madam President -- is this bill different than bills that have been debated on this floor involving mixed martial arts? And if so, how?

SENATOR GRIFFO: Could you repeat that, Senator Krueger? I'm sorry.

SENATOR KRUEGER: Yes. I believe that this house has had a mixed martial arts bill pass before, and I'm wondering how your bill may differ from the previous version.

SENATOR GRIFFO: It's a similar bill. We've had this bill in its -- in this format, this is the third time I believe it will come before the house.

SENATOR KRUEGER: So through you, Madam President --

SENATOR GRIFFO: I'm not aware of any -- there are a few things that were changed, but essentially the substance is the same.

SENATOR KRUEGER: Essentially the substance is the same.

Thank you, Madam President. If through you the sponsor would continue to yield.

SENATOR GRIFFO: I will.

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

SENATOR GRIFFO: I do, Madam President.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR KRUEGER: Would the sponsor explain to me the definition of a knockout in mixed martial arts fights?

SENATOR GRIFFO: Explain a knockout?

SENATOR KRUEGER: Yes. What is a knockout in the sport of mixed martial arts?

SENATOR GRIFFO: Explain, not demonstrate; right?

(Laughter.)

SENATOR KRUEGER: No demonstrating. Or, Madam President, I won't be volunteering for the demonstration.

(Laughter.)

ACTING PRESIDENT LITTLE: Thank you. Senator Griffo.

SENATOR GRIFFO: This would be similar to what already exists in boxing, Senator Krueger. Essentially the referee would be there, there are attending physicians, and there would be a standing eight-count. The referee would make that determination as to whether it was a knockout or a technical knockout at that time, but it's very -- it mirrors what is already done in boxing.

The difference here is that the fighter actually can avoid the knockout. In boxing you're not able to do that. But in this sport they call it a tapout, where actually the fighter themselves could end the fight. Where in

boxing it is ended by some form of decision or technical knockout.

ACTING PRESIDENT LITTLE: Senator Krueger.

SENATOR KRUEGER: Through you, Madam President, if the sponsor would continue to yield.

SENATOR GRIFFO: I do.

ACTING PRESIDENT LITTLE: Senator Griffo continues to yield.

SENATOR KRUEGER: Is it the Senator's understanding that in Ultimate Fighting Championship mixed martial arts a knockout can include and is permitted to render a person unconscious, choke the opponent, and other extremely dangerous violent behavior such as applying pressure to the neck in an attempt to cut off blood flow to the brain in an attempt to get the opponent to tapout or lose consciousness? And that is recognized as types of knockouts in this sport, is that correct?

SENATOR GRIFFO: Well, Senator -- Madam President, through you -- Senator Krueger, this is an intense and physically demanding sport. It includes various elements of sports

that already exist, whether it's muay thai, boxing, wrestling. So there are a variety of techniques and applications that are consistent with those sports in holds and strikes.

But as I indicated earlier, this is all governed by attending physicians and referees. There are rules and regulations. So at all times it is the responsibility of the ringside physician as well as the referee to ensure the safety of the combatants.

And if we are successful in allowing this sport, we would also empower the State Athletic Commission, which will ensure that any of the concerns that anyone has would truly be addressed beyond what's already being dealt with through the league itself or the organizations.

ACTING PRESIDENT LITTLE: Thank you. Senator Krueger.

SENATOR KRUEGER: Thank you. Through you, Madam President, if the sponsor would continue to yield.

SENATOR GRIFFO: I do.

ACTING PRESIDENT LITTLE: Thank you, Senator Griffo. Senator Griffo continues to

yield.

SENATOR KRUEGER: Thank you.

Under this legislation, which would legalize mixed martial arts, would it require in the State of New York that the organizations and the fighters had insurance? And if so, in what form?

ACTING PRESIDENT LITTLE: Senator Griffo.

SENATOR GRIFFO: Madam President, through you. Senator Krueger, I think that is one of the aspects that we would be empowering the State Athletic Commission to determine whether or not they wanted to implement any other requirements relative to the sport itself and governance of the sport in this particular state.

I'm not sure what is taking place in other states at this point in time and what is available. But as I indicated earlier, the mixed martial arts in its current form does mirror a lot of other professional sports that already exist, whether in wrestling or in boxing.

SENATOR KRUEGER: Through you, Madam President, if the sponsor would continue to yield.

ACTING PRESIDENT LITTLE: Senator Griffo?

SENATOR GRIFFO: I do.

ACTING PRESIDENT LITTLE: Senator Griffo yields.

SENATOR KRUEGER: Does your law explain specifically what types of physicians should be at ringside and what kinds of testing there should be, such as evaluations of neurological symptoms, including impairment of eye movement, attention, language?

Would it require the ringside physicians, if it requires ringside physicians, to use something called a sideline screening to test for concussions? Is that required in this bill?

ACTING PRESIDENT LITTLE: Senator Griffo.

SENATOR GRIFFO: Senator Krueger -- through you, Madam President -- the organizations in the MMA over time themselves, as a governing body, have imposed stringent safety rules.

All the MMA fighters must pass a cerebral MMI, other medical exams before

competing. A certified doctor would sit at ringside, can stop any match at any point. The fighters themselves have that same ability, as I indicated to you earlier, through this tapout, which does not exist in other combatant sports currently.

And in addition, if the bill moves forward and becomes statute, the State Athletic Commission will also have the opportunity to do anything further that they may believe is important to do relative to ring inspections, medical examinations, EMT requirements, and any other rules of the sport.

SENATOR KRUEGER: Through you, Madam President, if the sponsor would continue to yield.

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

SENATOR GRIFFO: I do.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR KRUEGER: I suspect I know the answer, but for the record, does this law require any kind of uniform medical database and tracking of incidents of harm to the fighters

from mixed martial arts in New York State if it was to become the law?

ACTING PRESIDENT LITTLE: Thank you. Senator Griffo.

SENATOR GRIFFO: The law itself does not at this point in time in this bill say that.

The organizations themselves are doing it, as I indicated earlier, by imposing some standards themselves.

And in addition to that, as I indicated, that the State Athletic Commission, if we empower them, we will give them the opportunity and we can always communicate with them as to what would be done for both the safety of the fighters and also the fans.

SENATOR KRUEGER: Through you, Madam President, if the sponsor would continue to yield.

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

SENATOR GRIFFO: I do.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR KRUEGER: Does this bill

lay out any requirements for mandatory training and education for referees serving if there were mixed martial arts fights in New York State?

ACTING PRESIDENT LITTLE: Senator Griffo.

SENATOR GRIFFO: Again, in the same vein -- Madam President, through you -- Senator Krueger, it does not differ from other sports. There's two aspects to where some of those concerns are addressed.

It's within the governing body themselves, they will establish rules, regulations and procedures. And in this case I've outlined some of them that are already in place relative to the mixed martial arts.

In addition to that, again, through allowing the sport in the State of New York and presenting to the New York State Athletic Commission the opportunity to regulate, any of the other issues that you raise right now can also be brought to their attention. If it does not suffice specific in this bill, they will still have that opportunity.

SENATOR KRUEGER: Through you, Madam President, if the sponsor would continue to

yield.

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

SENATOR GRIFFO: I do.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR KRUEGER: Does this bill, if it were to become law, mandate any kind of random drug testing for mixed martial arts fighters, specifically performance-enhancing drugs?

ACTING PRESIDENT LITTLE: Senator Griffo.

SENATOR GRIFFO: Madam President, through you. Similar to the standards that are held in other sports like boxing right now, which is done through the regulator or the governing organizations, the same thing would apply here. Either the regulating organization or the State Athletic Commission could determine what would be done and when that would be done.

SENATOR KRUEGER: Through you, Madam President, on the bill.

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

SENATOR KRUEGER: I appreciate the sponsor's answers.

For the record, I'm not sure I could ever like any bill legalizing mixed martial arts in New York State. But I'm particularly disturbed that this bill doesn't include mandates for any of the questions that I just asked the sponsor.

It's not like any other sport. It's a sport where you can choke someone to cause unconsciousness. It's a sport that is extremely violent, with no protective equipment -- unlike boxing and hockey and some other sports that are violent as well, and I think perhaps should have stricter regulation but actually have national standards and safety equipment involved.

This is a sport that's relatively new, but there already is research from other states and other countries that there's a disproportionate number of brain-related injuries, many of which don't show up until years later.

We've recently passed a law in New York State requiring protection from concussions in the sport of football, where again

there's a lot of safety equipment. And yes, there's physical pushing, shoving, throwing, knocking down, tackling -- I believe that's the term used in football, tackling. And yet all of this is done without standards or protective gear in mixed martial arts.

And under this law, all of those decisions would be left up to associations, of which there's not even one national standard used. And in fact, in many states mixed martial arts are taking place with little organizations arranging fights in garages or on Indian reservations or in strip clubs, with all kinds of different standards being used or failing to be used.

Research shows that mixed martial arts fighters can gain tremendous physical benefit from performance-enhancing drugs because they can aid in their strength, endurance, and recovery. But we don't want anyone using performance-enhancing drugs because it can likely kill them later on in their lives, certainly leave them completely disabled.

And again, the sport itself increases significantly the risk of brain damage

and even, research shows, early dementia.

And there's no requirement for insurance or coverage of these fighters who can be desperately harmed, not in this bill. So one has to assume that the people of the State of New York would take on responsibility for healthcare costs of noninsured fighters who could no longer fight or had simply aged out or the harm from the sport was only seen later on in life.

So in fact I don't think this bill does nearly enough to protect the actual sports fighters who choose to go into this. I don't think it does nearly enough to establish standards of what could perhaps make it more acceptable to some of my colleagues to implement approval of mixed martial arts in New York State.

What is not dealt with in this bill but I think is a very real issue in our society, and certainly for me, is that it is seen as an amazingly violent sport. Some people will tell you it looks much more violent than it is. In fact, there was a New York Times op-ed written by a supporter that's titled "It Only Looks Dangerous."

So if you're an expert in the sport, perhaps you recognize, not unlike wrestling, that some things look really dangerous when in fact they're not when performed in professional wrestling.

But my concern is the huge number of young people who see this sport -- I know, people tell me you can turn it on on a cable TV in almost any home or bar in New York State now already -- but that it is sending messages to young people to encourage extreme violence.

And in fact the perception that it looks dangerous, even if it's not quite as dangerous if you're a professional, doesn't make it less dangerous when you're a group of kids trying this out on your own. You know that old expression, you know, don't try this at home. But in fact young people do try this at home. And so it expands the vision of what is acceptable play behavior.

I have no problem with martial arts, and I appreciate that they are all designed on a model of physical activity, a hypothetical duel, so to speak, between opponents. Many, many of our sports do that. And I am certainly not

arguing against any of these sports.

I am arguing against allowing what is intended to be a very violent sport and in fact is fed by advertising to make it appear even more violent than it may really be for the fighters. That this is a bad model and a bad message for our young people in a society that already has too many young people spending their lives sitting with video games killing each other.

It is a bad model of legislation because it doesn't build in any of the protections I think we would want to be exceptionally dutiful about if in fact we were approving a new violent sport in New York State.

And I simply can't accept the argument that because there might be some tax revenue in it for us, we should look the other way and allow a basically unregulated activity that can cause real harm both to the people participating in it and to the young people watching it to become legally in New York State.

I would urge my colleagues not to vote yes on this bill. I'll be voting no.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you. Senator Griffo.

SENATOR GRIFFO: Thank you, Madam President.

Just for some clarifications, because I think that's important here, there have been reports done. In fact, there is a Johns Hopkins study that was done on the safety effect and the concerns that have been raised here and the incidence of injury.

And the reports have indicated that this sport, while many people have the perception, statistically does not show that the incidents of injury are higher or more severe.

And the statistics show that in many cases that there are more serious injuries in interscholastic varsity football during the course of a year than there has been in the mixed martial arts.

They do have a governing organization that is really trying to ensure that the sport is better regulated and that safety concerns are being addressed. And what we're trying to accomplish here is to let the State Athletic Commission, who does the same thing with

other professional sports, have that ability to even go further if the need exists.

And while you make characterizations of the different techniques that are used in the mixed martial arts, right now we should note that some of the things that Senator Krueger raised, such as some of the holds, are already allowed in judo and karate, which are legal Olympics-recognized sports.

So I think that, you know, we want to set the right example. And I think the reason that we are looking to do this the way this bill presents itself is to allow the State Athletic Commission to become -- it's an organization that has a reputation in ensuring that sports are regulated properly and that we address safety concerns that may be out there, and that we ensure that there are rules and regulations in addition to whatever a governing body of a particular sport has put in place.

So I do believe that, contrary to some of the things -- while I respect the opinion and the philosophic differences, there are studies and facts that refute some of the things that have been presented today. And again, as I

said, opinion is one thing, but we do have reports and data that prove otherwise.

And this is a sport that is recognized. And it is on not only cable TV but on network television right now too.

So thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator Griffo.

Senator Parker.

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

ACTING PRESIDENT LITTLE: Senator Parker on the bill.

SENATOR PARKER: First let me just thank Senator Griffo for his leadership on this issue.

We have voted on this several times before. And I used to be the sponsor of this bill, continue to be one of the sponsors with Senator Griffo, and would like to see this important sport both be legalized, sanctioned and regulated in the state.

Now, you should listen to me. I know from fighting.

(Laughter.)

SENATOR PARKER: And this sport is exactly that. It's a sport. And what we are simply doing is allowing the New York State Athletic Commission to sanction it as a sport and to codify regulations that will make it safe in New York.

And so I know some of my colleagues have issues and concerns as it relates to concussions and insurance and all of those things. All of those things don't have to be in the context of this bill. This bill simply allows the State Athletic Commission to in fact promulgate rules and to say that it's legal.

So the things that -- we're concerned about insurance, we're concerned about concussions and concerned about all these other things. There's the opportunity for us to in fact address that with the State Athletic Commission. And I'm certainly hoping that we will make that happen.

We talk about violence in society. To say that -- to single out mixed martial arts really doesn't -- really misses the mark. If we're going to stop young people from emulating, you know, violent activity, they should stop

watching the evening news and they should stop seeing what's happening in Afghanistan and Iraq and every place else that we're at war. They shouldn't probably watch television either, and they certainly shouldn't be playing video games where they learned all kind of things.

So I think that it's kind of narrow just to simply say, you know, ban mixed martial arts in one state and that's going to start to solve or even address our problems as relates to, you know, violence in our community, which I'm certainly, you know, all for trying to stop.

When we look at this sport in relation to other sports, it is actually much safer than many of the other recognized sports that we are familiar with. Between the years of 1990 and 2003, there were 79 deaths related to soccer in the United States, 79. In that same period there were 300 football-related deaths. In that same period worldwide, there were two mixed martial arts deaths, and only one of those happened within the context of a sanctioned MMA fight.

And so this sport is much safer. There's fighting in basketball, there's fighting

in football, there's fighting in hockey. In fact, the other day I went to a fight and a hockey game broke out.

(Laughter.)

SENATOR PARKER: Rim shot. Thank you. I'll be here all week, folks.

(Laughter.)

SENATOR PARKER: And so, you know, within the context of talking about fights, actually the athletes who engage in MMA are actually safer than what you find in many, many sports.

As relates specifically to concussions, there are far less concussions in mixed martial arts than there are in boxing, because many of the bouts end with submissions or tapouts. Right?

And, you know, we heard some graphic depictions of how people are choked into unconsciousness. That actually doesn't happen, because there is a ref there and the ref never lets anybody go to be unconscious. But far many more people have their own ability to tap themselves out and just say: I'm done, I'm finished fighting. And far more fights finish

that way than are concluded either by a knockout or by the ref stopping the fight.

And so it's a much safer sport than many of the ones that we have seen, including football, baseball, basketball, soccer and the like.

But there's another reason why we should do this, and we certainly ought not to discount the economic impact that this is going to have in communities from Buffalo to Syracuse, from Bath to Brookhaven, New York, to certainly in the new Brooklyn Stadium.

We expect to have some MMA bouts where we expect that there's going to be somewhere around $5.3 million worth of activity per year just in the Buffalo area. And that's just -- that's just one bout between Tim Kennedy and George Maziarz. So imagine when we get some of the other professionals in there for some of these bouts.

So there's going to be, I think, a lot of economic opportunity there that we should not forgo.

Currently what's happening right now is that there they're having bouts in

New Jersey and they're being at Times Square promoting the fights and then leaving Times Square, going across the river to Jersey where it's legal, and they're fighting bouts and those communities are getting all the economic proceeds.

I think that, you know, when people have issues about and concerns around safety, let's address them through the State Athletic Commission. But we certainly ought not to throw the baby out with the bathwater and should make sure that this very profitable sports activity is both legal, safe, and available to the people of the State of New York.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you. Senator Krueger.

SENATOR KRUEGER: Would Senator Parker please yield to a question.

(Laughter.)

ACTING PRESIDENT LITTLE: Thank you. Senator Parker, do you yield to a question?

SENATOR PARKER: Against my better judgment, yes, Madam President.

(Laughter.)

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR KRUEGER: We have every right to disagree on this, Senator Parker, but I did want to ask you about your statistics. Because there's a danger with playing with numbers.

So if only two mixed martial artists -- mixed martial arts athletes -- would you repeat what the quote was about the two mixed martial arts --

SENATOR PARKER: Between the periods of 1990 to 2003, 79 deaths in soccer, 300 related to football, two worldwide related to mixed martial arts fights, and only one of those in a sanctioned bout.

SENATOR KRUEGER: Can you tell me, then, what two was as a percentage of the total number of mixed martial artists -- I keep saying mixed martial artists. That's not correct. Mixed martial arts athletes. So two out of what, 79 of out of what, 300 out of what?

Because the number in isolation doesn't really tell the story about a safety

rate. It would be the percentage of people participating in a sport and then the outcome.

SENATOR PARKER: Senator, I don't have those available, but I will get that to you.

SENATOR KRUEGER: Okay. Thank you, Senator Parker.

Again, I think I've made my point. If there are 10 people participating in an activity and two of them die, it's a very different reality than if there are 100,000 people participating in an activity and 79 of them die.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Seeing no other Senators wishing to speak, the Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 90th day.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Senator Saland to explain his vote.

SENATOR SALAND: Thank you, Madam President.

Madam President, with all due respect to the athletes who are the subject of this bill, the day of the gladiator ended with the demise of the Roman Empire.

We live in an extraordinarily violent world. Comparisons to other sports and statistics really are not valid analyses.

The simple fact of the matter is is that there are literally, over the time periods discussed -- football injuries, you'd be talking tens of thousands if not hundreds of thousands of football players from coast to coast, high school, college, professional.

Even professional football has gone out of is way to ensure greater safety by way of concussion and knee injuries to the people who perform regularly on Sundays during football season.

The simple fact of the matter is this is a level of violence that as a matter of policy we are saying is okay, that this is an appropriate role model for young people.

I chaired the Senate Children and

Families Committee for some 10 years. This is not the kind of role model I would want young people to emulate. I vote in the negative.

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

Senator Zeldin to explain his vote.

SENATOR ZELDIN: First off, I'd like to rise to commend Senator Joe Griffo for his efforts on this bill. I'm proud to have cosponsored it.

Forty-eight states in this country have athletic commissions. Forty-five of them have legalized mixed martial arts.

I certainly commend the UFC. A lot of people know my background, being with the military. The UFC has done so much to help support the troops and promote the troops both at home and abroad.

It's certainly worth noting that it is a very responsible organization. They do a great job regulating themselves. And I don't think that government needs to get involved with every aspect of regulating an industry when the industry itself is doing a good job regulating

itself.

So as I heard all those questions asked by Senator Krueger -- very good questions, but I'm very confident that the industry is doing a solid job taking care of itself.

I know I have a number of staffers that are big fans of UFC. I'm not worried that kids may wrestle. No matter what we do here on the floor, kids will wrestle. You know, I don't think that we should be banning candy because it causes tooth decay.

If you don't want to participate in mixed martial arts, don't participate. If you don't want to watch it, don't watch it.

But I strongly support this bill, and I'm very proud of the efforts of Senator Joe Griffo for getting this passed in the State Senate. I vote aye.

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

Senator DeFrancisco to explain his vote.

SENATOR DeFRANCISCO: Yes, I'm going to support this bill.

Senator Parker indicated that he knows about fighting. And when you have an expert in the gallery --

(Laughter.)

SENATOR DeFRANCISCO: -- you really have to listen to what he's got to say.

(Laughter.)

SENATOR DeFRANCISCO: And that's something we ought to listen to.

Secondly, there's a lot of concern about role models. I mean, if we're worried about passing legislation based upon who are going to be role models, we may want to prohibit all professional sports. Because there's a lot of people that I don't want my grandchildren to be modeling themselves over. And it might even be as genteel a sport as golf. So role models should not be the answer.

As far as safety, there's people that want to do this and that don't want to do this. If you want to box, you box. If you want to make a living boxing that way, as long as it's regulated and it's made as safe as possible -- and that's what this bill does.

There are people that want to do

this, want to make a living -- in fact, there's one young man, I forgot his name, came in the last time this bill was on the floor, he -- Bones Jones, from Rochester. Extremely articulate, wasn't in any way impaired by his activities. And he chose to make a living in that way.

So we regulate it, I think it's something that we should do. And when it's regulated, at least some of the safety issues can be regulated.

And by the way, the insurance, there is insurance requirements in the bill, despite what was said by one of the speakers.

I'm going to vote aye.

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

Senator Stavisky to explain her vote.

SENATOR STAVISKY: Yes.

To me, this is no more dangerous or bloody than boxing or ice hockey or football. And for that reason, if we're not going to ban those sports, then I can't see any reason why we should not permit mixed martial arts. Thank you.

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

Senator Marcellino to explain his vote.

SENATOR MARCELLINO: Madam President, I will be voting in the negative on this bill.

But I just wanted to set the record straight for my colleague Senator Saland that the demise of the Roman Empire has been highly exaggerated.

(Laughter.)

ACTING PRESIDENT LITTLE: Thank you. Senator Marcellino is recorded in the negative.

The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 494, those recorded in the negative are Senators Bonacic, Breslin, Diaz, Duane, Fuschillo, Krueger, Lanza, Larkin, LaValle, Marcellino, Saland, Savino, Stewart-Cousins, and Young.

Absent from voting: Senator

Perkins.

Ayes, 43. Nays, 14.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Libous, that completes the controversial reading of the supplemental calendar.

SENATOR LIBOUS: Madam President, is there any further business at the desk?

ACTING PRESIDENT LITTLE: No, Senator, there is no further business.

SENATOR LIBOUS: There being no further business at the desk, Madam President, I move that the Senate adjourn until Thursday, April 19th, at 11:00 a.m.

ACTING PRESIDENT LITTLE: On motion, the Senate stands adjourned until Thursday, April 19th, at 11:00 a.m.

(Whereupon, at 4:57 p.m., the Senate adjourned.)