NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 16, 2007

11:04 a.m.

REGULAR SESSION

LT. GOVERNOR DAVID A. PATERSON, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Please join me in reciting the Pledge of Allegiance to the Flag.

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

ACTING PRESIDENT GRIFFO: In the absence of clergy, I would ask that you join me for a moment of silent prayer.

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

ACTING PRESIDENT GRIFFO: We will now have the reading of the Journal.

THE SECRETARY: In Senate, Tuesday, May 15, the Senate met pursuant to adjournment. The Journal of Monday, May 14, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT GRIFFO: 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 Farley.

SENATOR FARLEY: Thank you, Mr. President.

On behalf of Senator Fuschillo, I wish to call up his bill, Print Number 5050, which was recalled from the Assembly and it's now at the desk.

ACTING PRESIDENT GRIFFO: The Secretary will read.

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

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

ACTING PRESIDENT GRIFFO: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

SENATOR FARLEY: Mr. President, I

now move to recommit the bill to the Committee on Consumer Protection.

ACTING PRESIDENT GRIFFO: So ordered.

SENATOR FARLEY: Mr. President, on behalf of Senator Golden, on page 63 I offer the following amendments to Calendar Number 930, Senate Print 3333, and I ask that this bill retain its place on the Third Reading Calendar.

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

Senator Savino.

SENATOR SAVINO: Thank you, Mr. President.

I move that the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause: Senate Print 4197.

ACTING PRESIDENT GRIFFO: So ordered.

SENATOR SAVINO: Thank you.

ACTING PRESIDENT GRIFFO: Senator

Skelos.

SENATOR SKELOS: Mr. President, if we could make the substitution that's at the desk at this time.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: On page 63, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 8017 and substitute it for the identical Senate Bill Number 5490A, Third Reading Calendar 969.

ACTING PRESIDENT GRIFFO: Substitution ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, there's a resolution at the desk by Senator Carl Kruger. Could we have the title read and move for its immediate adoption.

ACTING PRESIDENT GRIFFO: The clerk will read.

THE SECRETARY: By Senator C. Kruger, Legislative Resolution Number 2288, commending Yaakov and Rivka Kornreich upon the occasion of their designation by Young Israel of Avenue J as the guests of honor at its 28th

Annual Dinner on May 20, 2007.

ACTING PRESIDENT GRIFFO: On the resolution, all in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed, nay.

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is carried.

Senator Skelos.

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

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

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 11:08 a.m.)

(Whereupon, the Senate reconvened at 11:12 a.m.)

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator Skelos.

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

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bill direct to third reading: Assembly Print Number 8360, by Member of the Assembly Gunther, an act to amend the Tax Law.

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

ACTING PRESIDENT GRIFFO: The motion is on accepting the report of the Rules Committee. All in favor say aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed, nay.

(No response.)

ACTING PRESIDENT GRIFFO: The Rules report is accepted.

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

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 97, by Senator Maziarz, Senate Print 1617, an act to amend the Civil Service Law, in relation to leaves of absence.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 413, by Senator Robach, Senate Print 3748A, an act to amend the Retirement and Social Security Law, in relation to increasing.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 560, by Senator Robach, Senate Print 3757, an act to amend the Civil Service Law, in relation to collecting interest.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 696, by Senator Maltese, Senate Print 5374A, an act to amend the Labor Law, in relation to

establishing a task force.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 809, by Senator Marcellino, Senate Print 4374, an act to authorize the Christian City Church of New York City, Inc., to file an application.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 809 are

Senators Bonacic and Larkin.

Ayes, 43. Nays, 2.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 836, by Senator DeFrancisco, Senate Print 4257, an act to amend the Uniform Justice Court Act and the Judiciary Law, in relation to temporary assignment.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 843, by Senator DeFrancisco, Senate Print 4988, an act to amend the Surrogate's Court Procedure Act, in relation to providing.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 854, by Senator Padavan, Senate Print 1991, an act relating to authorizing and directing the Commissioner of General Services.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 881, by Senator Larkin, Senate Print 195, an act to authorize the City of Newburgh to

establish.

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

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 883, by Senator Nozzolio, Senate Print 588, an act to amend the General Municipal Law, in relation to participants.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT GRIFFO: The

bill is passed.

THE SECRETARY: Calendar Number 884, by Senator Flanagan, Senate Print 900, an act to authorize the Holy Cross Roman Catholic Church to retroactively apply.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49. Nays, 2. Senators Bonacic and Larkin recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 886, by Senator Libous, Senate Print 2150, an act to amend the Real Property Tax Law, in relation to establishing an exemption.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 892, by Senator Seward, Senate Print 4000, an act to amend Chapter 383 of the Laws of 1999 relating to creating.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 895, by Senator Skelos, Senate Print 4490, an act to authorize Congregation Aish Kodesh to file an application.

ACTING PRESIDENT GRIFFO: Read

the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49. Nays, 2. Senators Bonacic and Larkin recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 896, by Senator LaValle, Senate Print 4734, an act in relation to authorizing the assessor of the Town of Brookhaven to accept an application.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49. Nays, 2. Senators Bonacic and Larkin recorded in

the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 897, by Senator Farley, Senate Print 4799, an act to amend the Real Property Tax Law, in relation to residential investment exemption.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 903, by Senator Little, Senate Print 5491, an act to amend the General Municipal Law, in relation to certain county contracts.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 914, by Senator Morahan, Senate Print 4351, an act to amend the Mental Hygiene Law, in relation to settlement.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 922, by Senator Hannon, Senate Print 4660, an act to amend Chapter 672 of the Laws of 1993, amending the Public Authorities Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 926, by Senator LaValle, Senate Print 5160, an act to amend Chapter 672 of the Laws of 1993, amending the Public Authorities Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number

969, substituted earlier today by Member of the Assembly --

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 1123, by Member of the Assembly Gunther, Assembly Print Number 8360, an act to amend the Tax Law, in relation to Sullivan County.

ACTING PRESIDENT GRIFFO: There is a local fiscal impact statement at the desk.

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56. Nays, 1. Senator Valesky recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

SENATOR SKELOS: Thank you,

Mr. President. If we could go to the controversial reading at this time.

ACTING PRESIDENT GRIFFO: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 969, by Member of the Assembly Sweeney, Assembly Print Number 8017, an act relating to limited exemptions.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT GRIFFO: Senator Marcellino, an explanation has been requested.

SENATOR MARCELLINO: Yes, Mr. President. This legislation would allow certain paints to be sold until July 16, 2007.

ACTING PRESIDENT GRIFFO: Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

Is this AIM coating considered toxic?

ACTING PRESIDENT GRIFFO: Are you asking Senator Marcellino to yield for a question, Senator Duane?

SENATOR DUANE: Yes, I am, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Marcellino, will you yield for a question?

SENATOR MARCELLINO: Yes, Mr. President.

The DEC set regs that require that this paint no longer be sold by a certain date. The bill has passed the Assembly just last night, unanimously. The Governor will get it. The DEC commissioner has said he will do a delay of enforcement because there's a gap between when the bill was passed and when it would come into effect. So everybody is on board with the movement of this bill.

It would help certain small businesses, who have approximately $20 million worth of inventory still in stock, to move some of this inventory off the shelves. If it's not moved by this particular date, they will donate it to various charitable housing charities and it will be used anyway.

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

ACTING PRESIDENT GRIFFO: Senator Marcellino, would you continue to yield for further questions?

SENATOR MARCELLINO: Yes, sir.

ACTING PRESIDENT GRIFFO: Senator Duane.

SENATOR DUANE: Is this AIM coating considered toxic?

SENATOR MARCELLINO: I don't know, Senator.

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

SENATOR MARCELLINO: Yes.

ACTING PRESIDENT GRIFFO: Senator Marcellino yields, Senator Duane.

SENATOR DUANE: Why is it not being manufactured anymore?

SENATOR MARCELLINO: I'm sorry, but I can't hear the gentleman.

ACTING PRESIDENT GRIFFO: Senator Duane, please repeat the question.

SENATOR DUANE: Why is this coating no longer being manufactured?

SENATOR MARCELLINO: I don't know

that it's no longer being manufactured.

SENATOR DUANE: Through you, Mr. President, why was the original expiration date set?

SENATOR MARCELLINO: I don't know that. I didn't set it, Senator. That was set by the DEC, so I have no idea what their requirements are.

SENATOR DUANE: Mr. President, I think I'll just speak on the bill, then.

ACTING PRESIDENT GRIFFO: Senator Duane, on the bill.

SENATOR DUANE: I am disturbed, to say the least, that the sponsor of this legislation doesn't seem to even know why this legislation is necessary or what's going on with it or whether this coating is toxic and why it's being taken off the market and why are we only extending its -- I mean, I can't believe the lack of knowledge on this.

If the sponsor doesn't know, how are the rest of us supposed to know?

So I would suggest that we don't go along with this until we have a hearing to get some answers to our questions.

Again, I'm just -- I'm shocked, shocked that we can't get any answers on this issue. Of course no one wants to hurt small businesses. But maybe the question is why are manufacturers manufacturing what I have come to understand is a toxic substance.

And who cares whether the Assembly passed it unanimously? That's not an explanation for the bill. And why would we be donating toxic substances to nonprofit organizations? So they can poison their -- I don't get that.

So I don't understand why we're rushing this through. Didn't we know about this issue months ago? Why is this bill just arriving today and needs to be pushed through today?

So I just think it's the worst kind of legislating. And if we're going to supposedly be reforming how we do things around here, let's at least know what we're voting on and have information on why it is that bills are coming before us.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank

you, Senator Duane.

Is there any other Senator wishing to be heard?

Senator Little, on the bill.

SENATOR LITTLE: Thank you, Mr. President.

I would like to thank Senator Marcellino for putting forth this bill.

This is a type of paint that has been decided that it can no longer be used in this state. However, the date when it had to be taken off the shelves did not allow enough time for this paint to be sold. And this paint has been used for years and years and years in New York State.

I have heard from many of my retail stores in my district who sell this paint, who no longer buy it. But rather than have to absorb the costs of the paint that they bought, they would like to be able to sell this paint, and they feel they need another 60 days. In a rural area, you have to understand, you don't get as many sales as you get in a larger area.

So I appreciate the fact that this

bill has been put forward. After that certain date, it will no longer be sold in New York State and we will be in compliance. We're just asking for a few more days in order to sell the stock that these small rural stores already have.

Thank you.

ACTING PRESIDENT GRIFFO: Thank you, Senator Little.

Senator Farley, on the bill.

SENATOR FARLEY: Yes. Senator Duane, this is not a big deal.

This is paint that has been sold for years and years in this state. The big box stores -- the Wal-Marts, the Lowe's, the Home Depots -- they're just sending this paint out to another state to be sold.

The small little retailer that is around in our districts, and I think in almost every Senator's district, is stuck with this paint. They came up with an arbitrary date for which they had to get rid of the paint. There wasn't enough time for these small little retailers to unload the paint in a sale or whatever it might be. All this bill does

is give them a little bit more time.

And I think every Senator in this house has some sort of a small retailer that does not have outlets out of state where they could ship the paint to. And this just allows the small retailer to get rid of the paint at a retail basis. And a number of them have complained about this.

And I don't think DEC, when they came up with this arbitrary date, really intended that the small guy would get stuck with the paint and the big box stores would be able to get rid of it.

I support the bill, and I urge everybody to vote for it.

ACTING PRESIDENT GRIFFO: Thank you, Senator Farley.

Senator Seward.

SENATOR SEWARD: Yes, Mr. President. I too would like to rise and thank Senator Marcellino for his leadership in presenting this legislation that's before us at this time.

Just building on what Senator Little and Senator Farley have outlined, this

bill is in response to emergency rules that were promulgated over at DEC regarding reducing the emissions of these VOCs which are in paints that have been manufactured prior to January 1, 2005.

And it is important. I think no one is disagreeing with getting these off the shelves in New York State. But as has been explained, DEC came in with this emergency rule right in the wintertime when many of our -- particularly our small paint shops just weren't able to sell their product because it was wintertime. Nobody was out there painting their houses in December, January and February.

And so the May 15th date -- spring has come a little late in many of our areas, and they're still not painting. They're just starting to. So between now and July 16th, extension of this date will allow our particularly small retailers to sell the product that they've already bought and have no way of recouping that investment unless they sell the paints. That will give them ample time to get these paints off their

shelves. And then from July 16 on, it will be a whole different ball game.

So this is a commonsense approach, it's pro-business, pro-environment, and I'm very pleased to support the bill.

ACTING PRESIDENT GRIFFO: Thank you, Senator Seward.

Senator Craig Johnson.

SENATOR CRAIG JOHNSON: Thank you, Mr. President.

I rise to support the legislation, as the ranking member of the Environmental Conservation Committee, but to also thank Senator Duane for raising these questions because I think it's important, you know, for the entire Senate body to raise these questions and to seek those answers because they are valid, important points. And I think it's troubling that we weren't able to have those answers.

But I think it does provide us, as Senator Seward talks about, with a commonsense solution.

But we should be mindful that this is an absolute deadline. We're willing to

give our small retailers a chance to sell off this product, but I don't want to be back here in June, I don't want to be back here next year that we have to do some sort of retroactive ability to let these small retailers sell it off. An additional 60 days is worthwhile, it's necessary, it allows them the time to get it off their shelves. But at that point, that's it.

And we need to continue to protect our environment and continue to prevent these types of paints from going out into the public realm, because we don't know what the impacts are going to be on the health, the welfare and the safety of our children and of our parents and of our grandparents.

So I commend Senator Duane for raising the questions. I thank Senator Marcellino for sponsoring this bill. And I vote yes. Thank you very much.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, why do you rise?

SENATOR DeFRANCISCO: Would Senator Johnson answer a question?

ACTING PRESIDENT GRIFFO: Order,

guys.

Senator Johnson, will you yield for a question from Senator DeFrancisco?

SENATOR CRAIG JOHNSON: I don't know. But sure. Why not.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

SENATOR DeFRANCISCO: You're the ranking member of the Environmental Conservation Committee?

SENATOR CRAIG JOHNSON: Yes.

SENATOR DeFRANCISCO: Could you please answer Senator Duane's questions?

SENATOR CRAIG JOHNSON: Well, I can't. I don't have the --

SENATOR DeFRANCISCO: Would you do it, please?

SENATOR CRAIG JOHNSON: But I'm also not the sponsor of the bill. And I think that what's appropriate is the sponsor of the bill stood up and told the Senate -- I'm not even on the bill. That's a very valid point. Nor was I even asked to be on the bill.

But the valid point is that Senator Marcellino is the sponsor of the bill, Senator

Marcellino is the one who is pushing forth the bill, it went through Rules. And actually maybe Senator DeFrancisco can ask the chairman of Rules to answer the very same question.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco, why do you rise?

SENATOR DeFRANCISCO: Would the Senator yield to another question?

ACTING PRESIDENT GRIFFO: Senator Johnson, will you continue to yield?

SENATOR CRAIG JOHNSON: I will always yield to questions, unlike other members.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

SENATOR DeFRANCISCO: Senator Johnson, you voted yes in committee?

SENATOR CRAIG JOHNSON: Yes, and I will vote yes here as well.

SENATOR DeFRANCISCO: And could you just answer one last question?

SENATOR CRAIG JOHNSON: I will continue to yield for the last question.

SENATOR DeFRANCISCO: Would you recommend, based upon your study of this bill,

to Senator Duane that this bill should be voted in the affirmative because his concerns are not well founded? Would you be willing to --

SENATOR CRAIG JOHNSON: I'm sorry, could you repeat the question? I'm trying to formulate the answer as you're asking me the question.

SENATOR DeFRANCISCO: My question is, since you voted for the bill, since obviously you know the answer to the questions Senator Duane raised --

SENATOR CRAIG JOHNSON: Oh, I don't know the answer to the questions Senator Duane raised. I don't think Senator Marcellino knows the same answers. I don't think any of us know the answers to the same questions, so --

ACTING PRESIDENT GRIFFO: Can we allow Senator DeFrancisco to ask the question.

SENATOR CRAIG JOHNSON: I apologize, Mr. President.

SENATOR DeFRANCISCO: Senator Johnson, since you don't know the answer to these questions which you just said were valid

questions by Senator Duane, what was your basis for voting yes in committee and for voting yes today?

SENATOR CRAIG JOHNSON: Oh, I think it was similar to a lot of us voting for the very same bill, is the need -- is while we're giving the small retail businesses the ability to sell off this paint, we're also setting a drop-dead date of July 16, 2007. So we're doing the appropriate balance, the deliberative balance that we need to provide for our small businesses and for our environment.

What I'm also pointing out is important is that we've set now the drop-dead date. Well, the original drop-dead date was set. Of course, we don't know why that date was set; that was another question asked by Senator Duane. But we've now extended it by 60 days to give small businesses the ability to sell off -- because it is important. They don't have the ability to do it quickly like the Wal-Marts and the Lowe's.

So I'm willing to join my colleagues on your side of the aisle, Senator

DeFrancisco, to give them that ability to do it while also protecting our environment.

No more? Okay, thank you.

THE PRESIDENT: Senator Adams.

SENATOR ADAMS: Yeah, I rise and I ask, Mr. President, would the sponsor of the bill yield for a question?

SENATOR MARCELLINO: Yes, the sponsor yields.

SENATOR ADAMS: I'm trying to decide which way I'm going to vote, so I need a little assistance.

Through you, Mr. President, is the paint -- is it considered dangerous? Has it be classified as dangerous by any governmental body at all?

SENATOR MARCELLINO: The DEC has determined that this paint should no longer be sold in the State of New York because, when you open the container, certain compounds are released.

They set a date. When I was asked why the reason for the date, I have no idea, because I wasn't part of that negotiations, I'm not a member of the DEC, I'm not employed

by them. The date was set by them. It was purely an arbitrary date on their part to set that up. They will tell you that.

They are on board with this bill. The DEC supports this bill. The commissioner has said he will set aside any enforcement -- because there is a gap when this bill is being pass and will be signed, as to when the original deadline, which was yesterday, was to come into effect. So there will be no enforcement of this bill in the gap because Commissioner Grannis has said he will delay that by an order of his.

The Governor I assume is on board, because Mr. Grannis works for him. So the bill is going to go immediately to the Governor's office, according to the Assembly, and will be signed by the Governor.

So everyone is on board to do this for these businesses. They will take this paint and donate it to charities who will use it. Housing groups that build affordable housing for people, they will use this paint. As was stated before, it is being used all over the country now. These are small

mom-and-pop operations that cannot simply offload it. They have not got the ability.

I was asked by Senator Krueger earlier, couldn't they just give it back. Well, the answer is no. It was legally produced. It was legal when it was purchased. It was determined by the DEC to be -- not to be sold by a particular date. Their reasons are theirs.

So what we're doing, as has been stated by my colleagues and as I stated earlier, and has been stated by Senator Johnson, is simply giving the small business person the opportunity to move some product so that they don't get buried with the cost of this particular product on their shelves. That's all we're doing.

There will be no other bills, by the way, to answer Senator Johnson. There will be no other bills that this Senator will permit out of the Environmental Conservation Committee to extend any deadlines. This is it.

SENATOR ADAMS: Mr. President, would the sponsor yield for another question?

SENATOR MARCELLINO: Yes, I will yield.

SENATOR ADAMS: Did the DEC state by extending the two-month period that the danger level would change in any way? Would the danger level still be the same two months later?

SENATOR MARCELLINO: No, we have nothing from the DEC on this. I can only assume -- and you know the adage, when you assume, the danger you take on. We can only assume that the DEC determines that there is no credible danger by extending this for a couple of months.

SENATOR ADAMS: Thank you.

On the bill, Mr. President.

THE PRESIDENT: Senator Adams, on the bill.

SENATOR ADAMS: I'm a bit dismayed by even the comments, not only from the sponsor but others on the floor. Are we putting profit over public safety? I would love to see our small businesses thrive and grow and turn into the large stores.

But if the organizations and

agencies that we put in place to determine if a particular item is dangerous for the environment and our community gives us a date when it should be removed, to hear the reasoning for not removing the item is because we don't want people to lose a profit, to me that's troubling. That is not the role of government, to put profit over public safety.

Yes, the paint was legal at one time. But you know what? So was asbestos. That was allowable and permissible to be in buildings. But look what it has done to many of the employees that breathe in that substance. If it was dangerous when the DEC gave a cutoff date, then it's going to be dangerous two months later and it's going to be dangerous when you put it into public housing to put on walls and buildings where people live. It's dangerous. It's dangerous.

If anything, we should be talking about how to give tax incentives to those small businesses that are going to lose from having to turn over this product. But to state that the reason for extending the delay is because we don't want a ma-and-pa business

to lose profit, well, ma and pa is going to lose their children to dangerous substances in our society. That's wrong.

I can't even see the logic of extending a delay that DEC made based on the profitability of the businesses involved. And how could we even accept that and use that as an excuse? Then in that case, let's continue to have asbestos. Let's continue it a little longer. Let's continue to identify all the substances that we identify, and let's tell those children up in the rafters that the profit is more important than their safety, it's more important than what they breathe in and consume.

There's no way I could vote for a bill merely based on the bottom line of manufacturers. I base the bill on the bottom line of the most important commodity in my community, and that's my children. That's who I believe is first. And I'm sure the ma and pas would understand that, because the reason they're ma and pa is because they have children.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

An awful lot of protesting going on here. I don't know, you know, it seems to me that if something is toxic when you open up the can, that's a bad sign. You know what I'm saying? I wouldn't want to open up one of these cans, frankly.

And, you know, PCBs, creosote was legally manufactured. How delicious was creosote; right? Who would ever forget breathing in a big whiff of creosote; right?

You know, if this paint is so good for nonprofits, maybe my colleagues would like to paint their offices with it. Maybe the Capitol should be painted with it. And maybe we should open up the cans for the nonprofits. Right?

You know, I don't get it. If it's bad, if it's toxic, then we shouldn't be selling it. And if the big manufacturers, who probably did know that it was bad, were dumping it on the small retailers, well, maybe they should be investigated. Maybe this is something for the Attorney General to look

into, why this crummy toxic stuff, coating, was being dumped on the small people. You can bet that Wal-Mart is not going to suffer. Right? If it's just the small ones, Wal-Mart probably already dumped the stuff. We're probably lucky they didn't dump it into the Hudson.

So just in good conscience I cannot vote for this. And you know what, I don't want it to be donated to nonprofits. I want this stuff just to be gotten rid of. And I want the small business people to be made whole, and I think they should be made whole by the manufacturers.

So I'll be voting no on this, and really with just -- I'm just appalled and, frankly, outraged. Nonprofits? I don't really -- I don't get that at all.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Morahan.

SENATOR MORAHAN: Thank you, Mr. President.

I just rise to perhaps shed some more light on this particular issue. The DEC

several years ago, with the advice of the federal government, decided that this particular product or this particular ingredient in our paint products would be better removed than to continue.

They set up a timetable, which indicates to me that there was really no terrible sense of urgency. They set a timetable up so that the manufacturers of I believe it's 4 million gallons of paint a year would be the first that would start to remove this from the paint. And they gave them a year, the DEC gave the large manufacturers a year to move the products that they had already manufactured.

There's also smaller manufacturers, and those manufacturers were given two years to sell their product. So they could continue to make the product for two years before they would have to stop.

After much negotiation, the DEC, to put the small manufacturer on the same playing field, the same level with the large manufacturers, pulled back that deadline so that all manufacturers had to stop making the

product by a certain year, and I believe it was December 31st of the year 2006.

Thereafter the DEC said fine. Now we've stopped the manufacturing, and now the product is out in the marketplace in the small stores and big stores. The big stores, who have chains around the country, offloaded what they wanted to to their other stores outside of New York. Not all states have banned this product at this particular time, to my knowledge.

And they gave a date, which was yesterday, on the assumption by that time the small stores would have moved the product off the shelf. Fully knowing that after the sale, people would open the paint. After the sale, the product was still there. And they picked a date.

And as Senator Seward pointed out, no one was really conscious, in my mind, that the paints really weren't being used to a great degree in the deep months of the winter.

So now the DEC has agreed to extend the date from yesterday to July 16th. This is an issue that has been going on for several

years. And the DEC has been in this negotiation all the way, with the large manufacturers, then the small manufacturers, and now the retailers. And there have been changes in implementation dates as they have gone along.

Now it was just felt that if they could have this little extra time that the small mom-and-pop hardware stores would be able to sell the paint. What they do with it thereafter is their business. No one's asking for a recall or destruction of the paint. But they've asked for July 16th.

So the bill was passed in the Assembly. The bill is now being passed in this house. The DEC knows the Governor will sign this bill. And then the store owners will have a little bit of time so they don't get financially crippled.

But I think that -- this is only given as an explanation on how we got to this point, but I think in the explanation and the time frame in which all of this has started that brought us to today, indicates to me as a layperson -- not a scientist, not a chemical

engineer -- that the DEC is not overly alarmed about the toxicity of this product.

And I believe Senator Marcellino's bill is a fair and equitable response to the small retailers that has been agreed to by all concerned, including the DEC. I'm going to support the bill.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Morahan.

Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

I want to join my colleague Senator Morahan in trying to provide a voice of reason on this topic.

As he rightfully points out, this is not occurring in other states. So what is happening with the Wal-Marts and the large retailers is they simply move it to their Pennsylvania store, their New Jersey store, any other store in their chain except those in the state of New York. Because New York is adopting this standard alone.

And why? Because New York is

attempting to comply with clean air standards that are required by the federal government, primarily in the larger metropolitan area, which we recognize and are all trying to comply with.

It is not an issue of critical public health. Otherwise, the DEC commissioner wouldn't be recommending it. Otherwise, the Governor wouldn't be indicating his concurrence with the extension. And the health commissioner would certainly be intervening to protect the children and the people of the state of New York.

It is not about profits for small businesses, it's simply about recovering a loss that's being imposed upon them for the State of New York. I think the approach is reasonable, it's prudent. Frankly, would I prefer to have it longer? Yes, I would. But this is the compromise negotiated. It's an appropriate response by Commissioner Grannis to an issue that was raised during his confirmation.

And I would suggest we all just take a reasonable, balanced approach to it and

move forward. No one, but no one, is in jeopardy with this legislation.

I vote aye.

ACTING PRESIDENT GRIFFO: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

And I want to thank my colleagues for the explanations. I think Senator Morahan's explanation made it quite clear to me what's happened here.

And I certainly understand the plight of the small retailers, the small hardware stores. You don't sell a lot of paint in the Adirondacks in January. You do sell a lot at the end of May and June. I have some painting to do myself. And I guess there will be some good sales.

But it's clear that this product is not a good one to have over time, but there's no imminent danger. And if anyone is to be faulted here, perhaps it's the last administration's DEC, which I now realize, from what Senator Morahan explained, may have been overly accommodating to the manufacturers

in allowing them to continue to manufacture for a period of two years and put that into the retail stream so that here we are now.

And I don't think profits should come ahead of health. We're not talking about anybody's profits here. We're talking about people who are going to bear a loss. And for those small retailers, they exist on very small economic margins.

The fact is all the profit-takers, Mr. President, took their profit. The manufacturers made their money, they got to manufacture it for an additional two years and dumped the product into the stream. The large retailers are going to make their profits. They'll make it now in Pennsylvania and New Jersey and elsewhere, by shipping the product there. And it's really only the little guy who's going to get stuck.

And I really doubt, given this deadline, that any of these small hardware stores or paint stores, general stores, which sell paint in a lot of areas, that they're going to look to make a profit on this. They're going to look to get it off their

shelves. They're going to look to get back what they already spent and avoid a loss.

So it's this is not about profits, it's about avoiding a loss for the smallest players in the scene. And if anyone is to be criticized, it's the DEC, who, knowing two or three years this was a bad product, still allowed its manufacture and introduction into the retail stream in New York State.

So this bill is a reasonable compromise, and I intend to support it. I see no imminent danger in allowing this paint to be sold until July 16th.

ACTING PRESIDENT GRIFFO: Senator Klein.

SENATOR KLEIN: On the bill, Mr. President.

I certainly have a lot of questions. I appreciate Senator Morahan's response as to the process of how we came to this place. But I would think -- I'm not chair of the Environmental Protection Committee, but I would think that this is not a very common practice in New York State for DEC to ban a certain type of coating. I

assume there was a report that was done, there was reasons.

And what I would also like to know is -- one of the questions is, why isn't it that this is a product that's banned nationally if there is a danger? I don't think these questions are unreasonable.

And before we have the opportunity to vote on a piece of legislation like this, I think it's incumbent upon all of us to really know all these reasons. You know, I've been someone who spent a long time on consumer issues, especially a lot of them with one of my colleagues, Senator Fuschillo. And again, this is something that I think goes to the very health and safety of the residents of New York State.

And I certainly understand the plight of small business. But then again, I have to ask the question, why isn't the manufacturer making these small businesses whole? There's a lot of questions here.

Another question I think has to be, do now these small businesses have an affirmative duty to warn the potential

purchaser that this was something that was banned in New York State by DEC?

You know, I think it's absolutely insane for us to be passing a piece of legislation unless we have answers to all of these questions. So I respectfully vote no, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. President.

You know the debate today, to me it's a tempest in a teapot. And the tone that I'm hearing from the other side -- not all the members -- is that small businesses are making a profit at the expense of the health of our citizen citizens. I bet the air in New York City every day that you breathe is more dangerous than this paint.

I know of no one in the last twenty years that used this paint that has suffered, as people do with respiratory illness from the air in New York City.

But I'm not here to give a sermon. I just want to talk about balance and common

sense. I want to remind my colleagues that small businesses create 90 percent of the jobs in the state of New York. Every one of us in this room, as government officials, do not create one cent of wealth. I could not pay your salary or you pay my salary. Private sector pays our salary from their activities. That's what enables us to do the good things that we do in education, in healthcare, in transportation, in everything else.

And you know what? The small businesses have said: We're in a jam. Some of us are going to take a beating, as Senator Connor said. Not a profit, but a beating. Mainly upstate. Most of these stores for the most part are little independent hardware stores. And they're saying give us an accommodation, give us 60 days to get rid of the product. That's what they're asking. It's a matter of balance. And I happen to think it's reasonable.

If the DEC put July as the final date to get the stuff off, would we be having this debate? Would anybody be dying in the 60 days? So come on, let's be practical. It's

simply an accommodation for small businesses, who create the wealth for us and create the economic vitality for this state to function. That's what this is about. A tempest in a teapot.

I vote yes. Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Perkins.

SENATOR PERKINS: Thank you, Mr. President.

First of all, I want to thank my colleague Senator Duane for raising this issue.

It's a remarkable discussion that's been going on. It's clear from the discussion that this paint had no business on the market to begin with. And it seems to me that this is not about business as much as it's about environmental and health issues.

Ten thousand children are poisoned by lead paint every year in this state. Crippled for life. How many children are going to be poisoned by this paint that has been outlawed because it's unhealthy and it's

dangerous?

Now, I hear that our new commissioner and our new Governor have endorsed this bill and the extension for the use of this paint. I'm disturbed and alarmed to hear that. I hope you're wrong. I do not believe that this Governor or this new commissioner should be supporting the extension of something that has clearly been outlawed as being dangerous in terms of people's health and safety.

So I don't see this as an attack on small business. In fact, quite the opposite. I see this as an attack on the most vulnerable of our citizens; in fact, the future of our state, the children. And I would like to know how many of our children are being crippled or suffering from the use of this paint and how long are we going to continue to allow this type of product to be extended or used in our state.

I think that the Senator from Brooklyn, Senator Adams, makes a good point, that we don't have the right to be balancing people's profits at the expense of the health

of our children.

And I think that while these small owners may not be the culprits in this picture, nevertheless something has to be done to protect those who are most vulnerable and most likely to be hurt by this product.

So I can't -- as much as I support small businesses, I can't see supporting the extension. And in fact, I think it's outrageous that this product was ever on the market to begin with. And so I will be voting no.

ACTING PRESIDENT GRIFFO: Senator Adams, do you wish to be heard again?

SENATOR ADAMS: Yes.

You know, there's probably a level of urgency in my tone because I heard those famous terms so often: No danger, don't worry, everything is okay. I think about the number of police officers I supervised down at 9/11. I heard Christine Whitman say: Oh, no danger, just breathe the air, don't worry about a face mask. Now they have cancer. Now no one wants to give them the money they need for health insurance.

I heard no danger when my cousin went over to Vietnam and Agent Orange was poisoning the air. No danger, everything is all right.

No danger when lead paint was painted in our community and our kids were dying. No danger, just move nice and calm.

No danger if you smoke a pack a day. It's all right, it's just a little smoke. Everything is -- just move quickly and nicely. No danger.

The heck with no danger. The erosion of our society is not an instant process. It's the slow dismantling of our environment. When the heck are we going to catch on? Our society is eroding. All over the globe people are talking about what is happening in our society. One year I'm in Alaska looking at the icebergs; next year I go there, the darn place is melting. And we sit here saying no danger. So what? Take our time.

I can't buy that. If anything, we should be aggressive to go after those manufacturers and demand that they reimburse

these small businesses. There may be possible legal ramifications for what took place, that they intentionally sold paint that they knew was banned in New York City.

This is what we should be talking about. If that paint did not sell in two years, it's not going to sell in two months. Who are we kidding? And I'm hearing -- I can't believe what I'm hearing.

Nonprofits take care of the least among us. So we're saying give it to the nonprofits. Public housing are not those CEOs on Wall Street. Those are the least among us. Put it in public housing. Do we hear what we're saying?

And how dare Senator Perkins and Senator Adams stand up and think about Agent Orange, cigarette smoke, 9/11. We've heard this before: Don't worry, be happy. It's no major thing. We can't have these small businesses lose their profits. Let's make sure we sponsor them.

It's wrong. It's wrong. And I think if anything, if we should do anything today, we should ensure that an investigation

takes place so we will set the tone for future behaviors. When you know a product is banned in New York City, to continue to sell it -- we should make sure that doesn't take place. And if it's sold in Pennsylvania, if it's sold in Maryland, if it's sold in California, you know what? I'm not elected to the state senate of those areas. I'm elected to the state senate of New York. The agencies in New York make a determination that the product is illegal, it is not healthy, that's the body I'm going to listen to.

Because I'm not a scientist, I'm not a doctor. I don't know what are the ramifications. I'm a Senator from a small place in central Brooklyn. The experts we hired to make this determination said it's wrong. And no matter what you tell me, it's not going to change in two months, it's not going to change if it's on the walls of 40 projects, it's not going to change if it's on the wall of some nonprofit in Troy, New York.

It's dangerous. It's dangerous. And the danger is not going to change no matter how much someone lose money. It's

wrong. And what we're doing today is wrong.

ACTING PRESIDENT GRIFFO: Senator Bonacic, why do you rise?

SENATOR BONACIC: Senator Adams, would you yield to a question?

SENATOR ADAMS: Yes, I will.

ACTING PRESIDENT GRIFFO: He yields, Senator Bonacic.

SENATOR BONACIC: Is there any memo in opposition from any health organization or health official as to the dangers that you are speaking about with respect to the substance of this bill? That you know of.

SENATOR ADAMS: When I stood up, Senator, and I questioned what was taking place, it was because I didn't have knowledge. So I based my knowledge on the person who sponsored the bill and on the agency that stated it was dangerous.

Now, if that agency is saying it's no longer dangerous, then I'll vote for this bill. But until that agency tells me it is no longer dangerous, then there's no reason for me to vote for the bill.

SENATOR BONACIC: Will you continue to yield to another question?

SENATOR ADAMS: Yes, I will.

ACTING PRESIDENT GRIFFO: He yields.

SENATOR BONACIC: Has there been any environmental watchdog or agency -- I'm not talking about DEC now -- that has weighed in in opposition to this bill that would extend the 60 days, creating a danger to the environment?

SENATOR ADAMS: There was a terminology that I coined several months ago, "trickology." Who knew this was coming through? Who knew this was coming through? It's important for me to call these environmentalist groups that I respect and say what shall we do here. How about letting us know what's coming through, not walking through these chambers and say, hey, guess what, we're going to drop this on your desk.

So are you aware, did you tell us this was coming through, to give me the right, as an elected official, to call my environmentalists and tell them what's going

on?

ACTING PRESIDENT GRIFFO: I would ask the members to please address their interaction to the chair.

Senator Bonacic.

SENATOR BONACIC: Mr. President, I just would like to answer Senator Adams' question.

ACTING PRESIDENT GRIFFO: You may, Senator Bonacic.

SENATOR BONACIC: Yes. From my experience in Albany, environmental groups, healthcare groups, they are much more ahead in watching everything that happens with bills as they come before this body.

So I would suggest to you that they know the bill before we know about it. And I have not seen any memos in opposition from any healthcare organization or any environmental organization with respect to the substance of this bill. Have you?

SENATOR ADAMS: Mr. President, may I respond to his question?

ACTING PRESIDENT GRIFFO: You may respond. You have the floor.

SENATOR ADAMS: First of all, Senator, if I had the staff allocation that you do, my staff would have better ability to find out many more things that you're able to find out. But as you know, I'm not funded as good as you are to have that staff.

Nonetheless, it is important that we are aware prior to a bill being introduced, particularly of this magnitude and impact on the environment that we live in and breathe, that we are aware of it so we can call those agencies.

I don't know if the agencies are aware that this information -- or these organizations are aware that this bill is here today. This was a bill that we walked in. I found out the first time this bill was going to be introduced when I walked inside this chamber. That's wrong.

And if I had that information beforehand, then I could respond to your question in a more effective manner. But I didn't have that information.

ACTING PRESIDENT GRIFFO: Senator Bonacic.

SENATOR BONACIC: Just one other point, Senator Adams, if I may.

ACTING PRESIDENT GRIFFO: Will the Senator continue to yield?

SENATOR ADAMS: Yes, I will.

ACTING PRESIDENT GRIFFO: Senator Bonacic.

SENATOR BONACIC: I agree with you that you should have the same allocation as every other Senator here. That's point number one.

But point number two, whether you had allocations or not, the watchdog groups give these memos in opposition not connected to resources to our Senate office. You realize that; right?

In other words, they do this on their own, with their own resources. We don't trigger these reports from healthcare officials or environmental groups when it comes to memos in opposition to bills that are before us. You realize that, do you not?

SENATOR ADAMS: Is that a rhetorical question, or do you want me to reply?

SENATOR BONACIC: Well, let's just leave it at a rhetorical question. I thank you for your courtesy, Senator.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Adams, on the bill.

SENATOR ADAMS: May I respond to the Senator?

Watchdog groups and the environmental organizations have a role to assist us in shaping the policies and the decisions we make on the Senate floor. Governmental agencies have the responsibility to represent our concerns.

The governmental agency that stated the paint was dangerous made that determination. And that is when I first stood up to ask the sponsor of the bill, how do we arrive here? The sponsor of the bill shared with me not a watchdog group, not a special interest group, but a governmental agency made the determination that the paint was dangerous.

And what I attempted to share with my colleagues, there's historical data that

shows -- from Christine Whitman telling the police officers, the firefighters everything is fine while they're breathing in toxic air, to cigarette manufacturers stating it's all right to smoke a pack a day -- we have historical data that shows individuals decide that profit is more important than the safety of the public. And we are the body that's in charge of saying no.

And for us to believe that the mere fact that the paint is not sold out of a ma and pa or a big box store, that the danger level is going to change, that's wrong. And I disagree with that.

And that is why, after speaking to the sponsor, hearing the debates, that I made the determination that my community that I represent comes first. And that's why I will be voting no.

ACTING PRESIDENT GRIFFO: Thank you, Senator Adams.

Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, would Senator Adams

yield to a question?

ACTING PRESIDENT GRIFFO: Senator Adams, will you yield for a question?

SENATOR ADAMS: Yes, I will.

ACTING PRESIDENT GRIFFO: Senator Saland.

SENATOR SALAND: Senator Adams, I believe you said that government agencies have a responsibility, and I believe that means to afford protection to one or another group or to a community. Is that correct?

SENATOR ADAMS: No, I don't know how you interpret my statement to say that. That's not what I stated.

SENATOR SALAND: Well, your words were, and I lost you, "government agencies have a responsibility." And then you went on to say "and a government agency made the determination that this paint was dangerous."

SENATOR ADAMS: That's exactly what I stated.

SENATOR SALAND: Which government organization was that?

SENATOR ADAMS: DEC. The agency that --

SENATOR SALAND: And then if I heard you correctly, you talked about the terrible things that happened in the aftermath of 9/11. You made reference to Christie Whitman and firefighters breathing in toxic air, did you not?

SENATOR ADAMS: Yes, I did.

SENATOR SALAND: And that has sensitized all of us, has it not? If we weren't concerned before, we certainly should be concerned now, would that not be --

SENATOR ADAMS: No, I disagree. I felt that you're not sensitized, because you're doing the same thing that Christine Whitman did. So --

ACTING PRESIDENT GRIFFO: Senator Connor, why do you rise?

SENATOR CONNOR: I rise for a point of order.

I'm getting a little confused here because of repeated questions without anyone yielding. It wasn't clear to me in the last dialogue who had the floor. It couldn't have been Senator Adams, because he would have spoken three times.

ACTING PRESIDENT GRIFFO: Senator Connor, Senator Adams has yielded to Senator Saland for questions.

So what is your point of order, sir?

SENATOR CONNOR: They're asking repeated questions. They have to ask them through the chair, Mr. President. And they're not doing that. And that is --

ACTING PRESIDENT GRIFFO: I remind the members --

SENATOR SALAND: If I've been inappropriate, Senator Connor, I certainly apologize and will direct my questions through the chair.

ACTING PRESIDENT GRIFFO: Senator Saland, do you --

SENATOR SALAND: Thank you, Mr. President.

Do we agree, Senator Adams, that there is an agency, and you referred to that agency as DEC, that is responsible for ensuring in this particular case that we're safe?

ACTING PRESIDENT GRIFFO: Senator

Adams.

SENATOR ADAMS: I'm sorry, can you repeat that question? I didn't actually understand it.

ACTING PRESIDENT GRIFFO: Will you kindly repeat the question, Senator Saland?

SENATOR SALAND: Do we both agree that the agency, the relevant agency that is responsible for ensuring that we are safe from the kinds of toxic threats that you're concerned about is DEC?

SENATOR ADAMS: Yes. Yes, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Saland.

SENATOR SALAND: And are we also -- through you, Mr. President, are we also -- again, however aware we are today -- even more keenly aware because of the very events that you mentioned, the aftermath of 9/11, the toxic fumes or air that were breathed by firefighters, by police, by rescue workers? Does that not heighten our awareness?

ACTING PRESIDENT GRIFFO: Senator Adams.

SENATOR ADAMS: Through you, Mr. President, no, I don't. I believe we're repeating the same mistakes that were made through some of the other issues that I indicated. And I believe instead of our awareness being heightened, I think we're following the same steps of those who made mistakes in the past.

SENATOR SALAND: Well --

ACTING PRESIDENT GRIFFO: Do you continue to yield, Senator Adams?

SENATOR ADAMS: Yes, I do.

ACTING PRESIDENT GRIFFO: Senator Saland.

SENATOR SALAND: Through you, Mr. President, let me abbreviate this without trying to make this go on much more, because I'm sure it's painful for many people.

The question I would ask you, then, can we not repose confidence in DEC, the very agency that you say is the watchdog, that if this is as toxic of a menace as you seem to feel that it is, and it's such an immediate

threat to the health and well-being of all of us, that DEC will not go along with this proposal and will in fact say, to the Governor, Governor, reject it?

ACTING PRESIDENT GRIFFO: Senator Adams.

SENATOR ADAMS: May I respond?

Well, it is not my position, the level of toxicity of the item or the paint. That's not my position.

When I first stood up, I questioned the sponsor of the bill to help me understand what exactly DEC stated. So maybe we need to hear from DEC why they're extending this period. Is the level of danger going to decrease? I need information so I can properly vote on a bill that's going to impact on our environment.

You're stating what DEC's position is. You're stating what the Governor's position is and the commissioner's position is. That's coming from the sponsor of the bill. I didn't hear that from the Governor, I didn't hear that from the commissioner. There's no memo that came out from DEC that

states the danger is going to change. I didn't receive any of that.

SENATOR SALAND: Mr. President, just on a point of order, I never alluded to DEC saying anything.

I'm merely saying that Senator Adams professes to look to DEC, rightfully so, as the watchdog. And I'm saying that if DEC is the watchdog, will it not draw a line in the sand and say no, this should not happen?

And I would think, if that in fact is the case, then you have your security blanket and we all can walk away feeling that we've done the right thing. But, you know, that certainly is for you to determine. You've made your determination, and I obviously am not about to change your mind.

But I merely thought that it was important to in effect remind everybody that this is not in a vacuum. This is a continuum of events, and they harken back not merely to cigarette smoking, they harken back not merely to the events of 9/11, but a whole range of events that have occurred that have certainly sensitized the general public, this

Legislature, and a host of others to the importance of being sound with respect to whatever it is that we're breathing in the air.

And I take comfort knowing that DEC, if in fact they feel that this somehow or other is an imminent threat to the health and well-being of the people of the State of New York, regardless of whatever age they may be, DEC will say no, this cannot be. And if DEC says, okay, two months is fine, then it can't be as imminent of a threat as some have portrayed it as being.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Saland.

Senator Adams.

SENATOR ADAMS: Mr. President --

ACTING PRESIDENT GRIFFO: Senator Adams, we have a recognized group.

Senator Connor, why do you rise?

Okay. Any other Senator wishing to speak at this point in time?

Senator Marcellino, to close.

SENATOR MARCELLINO: Thank you.

With respect to notification, this bill was put out on the Thursday before the meeting of the Environmental Committee, which met on this past Tuesday, which is our normal procedure. It was advertised. Copies of the bill were sent out to all members of the committee. The bill passed without a negative vote in the committee. Members of the committee had a chance to read it, raise any questions or objections that they would have had. None came.

What I have heard today is quite amazing. I really am. I didn't think anything could shock Tom Duane, but I guess he gets shocked today.

The DEC, the watchdog, the health commissioner, the watchdogs, say this 60 days isn't going to hurt anybody. They've said that, Senator. Not Carl Marcellino, not John Bonacic, not Jim Wright, not anybody else in this room.

The bill would never have come out, would never have moved forward if we didn't have the approval of the commissioner and of the Governor and of the Assembly. Hardly

bastions of anti-environmentalism. I don't think you can accuse any of those agencies as being, you know, agencies that would come out and do anything that they would consider to be a threat to public health or a threat to the State of New York or a threat to anybody.

It's an accommodation that has been made to help some people out. That's all it is. It's a very simple little bill. It should not have garnered this kind of, quite frankly, in some cases disingenuous extrapolation of language that I've heard here. We've gotten off on to Agent Orange, equating these paint cans -- the walls in your offices are painted with this stuff. The walls of your houses are probably painted with this stuff. The walls of your apartments are painted with this stuff, and have been for years. And will be for years again. Every other state around us is selling this paint now and will continue to sell it.

Some arbitrary decision was made, a date was picked. People came and said give us 60 more days. Everybody agreed. All the watchdogs agreed to do this. Otherwise, we

wouldn't have done the bill. Simple as that.

Ladies and gentlemen, based on that, I just don't see the need for all of this. I really don't. We should vote aye on this bill, move it on, get it done and move on to issues of real import. I intend to vote aye and urge everyone else to do the same.

ACTING PRESIDENT GRIFFO: 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 GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Stewart-Cousins, to explain her vote.

SENATOR STEWART-COUSINS: This has been one of these I think debates that go beyond the rhetoric and goes to policy. And what I hear, as I listened to my colleagues discussing this, is policy.

The reality is yes, the DEC is the watchdog. And it takes a very long time for

these watchdogs to make a decision to say that something is very dangerous. So the fact that DEC has said this is dangerous says something to me.

Now, are we going to respect the decision of a DEC, or are we going to allow DEC or other watchdogs to decide, well, maybe not this week, maybe a month from now, maybe two months from now?

I oppose changing the date on something that has been certified by the DEC as dangerous. I think it's an important policy discussion that we decide that when something comes to our attention as dangerous, it should be understood to be that. And we should respect that and not second-guess and third-guess and mediate.

I think, as a policy, our Legislature has to decide whether we believe DEC or any other watchdog. And at this point I agree with the first decision that the watchdog made. I will be voting no because I think our policy is that we must respect the health and safety of our community.

ACTING PRESIDENT GRIFFO: Senator

Stewart-Cousins in the negative.

Senator Schneiderman, to explain his vote.

I would remind the members of the two-minute rule, too, in explanations.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. Explaining my vote.

I'm going to vote no on this also. And I think that this debate actually reflects something that we should be more concerned about here. There are two issues that have been addressed. The first is process, and the second question, quite honestly, is prejudice.

Now, process, as Senator Duane I think clearly laid out, the process by which this bill has come forward and the lack of input and the lack of information available to us -- even apparently available to the bill's sponsor -- I think is the kind of thing that makes people cynical about us and that gets this Legislature rated over and over again as the most dysfunctional in the country. Let's slow down and do our job carefully.

But the second, and I say this absolutely sincerely to my colleagues on the

other side of the aisle, I think sometimes we have a tendency to underestimate prejudice in the distribution of toxic substances in our state.

And I think the concern of some of my colleagues is that, as Senator Adams said, not-for-profits who care for the least among us, our children, shouldn't be once again given a toxic substance to use.

The problems of lead paint, the problems of other pollutants, the problems of asthma in inner-city communities caused by the location of bus depots and everything, there is a problem of prejudice in our environmental policies.

And I think that it is a tribute to the people who have spoken here today that we are keeping our eyes on the ball, we our doing our jobs as legislators.

Just the fact that there is one watchdog on duty does not mean that this house does not have an obligation to serve as that additional watchdog for which we were elected and which I'm proud to count as one of my functions.

Even with the great DEC commissioner -- although I think Senator Maziarz believes he's too much under the influence of corporate power, but in fact some of us think he's a pretty good guy -- we're trying to help him do his job better and make sure that the environmentalism is not just in our rural areas in this state but it extends to the inner-city neighborhoods where far too often toxic substances have been allowed to reside years after they're banned in other areas.

I'm voting no, Mr. President, and I'm proud of the debate we've had here today.

ACTING PRESIDENT GRIFFO: Senator Schneiderman in the negative.

Senator Duane, to explain his vote.

SENATOR DUANE: Thank you, Mr. President.

You know, I actually think DEC probably did the best job they could in trying to negotiate their way out of this. You know, and I have to say that I was very proud to vote to confirm this commissioner, and I think he's an excellent -- he was an excellent

legislator. And I think he's so far been an excellent commissioner.

But you know what? The buck stops here. This is where the final decision gets made. So we are responsible.

You know, to make this debate between health and small business is wrong. We should do something to help small businesses. Tax credits. There are other ways out of this horrendous mess.

You know, again, asbestos, lead, creosote. I mean, we know now these things are bad. Opening up these cans apparently is extremely dangerous. I really encourage my colleagues to vote no on this to send a strong signal that we actually want to protect kids, workers who open up these cans. It's not a matter of only what are we going to do about small businesses, it's protecting the health and safety of all of our citizens.

I vote no, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Duane in the negative.

Senator Stachowski, to explain his vote.

SENATOR STACHOWSKI: Yes, Mr. President, I'd just like to rise in support of this bill.

I believe that this -- this topic actually came up during then Assemblyman Grannis's confirmation hearing. And quite to the contrary of some of the debate here, it was brought up by people that represent more rural areas, because of little paint stores, et cetera.

And they asked if he would look into this. And even though many of them voted no, saying that they don't believe he cares about those particular areas, the fact is that he has looked into this.

DEC I don't believe would allow an extender for another minute if this paint was as dangerous as some people are portraying it to be, or if it was that dangerous to open the can. I just think they don't want this product used any more in the future.

I think this product will be off the market. I don't think they would allow them to have a compromise to donate paint to not-for-profits if there was a danger, because

the exposure is on them. And the fact is if they are, in fact, in any way opposed to this, they will suggest to the Governor that he vetoes the bill.

But my information is to the contrary, that this is a compromise that has been worked out with the new commissioner and the experts at DEC, that the danger is not there. That if there was a danger, not-for-profits wouldn't be getting this paint. And I just don't see that the DEC would be the author of something that would be a danger to the people that are serviced by not-for-profits.

So because of those reasons, and because of the fact that it's Pete Grannis's first time to bat, he's risen up and found a solution to a problem that was brought to his attention that he did say he would look for, I vote aye.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Stachowski in the affirmative.

Senator Liz Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you.

Well, I listened to the debate. And I don't think that this is really that much about who said the DEC commissioner one day or another.

I've been reading the history of the legislation, which actually goes back to the '70s. And so I'm not sure if anyone here was here then back in 1972 when apparently we first started debating whether we should pull this stuff off the market. And then it came and went in '73, in '88, in 2003, in 2006 as an emergency measure. There's been a lot of discussion about this.

So on the one hand, I'll accept the argument two months more probably, in the realm of the history of this product, may not make a big difference and may help some small businesses.

And yet I find myself ultimately voting no because this went through years and years apparently in this house and the other, and I assume with various Governors, of when we were finally closing the door on this. And we picked a date. And maybe it was an

arbitrary date, but we picked the date.

And I'm a little concerned about the discussion around small businesses in the absence of really asking the hard questions, which also is too late for this Legislature, I feel, to deal with. It was manufacturers that this bill applies to. It says you can no longer manufacture products. Well, the manufacturers knew that for a long time. And yet if we have all these small businesses who suddenly have large inventories of this product, I suspect that manufacturers were quote, unquote, dumping their inventory at discounted prices to solve their economic problem, basically by transferring that cost and that responsibility and conceivably that liability to small businesses.

So I think everybody has a little guilt to share here. And that DEC may have said, fine, two more months and we're done with this. And that's fine. And I respect the concern about small businesses suddenly being caught in this. I respect very much the concern of my colleagues who say we don't look carefully about what we're doing in our

communities to our children and our people. And we can all name long histories of our doing too little, too late on protecting our environment. I suppose you could even argue that's a theme of our country right now in this world, too little, too late on our environment. So --

ACTING PRESIDENT GRIFFO: Senator Krueger, how do you vote?

SENATOR LIZ KRUEGER: I will vote no. And --

ACTING PRESIDENT GRIFFO: Senator Krueger, we would like to respect the rules of the house today for explanations. You're beyond the two minutes.

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

ACTING PRESIDENT GRIFFO: Senator Liz Krueger in the negative.

Senator Hassell-Thompson, to explain her vote.

SENATOR HASSELL-THOMPSON: Senator Krueger has articulated very clearly the major concern that I have. I just will say that I will be voting no as well.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Hassell-Thompson in the negative.

Senator Adams.

SENATOR PARKER: No, Senator Parker. We look alike.

ACTING PRESIDENT GRIFFO: Senator Parker. Excuse me, Senator Adams.

Senator Parker, to explain his vote.

SENATOR PARKER: Mr. President, I rise to vote no. I know everybody is saying well, this is not as dangerous as they suspect. Well, if it wasn't that dangerous, why are we taking it off the market?

When we stopped smoking indoors in this state, we were all very proud of that. I think we all continue to be very proud of it. We didn't say, oh, well, there are some people who haven't quit smoking yet so let's continue to, you know, allow people to smoke. We didn't say that there are some people who, you know, still haven't kicked the habit, we have small businesses who are still selling cigarettes and we don't want to hurt their

profits, so let's continue to let people smoke indoors and endanger all of us.

So to rise now and to say that this can't be more of a danger in two more months, and it will be two more months -- and I don't believe in the slippery slope that we're creating here: two months here and then in two more months we'll be back asking for two more months and two more months after that.

And if people don't think that the government does bad things, I want people to go back and look at the U.S. experiment on African-Americans at a college called Tuskegee. And the government then knowingly let a group of men suffer with syphilis for over five years.

So, you know, when folks are talking about well, you know, we wouldn't do this and agencies would never endanger the lives of human beings -- and certainly when I hear my colleagues talking about, you know, we're going to take paint that we have banned, we know is dangerous, and we're going to put it into affordable housing, who lives in affordable housing? Sounds like the Tuskegee

experiment to me.

So I'm voting no, and I urge my colleagues to vote no as well.

ACTING PRESIDENT GRIFFO: Senator Parker in the negative.

Senator Perkins.

SENATOR PERKINS: Thank you very much.

I just want to again raise my concerns about something that had no business being on the market -- poisoning or somehow or other being a problem from a health point of view -- being taken off the market, and now we are fighting to keep it on the market for however long the commissioner says we should.

I think this is a dangerous precedent for us to be doing this. Some people argue that we're the only state in the country that seems to have a problem with this. That's not the measure to determine whether or not something is healthy or unhealthy.

I know for years and years we talked about lead paint poisoning, and businesspeople argued vigorously in every way

that they could to keep lead paint on the market, despite the fact that the health experts, the environmentalists and everyone else was telling us that these children were being poisoned, crippled for life, unable to get an education.

So I think we have to be very careful with that kind of history when we start delaying taking off the market something that has been determined to be unhealthy. And we have to watch out that when we use business, especially small-business arguments for the purpose of delaying something in that respect.

And I think it's also, as was pointed out more than once, weird that we would be asking that this stuff be given to not-for-profits. If it's not good, it's not good. Period. And I think that this may be another reason for us to have hearings, to have -- this is a subject that we could have called upon all the experts, the environmentalists, including the commissioner and others, so that there could be a clear understanding about how dangerous this really

is.

And so clearly I'm opposed to this and very concerned that our commissioner, who I supported, who I continue to support, made such a decision allegedly with the endorsement also of the Governor, which I'm concerned that he would be a party to this. I don't care who's the Governor or who's the commissioner. To support something that has been determined to be unhealthy to me is wrong. So I'm opposing this legislation.

Thank you so much.

ACTING PRESIDENT GRIFFO: Senator Perkins in the negative.

Senator Klein, to explain his vote.

SENATOR KLEIN: Thank you, Mr. President.

I had the honor of serving for 10 years in the Assembly with now Commissioner Pete Grannis. And you want to know something? Pete Grannis would have been the first person to get up today and question this information and find out why we're voting on this legislation today.

I don't think this is a litmus test

on whether or not we're helping small business. Because by not having the information that we need, we may be hurting business. As I mentioned I think earlier, are we requiring that these businesses notify whoever they're giving this product to, a not-for-profit, that this potentially may be dangerous? There's a whole host of questions that we don't have answered.

And I thank all of my colleagues -- Senator Adams, in raising his concerns about the effects of people down at Ground Zero at 9/11; Senator Perkins, who is truly one of the experts on the dangers of lead paint poisoning. I think it's incumbent on us to question these things. And I don't think anyone here doesn't want to help small business. But I think we do have a right to know this information.

I think this goes to the process of this chamber. In all this debate we've had here today, no one has yet to produce a letter explaining what are the dangers here, either through the DEC commissioner or anyone else.

I vote no, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Klein in the negative.

The clerk will announce the results.

Senator Volker.

SENATOR VOLKER: Mr. President, to explain my vote.

ACTING PRESIDENT GRIFFO: Senator Volker, to explain his vote.

SENATOR VOLKER: I hesitate to do this. I realize that this is really more of a political debate.

Senator Perkins, can I just tell you something about lead paint? Lead paint's been banned since 1984. I don't remember the business community ever objecting. The reason we couldn't do statewide legislation basically is because some trial lawyers in New York City refused to allow a decline -- what they wanted was class actions so you could sue every housing group in New York City.

We did do some lead paint upgrades, dramatically. I did it. Arthur O. Eve and I worked very hard on lead paint. I can tell you there were outside interests that kept us

from doing it. It wasn't business, because they had realized long before that it was a problem.

The problem here is this isn't really the DEC that caused this to happen, it was the EPA. The EPA, in their scattershot information, said we have to come up with some sort of a plan. One of the things is they said, Well, there's a couple of substances in this paint that could be dangerous. Could be. They have no idea. And by itself, it's not, by the way. But it could be.

So the DEC said all right, maybe we'd better get rid of this stuff and they can get that stuff out of it and change it. That's what this is all about. Nobody knows whether this is really dangerous or not or whatever it is.

But what's really happening here -- and I understand this is sort of the political season. The truth is, this is a good bill because -- and if you got everybody in, they would say we don't know if there's anything wrong with it. But ultimately we should probably take if off because it might,

sometime later on, have a problem.

So I vote aye.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT GRIFFO: Senator Volker in the affirmative.

Senator Skelos, to explain his vote.

SENATOR SKELOS: If I could explain my vote.

Listening to the debate, and I guess I could say some of the comments against, it would be like watching paint dry. But I'm not going to do that.

But I'm going to support the bill. And certainly I'm not going to question those who are voting against it, although I do believe it's anti-small business. And you have the right to express your views and your health concerns.

I'm going to take a little different approach in terms of priorities. Priorities, when we talk about healthcare, I'm just curious where the members of the Minority were when Governor Spitzer wanted to cut a billion dollars out of healthcare, which would

have devastated our hospitals, devastated our health delivery system, and not one word was said by many of the members who are now standing up in complete disbelief that Governor Spitzer would be supporting this type of legislation and that would be poisoning their kids.

We discussed the death penalty yesterday, and there were many comments made. And, Senator Adams, I don't believe as a former policeman you got up and spoke about -- you voted against it, but you didn't speak about why you thought it wouldn't protect policemen. And I think that's an appropriate place where we should have a lengthy discussion, and certainly your expertise as a policeman.

But again, I go back to the healthcare issue. Where were you? Sitting there quietly when Governor Spitzer gave you orders to vote no.

So I think there's progress today. We're starting to see some spine development with many of the members of the Minority who are now willing to say to Governor Spitzer:

If you're wrong, we're going to vote against you.

I beg your pardon? Oh, judges' raises, too.

So I congratulate you on some of the spine that is being shown today, and I hope that you will continue to do it during the rest of the legislative process.

Mr. President, I vote aye.

ACTING PRESIDENT GRIFFO: Senator Skelos in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 969 are Senators Adams, Dilan, Duane, Gonzalez, Hassell-Thompson, Huntley, Klein, L. Krueger, Parker, Perkins, Sampson, Savino, Schneiderman, Serrano, Stewart-Cousins.

Absent from voting: Senator C. Kruger.

Ayes, 44. Nays, 15.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

SENATOR SKELOS: Please recognize Senator Robach.

ACTING PRESIDENT GRIFFO: Senator Robach.

SENATOR ROBACH: Yes, Mr. President. On page 51 I offer the following amendments to Calendar Number 781, Senate Print Number 5287, and ask that the said bill retain its place on the Third Reading Calendar.

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

Senator Skelos.

SENATOR SKELOS: Mr. President, is there any further business to come before the Senate?

ACTING PRESIDENT GRIFFO: There is no further business, Senator Skelos.

SENATOR SKELOS: There being none, I move we stand adjourned until Monday, May 21st, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT GRIFFO: At the

request of Senator Skelos, I ask for order in the chamber, that we may have a moment of silence in memory of Yolanda Denise King, the daughter of the Reverend Dr. Martin Luther King, Jr. and Coretta Scott King, who passed away today.

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

ACTING PRESIDENT GRIFFO: On motion, the Senate stands adjourned until Monday, May 21st, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 12:47 p.m., the Senate adjourned.)