NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 21, 2007

11:02 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.

I ask that you please rise and join me as we recite the Pledge of Allegiance to our Flag.

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

ACTING PRESIDENT GRIFFO: In the absence of clergy, I ask that you bow your heads in a moment of silent prayer.

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

ACTING PRESIDENT GRIFFO: Reading of the Journal.

THE SECRETARY: In Senate, Wednesday, June 20, the Senate met pursuant to adjournment. The Journal of Tuesday, June 19, 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 Fuschillo.

SENATOR FUSCHILLO: Mr. President, on behalf of Senator Libous, I wish to call up Senate Print Number 6300, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 1948, by Senator Libous, Senate Print 6300, an act to amend Chapter 549 of the Laws of 1994.

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

ACTING PRESIDENT GRIFFO: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

SENATOR FUSCHILLO: Mr. President, I ask that the bill be restored to

the order of third reading.

ACTING PRESIDENT GRIFFO: So ordered. The bill will retain its place on the Third Reading Calendar.

SENATOR FUSCHILLO: Are there any substitutions at the desk?

ACTING PRESIDENT GRIFFO: Yes, there are substitutions at the desk.

The Secretary will read.

THE SECRETARY: On page 4, Senator Trunzo moves to discharge, from the Committee on Rules, Assembly Bill Number 5963A and substitute it for the identical Senate Bill Number 1262A, Third Reading Calendar 71.

On page 6, Senator Robach moves to discharge, from the Committee on Rules, Assembly Bill Number 5984A and substitute it for the identical Senate Bill Number 3071A, Third Reading Calendar 216.

On page 8, Senator Seward moves to discharge, from the Committee on Rules, Assembly Bill Number 9035 and substitute it for the identical Senate Bill Number 806A, Third Reading Calendar 307.

On page 9, Senator Maziarz moves to

discharge, from the Committee on Rules, Assembly Bill Number 5036A and substitute it for the identical Senate Bill Number 255A, Third Reading Calendar 317.

On page 9, Senator Fuschillo moves to discharge, from the Committee on Rules, Assembly Bill Number 8971 and substitute it for the identical Senate Bill Number 3555A, Third Reading Calendar 340.

On page 17, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 6247A and substitute it for the identical Senate Bill Number 3420A, Third Reading Calendar 628.

On page 18, Senator Young moves to discharge, from the Committee on Rules, Assembly Bill Number 7543A and substitute it for the identical Senate Bill Number 4334A, Third Reading Calendar 717.

On page 21, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 7778 and substitute it for the identical Senate Bill Number 4395, Third Reading Calendar 826.

On page 22, Senator Lanza moves to

discharge, from the Committee on Rules, Assembly Bill Number 8329A and substitute it for the identical Senate Bill Number 4260A, Third Reading Calendar 837.

On page 22, Senator DeFrancisco moves to discharge, from the Committee on Rules, Assembly Bill Number 8692C and substitute it for the identical Senate Bill Number 4878B, Third Reading Calendar 842.

On page 29, Senator DeFrancisco moves to discharge, from the Committee on Rules, Assembly Bill Number 7329A and substitute it for the identical Senate Bill Number 4877A, Third Reading Calendar 1118.

On page 39, Senator Stewart-Cousins moves to discharge, from the Committee on Rules, Assembly Bill Number 6964 and substitute it for the identical Senate Bill Number 4135, Third Reading Calendar 1409.

On page 42, Senator Rath moves to discharge, from the Committee on Rules, Assembly Bill Number 7808A and substitute it for the identical Senate Bill Number 5286A, Third Reading Calendar 1721.

On page 43, Senator Valesky moves

to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 7143 and substitute it for the identical Senate Bill Number 4318, Third Reading Calendar 1742.

On page 43, Senator Nozzolio moves to discharge, from the Committee on Rules, Assembly Bill Number 3397B and substitute it for the identical Senate Bill Number 705B, Third Reading Calendar 1770.

On page 43, Senator Stavisky moves to discharge, from the Committee on Codes, Assembly Bill Number 463 and substitute it for the identical Senate Bill Number 2663, Third Reading Calendar 1802.

On page 44, Senator Winner moves to discharge, from the Committee on Rules, Assembly Bill Number 9145 and substitute it for the identical Senate Bill Number 6220, Third Reading Calendar 1889.

On page 45, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 8966A and substitute it for the identical Senate Bill Number 6209A, Third Reading Calendar 1924.

On page 48, Senator Maltese moves to discharge, from the Committee on Rules, Assembly Bill Number 4051A and substitute it for the identical Senate Bill Number 298A, Third Reading Calendar 2004.

On page 49, Senator Fuschillo moves to discharge, from the Committee on Rules, Assembly Bill Number 4691A and substitute it for the identical Senate Bill Number 3583A, Third Reading Calendar 2008.

On page 49, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 7676 and substitute it for the identical Senate Bill Number 4518, Third Reading Calendar 2013.

On page 49, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 5177 and substitute it for the identical Senate Bill Number 4531, Third Reading Calendar 2014.

On page 50, Senator Alesi moves to discharge, from the Committee on Rules, Assembly Bill Number 8077 and substitute it for the identical Senate Bill Number 5784, Third Reading Calendar 2018.

And on page 50, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 9052 and substitute it for the identical Senate Bill Number 6240, Third Reading Calendar 2022.

ACTING PRESIDENT GRIFFO: Substitutions ordered.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, I believe there's a resolution by Senator Bruno at the desk. At this time may we please have the title read only.

ACTING PRESIDENT GRIFFO: The Secretary will read.

I would ask, again, the chamber to please come to order.

The Secretary will read.

THE SECRETARY: By Senators Bruno and Breslin, Legislative Resolution Number 3072, commending Albany Medical Center upon the occasion of its designation as recipient of the 2007 Pinnacle Award for Quality Improvement by the Healthcare Association of New York State.

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 adopted.

Senator Fuschillo.

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

ACTING PRESIDENT GRIFFO: The Secretary will read.

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

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 71, substituted earlier by Member of the Assembly Abbate, Assembly Print Number 5963A, an act to amend the Retirement and Social Security 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, 46.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect one year after it shall have become a law.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 102, by Senator Maziarz, Senate Print 105A, an act to amend the General Business Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 216, substituted earlier by Member of the Assembly Abbate, Assembly Print Number 5984A, an act to amend the Civil Service 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, 46.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 277, by Senator Rath, Senate Print 1671, an act to amend the Tax 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, 48.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 307, substituted earlier by Member of the

Assembly Morelle, Assembly Print Number 9035, an act to amend Chapter 340 of the Laws of 2005 amending the Insurance 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, 48.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 317, substituted earlier today by Member of the Assembly Weisenberg, Assembly Print Number 5036A, an act to amend the Penal Law and the Agriculture and Markets Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

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 340, substituted earlier today by Member of the Assembly Hevesi, Assembly Print Number 8971, an act to amend the General Business Law and others.

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, 50.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 611, by Senator Larkin, Senate Print 2893, an act to amend the Tax Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the first of April.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 613, by Senator Larkin, Senate Print 4059A, an act to amend the Racing, Parimutuel Wagering and Breeding 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, 49. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 628, substituted earlier today by Member of

the Assembly Weprin, Assembly Print Number 6247A, an act to amend the General Business Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 670, by Senator Saland, Senate Print 3577A, an act to amend the Education 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, 50.

ACTING PRESIDENT GRIFFO: The

bill is passed.

THE SECRETARY: Calendar Number 717, substituted earlier today by Member of the Assembly Magee, Assembly Print Number 7543A, an act to amend the Agriculture and Markets 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, 52.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 738, by Senator C. Kruger, Senate Print 4838A, an act to amend the Family Court Act and others.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 11. This act shall take effect on the 90th day.

ACTING PRESIDENT GRIFFO: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 767, by Senator Padavan, Senate Print 1844, an act to amend the Vehicle and Traffic Law and the Administrative Code of the City of New York.

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

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, 52.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 826, substituted earlier today by Member of the Assembly Canestrari, Assembly Print Number 7778, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 837, substituted earlier today by Member of the Assembly Ortiz, Assembly Print Number 8329A, an act to amend the Lien Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number

842, substituted earlier today by Member of the Assembly Weinstein, Assembly Print Number 8692C, an act to amend the Court of Claims Act.

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, 52.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 866, by Senator Alesi, Senate Print 961A, an act to amend the General Business Law.

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, 52.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1018, by Senator Seward, Senate Print 3150A, an act to amend the Tax Law.

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

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1065, by Senator Skelos, Senate Print 4383C, an act to amend the Penal Law.

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, 53.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

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, 53.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1118, substituted earlier today by Member of the Assembly Weinstein, Assembly Print Number 7329A, an act to amend the Domestic Relations Law and others.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 30th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1200, by Senator Marcellino, Senate Print 4833A, an act to amend the Environmental Conservation 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, 53.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1250, by Senator Fuschillo, Senate Print 5780A, an act to amend the Penal Law and the

Vehicle and Traffic Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 60th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1276, by Senator Farley, Senate Print 5288B, an act to authorize the Town of Caroga.

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

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1279, by Senator Morahan, Senate Print 4475A, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 11. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1397, by Senator Saland, Senate Print 5752A, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1409, substituted earlier today by Member of the Assembly Pretlow, Assembly Print Number 6964, an act to amend the Tax 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, 53.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 9. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1488, by Senator Fuschillo, Senate Print 5517A, an act to amend the Penal Law and the Vehicle and Traffic Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 11. This act shall take effect on the first of November.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1565, by Senator Nozzolio, Senate Print 4811A,

an act to amend the General Municipal 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, 52. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Morahan.

The Secretary will reannounce the results on 1565.

THE SECRETARY: Those recorded in the negative on Calendar Number 1565 are Senators Duane and Morahan.

Ayes, 51. Nays, 2.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1569, by Senator Golden, Senate Print 5729A, an act to amend the Penal Law.

SENATOR DUANE: Lay it aside,

please.

ACTING PRESIDENT GRIFFO: The bill is laid aside.

THE SECRETARY: Calendar Number 1635, by Senator Nozzolio, Senate Print 5037B, an act to amend the Penal Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

SENATOR MORAHAN: Mr. President.

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

SENATOR MORAHAN: Which calendar number are we on?

ACTING PRESIDENT GRIFFO: We are currently on 1635. The sponsor is Senator Nozzolio.

SENATOR MORAHAN: Mr. President.

ACTING PRESIDENT GRIFFO: Senator Morahan.

SENATOR MORAHAN: On 1565 I voted no, I believe. I'm sorry, is it 1565?

ACTING PRESIDENT GRIFFO: On 1565 you were cast in the negative, Senator Morahan.

SENATOR MORAHAN: Can that be corrected?

ACTING PRESIDENT GRIFFO: Senator, the rules of the house would not provide for that.

SENATOR MORAHAN: Thank you.

ACTING PRESIDENT GRIFFO: Thank you, Senator Morahan.

THE SECRETARY: Those recorded in the negative on Calendar Number 1635 are Senators Duane, Gonzalez, Hassell-Thompson, L. Krueger, LaValle, Montgomery, Morahan, Parker, Sabini and Serrano. Also Senator Perkins.

Ayes, 43. Nays, 11.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1673, by Senator Stachowski, Senate Print 5746B, an act to authorize the Town of

Cheektowaga.

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

Read the last section.

THE SECRETARY: Section 4. 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 1685, by Senator Volker, Senate Print 6081A, an act to authorize the transfer of certain funds.

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 1697, by Senator Nozzolio, Senate Print 5012A, an act to amend the Penal Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

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 1719, by Senator Lanza, Senate Print 4922A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

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 1721, substituted earlier today by Member of the Assembly Hayes, Assembly Print Number 7808A, an act to amend the Real Property Tax 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 1725, by Senator Saland, Senate Print 5672A, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

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 1727, by Senator Lanza, Senate Print 5973B, an act to amend the Education 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 1742, substituted earlier today by Member of the Assembly Magee, Assembly Print Number 7143, an act to amend the Tax 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 1770, substituted earlier today by Member of the Assembly Aubry, Assembly Print Number 3397B, an act to amend the Correction Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

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 1802, substituted earlier today by Member of the Assembly Dinowitz, Assembly Print Number

463, an act to amend the Penal Law and the Correction Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1808, by Senator Marcellino, Senate Print 5427A, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT GRIFFO: The

bill is passed.

THE SECRETARY: Calendar Number 1825, by Senator Golden, Senate Print 6112A, an act to amend the Retirement and Social Security 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, 57.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1834, by Senator Alesi, Senate Print 272, an act to amend the Social Services Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1844, by Senator Wright, Senate Print 4261A, an act to amend Chapter 519 of the Laws of 1999.

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, 57.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1845, by Senator Young, Senate Print 4333A, an act to amend the Agriculture and Markets Law.

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, 57.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1880, by Senator Seward, Senate Print 6164, an act to amend the Education Law.

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.)

SENATOR FUSCHILLO: Mr. President, lay the bill aside for the day, please.

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

THE SECRETARY: Calendar Number 1882, by Senator Wright, Senate Print 6176A, an act to amend the General Business Law.

ACTING PRESIDENT GRIFFO: Read

the last section.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 1889, substituted earlier today by Member of the Assembly Schimminger, Assembly Print Number 9145, an act to amend Chapter 192 of the Laws of 2003.

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, 57.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1890, by Senator Volker, Senate Print 6221, an act to amend the Alcoholic Beverage Control 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, 57.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1904, by Senator Volker, Senate Print 3175A, an act to amend the Social Services Law and the Family Court Act.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 5. This act shall take effect January 1, 2009.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1914, by the Senate --

SENATOR FUSCHILLO: Lay it aside temporarily.

ACTING PRESIDENT GRIFFO: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 1920, by Senator Leibell, Senate Print 6156A, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1924, substituted earlier today by Member of the Assembly Rosenthal, Assembly Print Number 8966A, an act to amend the General Business Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1952, by Senator Leibell, Senate Print 6310, an act to amend the Domestic Relations Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1953, by Senator Skelos, Senate Print 6321, an act to amend the Arts and Cultural Affairs

Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 13. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1954, by the Senate Committee on Rules, Senate Print 6322, an act authorizing Victor T. Greco to file.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1955, by Senator Griffo, Senate Print 6324, an act to amend the Civil Service Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 24. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1956, by Senator DeFrancisco, Senate Print 6358, an act to amend the State Finance 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.)

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

SENATOR DeFRANCISCO: Yes, I just want to explain this bill.

Several years ago there was a change in the process for providing information to the general public about how expenditures were done in the State Legislature. And the whole concept was that we should be open, an open government that provides information to the public, freely accessible to them.

This opens that same government in different branches, however, providing the same requirements of the judiciary branch of government as well as the executive branch, its agencies and authorities.

So this is another good bill for open and good government that I'm happy to vote yes for today.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number

1959, by Senator Nozzolio, Senate Print 703C, an act to amend the Penal Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1962, by Senator O. Johnson, Senate Print 2138A, an act to amend the Retirement and Social Security Law and the Military Law.

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, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1970, by Senator Farley, Senate Print 4392B, an act to amend the Banking Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1974, by Senator C. Kruger, Senate Print 5142A, an act to amend the Family Court Act and the Social Services Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 17. This act shall take effect on the 90th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1976, by Senator Farley, Senate Print 5618A, an act to amend the Banking Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1980, by Senator Nozzolio, Senate Print 6066A, an act to amend the General Municipal 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, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1985, by Senator Libous, Senate Print 6254A, an act to amend the Vehicle and Traffic 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, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1993, by Senator Nozzolio, Senate Print 6313, an act to amend the Correction Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in

the same manner as a chapter of the Laws of 2007.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1994, by Senator Maziarz, Senate Print 6328, an act to amend Part B of Chapter 57 of the Laws of 2007.

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, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1995, by the Senate Committee on Rules, Senate Print 6329, an act to authorize the Town of

Malta.

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

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1996, by Senator Larkin, Senate Print 6332, an act to amend the Penal Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 11th of November.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1997, by Senator Fuschillo --

SENATOR FUSCHILLO: Lay the bill aside temporarily.

ACTING PRESIDENT GRIFFO: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 1998, by Senator Fuschillo, Senate Print 6345, an act to amend Chapter 33 of the Laws of 2002 relating to authorizing.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Hassell-Thompson, to explain her vote.

SENATOR HASSELL-THOMPSON: Yeah, thank you, Mr. President.

Five years ago Senator Fuschillo brought before this body a proposal for the state to take over Roosevelt School District because of the seriousness of the problems

that existed there.

I voted against the bill, and I spoke on this floor as to my reasons why I did not believe that letting the state take over the administration of this district was going to be in best interests of children and that district.

In conversations with Senator Fuschillo when this bill came back to the floor, we have shared the fact that many of my concerns have in fact been realized.

I'm going to support this bill, however, because I recognize that Roosevelt has recognized the mistakes that it made and that the state cannot be allowed to, by itself, be responsible for the administration of our districts because of the way in which they don't have the enforcement power and they don't exercise the monitoring power that's necessary to ensure that the number-one criterion is that our children are learning.

They have taken remedial remedies to correct many of the problems that exist. And I would like to hope, Senator Fuschillo, that your commitment that you made to me in

support of this bill and to the children of the Roosevelt district are very real. Because we are responding and have spent an inordinate amount of money attempting to educate our children, and we're allowing administrations to squander that money and not be able to give us the kind of results that are important to the children of the State of New York.

So I do support this bill, and I do support your efforts. And thank you for your commitment to make sure that the children of Roosevelt get a better shake this time.

Thank you.

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

Senator Fuschillo.

SENATOR FUSCHILLO: Let me first thank Senator Hassell-Thompson for her support. She's right, Mr. President.

ACTING PRESIDENT GRIFFO: Can we have some order, please.

SENATOR FUSCHILLO: She's right. The Commissioner of Education failed in his responsibility and his oversight of the

Roosevelt School District. I've called for his resignation. And I hope upon his successful return to his office that the Board of Regents has a discussion with him and it's time for him to leave as the Commissioner of Education of the State of New York.

The superintendent that the commissioner put in failed the school as well, and I called for his resignation as well. And effective June 30th of this year, he's gone.

And those are steps in the right direction. But what I face right now is bankruptcy in the school district or taking care of 3100 kids that deserve a quality education. I go with the kids. And that's what this bill does.

One of the measures that we add as additional oversight is we bring in the State Comptroller, Comptroller Tom DiNapoli, to be part of the fiscal oversight of the school district. And as I explained to Senator Hassell-Thompson in our discussion, there's a real-time order. And that's the first time in any school district where the Comptroller will be involved on a daily basis.

It's a difficult decision. It was five years ago; it's a difficult decision right now. But I'm not going to give up on the school district. I'm not going to let these kids, another generation, go through the high school district of Roosevelt Union Free School District and fail.

Has it met with the acceptance of everybody in the community? No, it's not. Because they feel, as I feel, since the Education Department took over this school district, they failed, they should be burdened with the responsibility of taking it back and putting back the finances.

And the bill that I laid aside previously was introduced by my colleague in the Assembly, Assemblywoman Hooper, that would take the money out of the Education Department. But because of the Silver lawsuit many years ago, and the Court of Appeals made a decision, we can't do that. The Department of Budget has ruled that that's unconstitutional.

So I have to do what as a legislator I feel is the responsible thing to

do, advance the payments to the school district, give it greater oversight if the Comptroller's office is doing it, and don't allow it to go bankrupt but support the children, the 3,100 children that are part of that school district.

I'll be voting in the affirmative. Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Fuschillo will be recorded in the affirmative.

Senator LaValle, to explain his vote.

SENATOR LaVALLE: Thank you, Mr. President.

I rise to support Senator Fuschillo, who has done a yeoman's job. And his commitment has been unwavering to the children in that community. And it's great to hear a legislator get up and tell everyone over and over again that his sole focus is the children and the fact that they have all the opportunities to get an education so they can be all that they can be.

In this case it's the adults that really have failed the children. Senator

Fuschillo talked about the commissioner and the Board of Regents, who oversees the school districts and the operation of the State Education Department. That should not have happened.

But also we need to do a better job in ensuring that there is greater disclosure, greater transparency in what goes on in our school districts. Because ultimately the greatest protection of the people in that community, if they have the right information, they are armed with the facts, they will be engaged and make sure that what happened with poor administrative work at the local level and not proper oversight at the State Education Department level would never happen.

Senator Fuschillo, the children of that district are appreciative for what you have done. And I vote in the affirmative, Mr. President.

ACTING PRESIDENT GRIFFO: Senator LaValle to be recorded in the affirmative.

Senator Marcellino, to explain his vote.

SENATOR MARCELLINO: Thank you,

Mr. President.

I also rise to congratulate my colleague Senator Fuschillo for taking on a task that is really very difficult. He's walking a political tightrope, treading a line between all kinds of factions -- within the community, outside the community, State Ed, Board of Regents.

Senator LaValle just said it; he's absolutely correct. The adults have failed the children of the Roosevelt School District. State Ed has been responsible for the governance of that district, and they have failed miserably in their efforts.

They have to go back into that district and take another hard look, work with the community, work with the superintendent that is there now, and work with Senator Fuschillo and the other elected officials who want to do the right thing.

There are 3100 good reasons for us to not lose sight of what's going on in that school district, and that's the children who deserve a quality education. That is one of our paramount responsibilities.

State Ed has failed miserably, and the Board of Regents has to step in and make sure that that failure is not continued and is not allowed to happen again in any other school district in this state.

It is about time the Regents of this state took their job seriously. It is not just a ceremonial position. It is not just a title. They have a responsibility to the children. They are the state school board. They have to start acting like a school district, they have to start acting like responsible parents and take on that job. It's not always easy, and it's not always pleasant. But they owe it to those children, they owe it to the children of the State of New York.

I intend to vote aye on this bill, Mr. President. And again, I congratulate my colleague Senator Fuschillo.

ACTING PRESIDENT GRIFFO: Senator Marcellino will be recorded in the affirmative.

Senator Saland.

SENATOR SALAND: Thank you,

Mr. President.

Mr. President, I rise to commend Senator Fuschillo. Over the course of the five years that I've served as the chair of the Senate Education Committee, time and again he has engaged me on the issue of Roosevelt and the problems of the Roosevelt School District.

He's approached this issue with great energy, with tenacity, and always with the best of good faith, with but one purpose in mind: how is it that he could best serve the educational well-being of the students of that district.

I can tell you that on each and every occasion when I've engaged the Commissioner of Education on the issue of Roosevelt, I have left him with but one concluding message. Unless Senator Fuschillo is part and parcel of resolving this issue, unless he, who is really on the ground where this issue is percolating, is satisfied that it's in the best interests and the needs of the students of that district, there is little or nothing that I would do that would in any

way, shape or form not be in lockstep with Senator Fuschillo.

I commend him for his constant and ongoing commitment. He has truly been absolutely extraordinary in his willingness to do battle not only on the home front, but here in Albany, on behalf of 3,000-plus young people whose education is imperiled because of things well beyond their ability to control.

I vote in the affirmative and again would commend Senator Fuschillo to absolutely any end for what he has done to date. And I'm sure when this finally does resolve, he will get the credit universally that he well deserves.

Thank you.

ACTING PRESIDENT GRIFFO: Senator Saland to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 58. Nays 0.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2000, by Senator Lanza, Senate Print 6352, an

act to amend the Correction Law and the Criminal Procedure Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2001, by Senator Lanza, Senate Print 6355, an act to amend the Civil Practice Law and Rules.

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, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2004, substituted earlier today by Member of the Assembly J. Rivera, Assembly Print Number 4051A, an act to amend the Public Health 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.)

ACTING PRESIDENT GRIFFO: Senator C. Johnson, to explain his vote.

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

I rise and I will be voting in the affirmative on this measure. I first want to thank and congratulate Senator Maltese for sponsoring this initiative, and his leadership on this issue.

What we have before us today is a bill that's going to address a growing problem in New York State, and that's helping kids deal with food allergies and food allergy problems that we see in our schools. It's a

problem that, as a member of the Nassau County Legislature, I worked with a number of these groups to help push Nassau County to establish guidelines for the school districts.

And I'm happy to support this initiative here in the Senate and see the Assembly pass it. That's going to address it on a statewide basis.

I want to congratulate the advocate groups that have been pushing this -- the Food Allergy Initiative and the Allergy and Anaphylactic Network -- for their tireless efforts in pushing this bill.

And I want to congratulate two of my younger constituents, Maya Konoff and Tyler Bromberg, two young children, elementary schoolchildren, who have been tireless advocates not only up here in New York State but in Washington, D.C., to bring to light the problems they face in having food allergies and dealing with the issues in school.

So again, I want to congratulate Senator Maltese on the passage of this bill, and for his leadership. Thank you very much, and I will be voting yes.

ACTING PRESIDENT GRIFFO: Senator Craig Johnson will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2006, by Senator O. Johnson, Senate Print --

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT GRIFFO: The bill is laid aside.

THE SECRETARY: Calendar Number 2007, by Senator Fuschillo, Senate Print 1533A, an act to amend the Penal Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in

the negative on Calendar Number 2007 are Senators Adams, Gonzalez, Hassell-Thompson, Montgomery and Thompson.

Ayes, 53. Nays, 5.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2008, substituted earlier today by Member of the Assembly Paulin, Assembly Print Number 4691A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2012, by Senator Flanagan, Senate Print 4398A, an act to amend the Penal Law.

ACTING PRESIDENT GRIFFO: Read

the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2013, substituted earlier today by Member of the Assembly Gottfried, Assembly Print Number 7676, an act to repeal subdivision 3 of Section 4012-b.

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, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2014, substituted earlier today by Member of the Assembly Perry, Assembly Print Number 5177, an act to amend 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, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2015, by Senator Leibell, Senate Print 4699, an act to amend the Alcoholic Beverage Control Law and the Vehicle and Traffic Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2016, by Senator Little, Senate Print 5369, an act to amend the Public Health Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2018, substituted earlier today by Member of the Assembly Koon, Assembly Print Number 8077, an act to amend the Environmental Conservation 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, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2019, by Senator Hannon, Senate Print 5875A, an act to amend the Social Services Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 3. This act shall take effect April 1, 2008.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2020, by Senator Griffo, Senate Print 6076, an act to amend the Tax Law.

ACTING PRESIDENT GRIFFO: Read

the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2021, by the Senate Committee on Rules, Senate Print 6159A, an act to amend the Public Health Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2022, substituted earlier today by Member of

the Assembly Brodsky, Assembly Print Number 9052, an act to amend the Labor Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2024, by Senator Bonacic --

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT GRIFFO: The bill is laid aside.

THE SECRETARY: Calendar Number 2025, by the Senate Committee on Rules, Senate Print 6340, an act to amend the Tax 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, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2026, by Senator Maziarz, Senate Print --

SENATOR SKELOS: Lay it aside, please.

ACTING PRESIDENT GRIFFO: The bill is laid aside.

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

SENATOR SKELOS: I believe there's a motion that Senator Little has.

ACTING PRESIDENT GRIFFO: Senator Little, for purposes of a motion.

SENATOR LITTLE: Thank you, Mr. President.

I wish to call up my bill, Print Number 1052, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 620, by Senator Little, Senate Print 1052, an act to establish.

SENATOR LITTLE: Mr. President, 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, 59.

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

ACTING PRESIDENT GRIFFO: The amendments are received.

Senator Skelos.

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

ACTING PRESIDENT GRIFFO: The Secretary will ring the bells.

The Secretary will read.

THE SECRETARY: Calendar Number 1569, by Senator Golden, Senate Print 5729A, an act to amend the Penal Law.

SENATOR MONTGOMERY: Explanation.

ACTING PRESIDENT GRIFFO: Senator Golden, for an explanation.

SENATOR GOLDEN: Thank you, Mr. President.

This bill was before us two weeks ago, and we've amended the bill, and the bill is back before us. This bill adds a new section of the Penal Law, refusing to identify oneself upon questioning, a Class A misdemeanor. This allows a police officer or court officer to ask a person to identify him or herself in the course of a Terry stop, a Terry stop that provides for criminal liability when a person intentionally fails to provide such information.

This only applies when the officer reasonably suspects that a person has committed or is about to commit a crime. An officer's right to ask for this information has long been established in our own law here in New York under the CPL.

In response to some of my colleagues' concerns, I have amended this bill to make it absolutely clear that a person has

to know for sure that he is refusing to identify himself to a police officer. And the new language states: "He or she intentionally fails to provide his or her name to a person whom he or she knows to be a police officer or court officer."

This is a standard that was created under the Hiibel v. Nevada case. There are 23 other states that do what we do. And that's the explanation.

ACTING PRESIDENT GRIFFO: Thank you, Senator Golden.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President, I'm just going to comment on the bill.

ACTING PRESIDENT GRIFFO: Senator Montgomery, on the bill.

SENATOR MONTGOMERY: Thank you.

I understand that Senator Golden is -- well, maybe I -- let me change that. I do not understand why Senator Golden feels that we need this legislation.

One of the serious issues and problems that I have experienced in my

district, and I think it's pretty common in the City of New York, is that there is a propensity by police officers, either in uniform or out of uniform, to stop youngsters on the streets. If they see several young people gathered, they automatically assume that there's something about to happen, they're part of a gang operation. There is a sense that just their presence in more than one individual indicates that there is some crime about to be committed.

And, you know, maybe it's the way that they dress, maybe it's their movements. I don't know exactly what triggers this large number of contacts with young people. But there are, especially young men of color, some of them wearing their hoodies. My son wears a hoodie. I'm always concerned about him being stopped and frisked on the streets for no apparent reason.

So this is a problem. And we now are, based on Senator Golden's legislation, Mr. President, we are creating an A misdemeanor, a charge, a criminal charge, if a youngster is stopped by the police. And

they don't just stop them and ask them politely to identify themselves, not in my district. Maybe in Senator Golden's district; not in mine. They are stopped and aggressively frisked and very often taken down to the precinct.

And in fact they take them down very often because they don't have identification on them. They do this already. Now, it's not a crime now. So fortunately it doesn't result in a misdemeanor charge, a criminal charge.

But this bill would specifically allow the police officer not only to take them to the precinct, but to charge them with an A misdemeanor, criminal charge, because they don't have their ID on them.

So, Mr. President, I understand that Senator Golden has tried to be specific about who and which kind of officer can make this charge or can require a person to identify themselves. But it doesn't satisfy the issue and concern that is very, very major in my district as it relates to the relationship and the activity between the

police and young people in my district, particularly what I consider our young, do-rag-generation people.

So I'm still going to reject this legislation. I think it creates a problem that is going to have collateral consequences on certain people, especially in districts like mine. And I cannot in all good conscience support it.

Thank you.

ACTING PRESIDENT GRIFFO: Senator Adams.

SENATOR ADAMS: Thank you, Mr. President. Would the sponsor yield for a question?

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

SENATOR GOLDEN: I do.

ACTING PRESIDENT GRIFFO: Senator Adams.

SENATOR ADAMS: Senator Golden, first of all, I want to support this bill. But I notice that you don't have the stand-alone which we discussed before. And I just want to get clarity.

The changes that you made, it would not impact -- I mean, it would only deal if a person committed no other crime but he did not identify himself to a police officer. Is that correct?

ACTING PRESIDENT GRIFFO: Senator Golden.

SENATOR GOLDEN: If the individual fails to -- has the potential of being arrested if he argues that he's not going to give the individual a name.

SENATOR ADAMS: Would the sponsor continue to yield.

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

SENATOR GOLDEN: I do.

ACTING PRESIDENT GRIFFO: Senator Adams.

SENATOR ADAMS: Can you share with us how would a civilian know if in fact the person is a police officer?

ACTING PRESIDENT GRIFFO: Senator Golden.

SENATOR GOLDEN: The legislation says the person whom he or she knows to be a

police officer. She would have to know or he would have to know that it is a police officer.

SENATOR ADAMS: Would the sponsor continue to yield.

ACTING PRESIDENT GRIFFO: Senator Golden, will you yield for an additional question from Senator Adams?

SENATOR GOLDEN: I do. Two more questions.

ACTING PRESIDENT GRIFFO: Senator Adams.

SENATOR ADAMS: You stated that he will in fact know, if they know. Again I ask, how would the average person in here that's not a police officer, how would they know if a person is a police officer?

SENATOR GOLDEN: He would or she would know by identifying themselves as police officers to the individual with a badge, or with uniform. Or in plainclothes.

SENATOR ADAMS: Okay, I don't need the two more questions. I just needed that one.

On the bill.

ACTING PRESIDENT GRIFFO: On the bill, Senator Adams.

SENATOR ADAMS: Yes. We just had a series of cases, one was on Long Island, where we had an individual who dressed as a police officer, raped and sodomized a group of women. He had a shield, he had a badge, he had a uniform.

We just had a case in the Bronx where an individual dressed as a firefighter knocked on the door and gained entry into a woman's home, raped her, stood in the apartment for several hours.

We had an incident in Queens, out in Senator Smith's district, I believe, where an individual carried a shield and ID card and went around raping young ladies, based on identification.

To argue this point, and I will continue to argue, this is a very dangerous precedent. The last time I argued, I got several emails from family members who were concerned.

To buy a shield and a badge is easy. You could buy duplicate shields,

duplicate badges. You could buy police uniforms. You could walk inside a store and you can purchase a police uniform.

Our children gain knowledge of policing by watching "CSI" and "Hill Street Blues." They don't know who's a police officer.

And you don't have to look at only the racial component of it, you can just look at the average child as hanging out, having a couple of beers with his friends. He decides to lie because he doesn't want his parents to find out. Now that child is going to be arrested and charged with a misdemeanor because he lied.

I said in our conference, children lie. Children say, No, I didn't clean my room when the room is dirty. Children say, No, I didn't hang out after school. Children say, I'm truant. You know, children lie. They do. We all lied before when we were children. Let's not all of a sudden believe we have a halo over our head when in fact we got a tail. Because we know we lied as children.

Do we want to incarcerate 18-,

19-year-olds merely because they told a lie? That's where this problem stands. I will support this bill, Senator Golden, if you are willing to state that if in fact a person who lied to a police officer, was found out to commit a crime, then we will add this on as an additional charge. I think that's a perfect charge to add on, that they in fact lied to a police officer. We can add this on after we find out that this person committed a crime.

But to state merely that an action that's indicative of a young person is now going to become a crime, that's troubling. And then we have to look at the public safety aspect of it, that now anytime someone stops 18-year-old Jane in the middle of the night, they are in plain civilian clothes but they show a shield or ID card and say: Young Jane, I'm a police officer. Who are you? What's your name? Follow me.

Anytime someone stops our children on their way to college, anytime they stop our children on the way from a party or another event, anytime our children decide to hang out -- do we understand what we're stating

here?

In an environment where police identification is readily available. It's not that it's illegal to sell a shield or a badge. A child doesn't know the difference between a real shield and a fake shield. In fact, many police officers don't know the difference between the countless number of shields from Buffalo down to Brooklyn.

There are many different police departments, many different identifications, many different agencies that fall into that guideline.

So this is a very dangerous bill, and we need to think this through. I don't want to be the person that stated I voted for a bill like this when a young 13-year-old stated she followed the person or relented to his inquiries based on we said this is the law.

This is a dangerous bill. And although your intentions are right, I will hope that you will pull the bill back and state that if in fact a person was found to commit a crime, this would be attached on as

an additional charge. To charge a person merely because they did not identify themselves I think is the wrong way to go.

And there are case precedents that show you people use identification of police officers to gain access, they use identifications of police officers to lure our children, they use identification of police officers to carry out criminal behavior.

And we are now breaking down years and years of instructions to our children of all ethnicity. This is not a black issue. All ethnicity, we've all went through the routine practice of what we want our children to do when a stranger speaks with them. In one bill we're going to dismantle all that training. We've got to rewrite the conversation that we have with our young children because we believe that they should speak to a person because he has a silver piece of metal in his hand and he says "I am the police."

That's wrong. And any police official in this state will tell you there are too many criminals that identify themselves

with the terms "I am the police," when in fact they're not the police, they're there to commit a crime.

I am going to vote, again, nay for this bill in hopes that the Senator will change it to include that if a person in fact committed a crime and don't allow this bill to stand alone. And as we debated, let's think about those kids up in the pew here. And what are we telling them? If you were to interview each one of those children and ask them what do your parents state to you when a stranger stops and talks to you, they'll tell you, "My parents told me not to talk to strangers."

There is no subscript: don't talk to strangers unless he has a silver shield. That's what they told the young girl on Long Island that was raped.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Any other Senator wishing to be heard?

Senator Thompson.

SENATOR THOMPSON: Yes, I have one question. If the sponsor will yield for one question, please.

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

SENATOR GOLDEN: I do.

ACTING PRESIDENT GRIFFO: Senator Thompson.

SENATOR THOMPSON: Yes, through you, Mr. President.

Senator, I just have one question for you, and I had a couple of comments. Will this bill allow for people who are stopped by individuals in plainclothes to be charged if they don't respond or show ID to plainclothes people, whether they're not malls, supermarkets or --

SENATOR GOLDEN: No, this -- Mr. President.

ACTING PRESIDENT GRIFFO: Senator Golden.

SENATOR GOLDEN: This bill does not require anybody to show ID, number one. Okay?

Number two, if a police officer identifies himself, I dare to say that would be the wrong avenue to take, to argue that that police officer may not be a police

officer because he has a shield or an identification card or a uniform.

So if the individual is stopped and fails to give his name or her name and he or she is about to commit or has committed a crime, then that individual will be given a summons.

SENATOR THOMPSON: Through you, Mr. President. Does that address the issue of people with plainclothes, if people are stopped by a person with plainclothes?

ACTING PRESIDENT GRIFFO: Senator Golden, will you continue to yield for the question?

SENATOR GOLDEN: Yes, Mr. President.

The police departments across the state of New York work both in uniform and in plainclothes, and this applies to both.

SENATOR THOMPSON: On the bill, sir.

ACTING PRESIDENT GRIFFO: Senator Thompson, on the bill.

SENATOR THOMPSON: The concern that I have -- and I understand the spirit of

my colleague, and I think his spirit is genuine and his spirit is sincere. The concern that I have is the growing number of pedophiles that we have, sexual predators, individuals who will prey on our young people. Many of our young people are don't talk to strangers.

If we had isolated the issue of the plainclothes -- I mean, years ago there were problems where individuals were stopped on our various state highways by individuals in unmarked cars, and they were raping women, molesting women and abusing people.

And now, in my neighborhood alone, we had a block club -- we have a block club and we had an individual who would come to the block club meetings, a sexual predator, I think a high-number sexual predator. And people never knew it. The individuals were inviting this person into their house, and they never knew.

Now, imagine now, once the block club members found out, they disseminated the information. And I'm just very concerned that in this day and age with so many sexual

predators out here, the access to the Internet, the access to police badges and identification -- I'm extremely concerned about that.

But I do understand the spirit. I do believe as well that we should make sure that when people are stopped that they must be easily identifiable by way of a uniform. I agree with my colleague that it is easier to access police uniforms. But I believe that just allowing people to come in plainclothes would not be a good idea. I think that we should reconsider that.

And hopefully the sponsor will consider making an amendment to that to say that individuals must be easily identifiable by way of a uniform. And I really would hope that you would consider that.

ACTING PRESIDENT GRIFFO: Thank you, Senator Thompson.

Any other Senator wishing to speak?

Senator Perkins.

SENATOR PERKINS: Through you, Mr. President, I have a question.

ACTING PRESIDENT GRIFFO: Senator

Golden, will you yield for a question?

SENATOR GOLDEN: I do.

ACTING PRESIDENT GRIFFO: Senator Perkins.

SENATOR PERKINS: Thank you.

Would you explain to me the term "Terry stop"?

ACTING PRESIDENT GRIFFO: Senator Golden.

SENATOR GOLDEN: "Terry stop" is a expression that is used in the police departments across -- there was a case in the Supreme Court where it approved the ability to do a stop on an individual that they suspected or it is suspected that this individual is about to commit a crime or had committed a crime.

SENATOR PERKINS: May I ask another question?

ACTING PRESIDENT GRIFFO: Senator Golden, will you yield for an additional question from Senator Perkins?

SENATOR GOLDEN: Yes.

ACTING PRESIDENT GRIFFO: Senator Perkins.

SENATOR PERKINS: And upon introducing that one is a cop, a police officer, does one indicate why that person is being stopped for identification, what potential crime or what type of incident has taken place that calls for that?

SENATOR GOLDEN: In the City of New York we have stops and frisks that are that are filled out on every stop in the City of New York. A stop is a -- again, when they believe there is a suspicion of a crime being committed or about to be committed, the police officer can stop.

And in this particular case, it would allow that police officer who would be identified to ask questions such as "What is your name?" And if you fail to give that individual your name, you risk the option of being arrested.

SENATOR PERKINS: May I ask another question.

ACTING PRESIDENT GRIFFO: Senator Golden, will you yield for an additional question?

SENATOR GOLDEN: I do.

ACTING PRESIDENT GRIFFO: Senator Perkins.

SENATOR PERKINS: At what point is the individual informed as to why they're being stopped?

ACTING PRESIDENT GRIFFO: Senator Golden.

SENATOR GOLDEN: That is up to the officer, to make that information available to that individual.

SENATOR PERKINS: May I?

ACTING PRESIDENT GRIFFO: Senator Golden, do you continue to yield?

SENATOR GOLDEN: I do.

ACTING PRESIDENT GRIFFO: Senator Perkins.

SENATOR PERKINS: At any point are you required to indicate why you're being stopped?

SENATOR GOLDEN: No, Mr. President.

SENATOR PERKINS: May I continue with another question?

ACTING PRESIDENT GRIFFO: Senator Golden, do you continue to yield?

SENATOR GOLDEN: Two more questions, Mr. President.

SENATOR PERKINS: No problem.

ACTING PRESIDENT GRIFFO: Senator Perkins.

SENATOR PERKINS: At any point does the individual ever get an explanation for being stopped?

ACTING PRESIDENT GRIFFO: Senator Golden.

SENATOR GOLDEN: I don't know any particulars -- I don't know the particular that you're talking about.

In a court, police will have to prove that there was reasonable suspicion if that individual is taken in. So if that person is issued a summons for failing to give his or her name, they would have to prove that there was reasonable suspicion to stop that individual in the first place.

This is not a run down the street, jump on a bunch of kids, frisk them, put them in a car because they failed to give their name, and lock them up. And it's not about an individual that is a plainclothes officer that

you have questions if that individual is in fact a police officer.

If that person -- if you have questions if that individual is not a police officer, you have a right to ask that officer to identify himself. And if that individual fails to identify himself, you don't have to give that name.

SENATOR PERKINS: One final question, and that's this, if I may.

SENATOR GOLDEN: Yes.

ACTING PRESIDENT GRIFFO: Senator Golden, will you yield?

SENATOR GOLDEN: Yes, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Perkins.

SENATOR PERKINS: My concern is that officers stop, they ask for ID, you know, for identification, they're given the identification --

SENATOR GOLDEN: There's no identification here. This is about a name. There's no identification.

SENATOR PERKINS: Or they give a

name --

ACTING PRESIDENT GRIFFO: Senator Perkins, do you continue to request that he yield?

SENATOR GOLDEN: That's the last question, I think.

ACTING PRESIDENT GRIFFO: You indicated that that was your final question. Do you wish to ask a question?

SENATOR PERKINS: Yes, I do.

ACTING PRESIDENT GRIFFO: Senator Golden, will you yield for an additional question?

SENATOR GOLDEN: Last question.

SENATOR PERKINS: I just want to finish what I had here.

ACTING PRESIDENT GRIFFO: Senator Perkins.

SENATOR PERKINS: I just want to finish --

ACTING PRESIDENT GRIFFO: Your question, sir.

SENATOR PERKINS: A person is stopped, they're asked to identify themselves. They identify themselves. Apparently by

virtue of the Terry stop precedent. At no point that person is told why they're being required to identify themselves.

And that can continue with at no point being told why I'm being stopped to identify myself. Yes or no?

SENATOR GOLDEN: Mr. President.

ACTING PRESIDENT GRIFFO: Senator Golden.

SENATOR GOLDEN: The police officer is building suspicion to get to probable cause for an arrest. He asks the name. If you don't want to give that name, don't give the name. But if you don't give the name, you risk being arrested for that.

An officer stops, they do tell you why they're stopping you. They just don't run down the street willy-nilly and put people in cuffs.

ACTING PRESIDENT GRIFFO: Senator Perkins, on the bill.

SENATOR PERKINS: On the bill.

I'm going to have to vote against this bill. Because what you believe is the reality is in fact not the reality. Too often

a lot of young men that I represent -- by the way, including a nephew of mine -- are stopped in the playground, in the neighborhood park, and asked to identify themselves and have even cooperated and identified themselves, not having done anything wrong, and wind up in the precinct. At which point parents and/or lawyers have to go and make arrangements, sometimes with great difficulty, to get them back home. Sometimes even having to suffer the child going through the system, especially if it's on the weekend.

So I'm not quite sure if this goes overboard in terms of what you might reasonably be trying to accomplish. I'm not quite sure if this is one of those slippery slopes that creates an opportunity for an excessive amount of stopping and asking and stopping and asking that can, at minimum, be a matter of harassment.

So I'm not going to be able to support this. And I'll be voting against this bill. Thank you.

ACTING PRESIDENT GRIFFO: Is there any other Senator wishing to be heard?

Senator Sampson.

SENATOR SAMPSON: If the sponsor would yield for a question.

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

SENATOR GOLDEN: I do, Senator.

ACTING PRESIDENT GRIFFO: Senator Sampson.

SENATOR SAMPSON: Through you, Mr. President. If there is no reasonable suspicion established why the police officer stopped this individual, does the arrest then become void?

ACTING PRESIDENT GRIFFO: Senator Golden.

SENATOR GOLDEN: Yes, it would.

SENATOR SAMPSON: So there -- through you, Mr. President.

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

SENATOR GOLDEN: I do, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Sampson.

SENATOR SAMPSON: So therefore,

if at that point in time the individual gave the police officer the wrong identification or misrepresented himself, at that point in time, if he was arrested on those charges, that would too be voided?

ACTING PRESIDENT GRIFFO: Senator Golden.

SENATOR GOLDEN: I'm not sure I understand the question, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Sampson, can you rephrase?

SENATOR SAMPSON: Let me rephrase the question.

If in fact the stop was no reasonable suspicion to stop them but the individual gave the police officer the incorrect information or misidentified himself, at that point in time, even though the stop was no reasonable suspicion, would he still be charged or arrested for violating that segment of this piece of legislation?

ACTING PRESIDENT GRIFFO: Senator Golden.

SENATOR GOLDEN: Mr. President, the Senator is a prominent attorney. He knows

that the legislation states that there has to be reasonable suspicion.

So the legislation -- he'd have to have reasonable suspicion before he stopped that individual stopped that individual to ask him or her their name.

SENATOR SAMPSON: So therefore --

ACTING PRESIDENT GRIFFO: Are you asking the sponsor to continue to yield?

SENATOR SAMPSON: Yes.

ACTING PRESIDENT GRIFFO: Senator Golden, would you continue to yield?

SENATOR GOLDEN: I do.

ACTING PRESIDENT GRIFFO: Senator Sampson.

SENATOR SAMPSON: Through you, Mr. President. So as a result of that -- so therefore if the stop is no reasonable suspicion, so therefore the police officer's arresting of that individual would therefore be voided, then, because he had no reasonable suspicion to stop them him in the first place?

ACTING PRESIDENT GRIFFO: Senator Golden.

SENATOR GOLDEN: Yes,

Mr. President.

SENATOR SAMPSON: On the bill.

ACTING PRESIDENT GRIFFO: Senator Sampson, on the bill.

SENATOR SAMPSON: Senator Golden, you know, I do concur, and the spirit is great. And you're right about that, we shouldn't misidentify or misrepresent ourselves to police officers.

But in neighborhoods like Brownsville, East New York, neighborhoods I represent, you know, that's not the reality. You know, police officers stop you on the spur of the moment, they don't identify themselves. And all of a sudden, when you ask them, "Why did you stop me?" all of a sudden, just because you were on a corner with a bunch of youth, they figured you were up to something.

And I'll never forget when I was in Bedford-Stuyvesant, when I newly got elected to the State Senate, you know, I was riding in a very expensive car, riding down the street, and the police officers just stopped me. And they indicated to me -- I said, "Why did you stop me?" He said: "Well, you didn't use

your signal indicators to show you were making a right turn."

I said: "Officer, I'm going straight through. I'm not making a turn." I said, "Give me another one. I'm a lawyer. Give me another one."

He said, "Well, you know, you're driving an expensive car. We didn't see cars like this in the neighborhood before." And you're talking about a young educated black man going through this.

The issue is what is reality -- is what happens in Brownsville and East New York, it's not reality. They get stopped on the whim of the moment. And now we're saying just because you give them the wrong identification, you're labeling it as a misdemeanor.

So when these young people look for jobs and the first thing on the job application is, one -- it's not only have you been convicted, have you been arrested? And at that point in time they have to indicate. And will that be used against them when they're looking for a job? Yes, it will.

So as a result, I understand the spirit of this bill, but we have to be realistic in what's going on. Amadou Diallo tried to show his identification; he wound up with 41 bullets inside of him. So at the end of the day, what is reality?

So at this point in time, Mr. President, I will be voting no on this bill.

ACTING PRESIDENT GRIFFO: Is there any other Senator that wishes to be heard?

Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Are you on the bill?

SENATOR DIAZ: Yes, sir, on the bill.

ACTING PRESIDENT GRIFFO: Senator Diaz, on the bill.

SENATOR DIAZ: And I would like to congratulate you today on the floor, and send my regards to your parents.

ACTING PRESIDENT GRIFFO: Thank

you, Senator Diaz.

SENATOR DIAZ: Senator Golden is a New York State Senator. He was, before, a police officer. Now, as a State Senator, Senator Golden is the chairman of the Aging Committee. And I have to say that I love Senator Golden as the chairman of the Aging Committee.

I mean, he's such a great chairman of the Aging Committee that I have yet to see one bill that Senator Golden has submitted in benefit of the aging that I disagree. Everything that he submits for Aging is great.

But every time that he changes clothes as an ex-police officer, we've got problems. It's a different person. It's a different bill. It's a different motivation, I believe.

And, Senator Golden, I will keep loving you as the chairman of the Aging Committee. But I have to say that I don't like you as an ex-police officer. You always, every time -- this is a bill that, you know, is -- and even though sometimes I ask myself when the Majority submits a bill, it's going

to pass. There is no reason why we should be questioning and asking and saying and bringing good reason why the bill should not be passed. The bill will pass no matter what.

Sometimes I say that's -- to me that is a sign of futility. But then yet we have to understand that we have to try to reason and bring reasons to people why the bill should not pass. This is one of them. This is one of the bills that is very detrimental.

I have a staff member, he was crossing George Washington Bridge, he came to the office crying. Shaking, crying. So he came to me, and I say "What happened?" He can't even speak, he was crying, crying, crying. I said, "What happened?"

"I was stopped by a police officer. And I asked the police officer, 'Why are you stopping me?' The police officer told me: 'Shut the f--- up.' So he continued writing. I said, 'But, Officer, why have I been stopped?' He said, 'Didn't I tell you to shut the f--- up?'"

And he pushed him, boom, against

the car. The guy is a man. He took that humiliation, and he just cried like a baby. Cried, cried. He wanted to kill the police officer, he said. But he just took it. And he just came to the office shaking and crying, with a ticket in his hand.

And that is a problem that we face in our communities. That is a problem that our youth faces and our people face. I was stopped, my car has a license plate saying "Senate 52." Two police officers stopped me. My rear light, one of my left rear lights stopped -- the light didn't work.

They stopped me. I stopped. Put my hands on the wheel. They came up, say: "Sir, driver's license and registration." I said: "Can I" -- (gesturing). They say yes.

So then I get up, I get out of the car. The police officer, the two of them, one woman and one man, they tell: "You see that light? It's not working, sir."

I said, "Okay, I'm sorry. I'm going to have to fix it." So the lady says: "What the f--- you think you are?" I said "What? Excuse me?" "What the f---" -- oh,

okay. After I had identified myself as a State Senator.

So what I'm telling you is, Senator Golden, as the chairman of the Aging Committee, you're great. But to understand what our community goes through, you're lousy.

(Laughter.)

SENATOR DIAZ: So therefore, I have to say we have to vote -- even though the bill will pass, even though the bill will pass and will be approved and it seems like an exercise in futility, we -- I'm voting no on this bill.

Thank you very much.

ACTING PRESIDENT GRIFFO: Thank you, Senator Diaz.

Senator Maziarz, on the bill.

SENATOR MAZIARZ: Mr. President, in less than 30 seconds.

Unlike my favorite Democratic member, Senator Diaz, I love Senator Golden as chairman of the Aging Committee and I love Senator Golden as an ex-police officer and sponsor of this very good bill which was on the floor last week, I believe.

Senator Golden has done the right thing, he's made it a better bill. I vote in the affirmative.

Thank you.

ACTING PRESIDENT GRIFFO: Thank you, Senator Maziarz?

SENATOR MAZIARZ: Was that less than 30 seconds?

ACTING PRESIDENT GRIFFO: Very good.

Any other Senator wishing to speak?

Debate is closed. The Secretary will ring the bells.

Senator Adams.

SENATOR ADAMS: Senator Sampson, would you yield for a question, please?

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

SENATOR SAMPSON: Yes, I yield for a question.

ACTING PRESIDENT GRIFFO: Senator Adams.

SENATOR ADAMS: Senator Sampson, when a person -- you being an attorney, when a person in fact committed a crime, when they

have in fact committed a crime, are they issued Miranda warnings?

ACTING PRESIDENT GRIFFO: Senator Sampson.

SENATOR SAMPSON: You should be issued a Miranda warning, yes.

SENATOR ADAMS: Would he continue to yield?

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

SENATOR SAMPSON: Yes.

SENATOR ADAMS: Are part of those Miranda warnings indicate you have a right to remain silent?

SENATOR SAMPSON: Yes, that's correct.

SENATOR ADAMS: Would he continue to yield.

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

SENATOR SAMPSON: Yes.

ACTING PRESIDENT GRIFFO: Senator Adams.

SENATOR ADAMS: So based on this

bill, if a person in fact committed a murder and he did not identify himself as a police officer, would he be charged with a crime?

SENATOR SAMPSON: If he did not identify himself as a police officer?

SENATOR ADAMS: To a police officer.

SENATOR SAMPSON: Yes, he would be charged with a crime, yes. Under this bill, if he did not identify himself.

SENATOR ADAMS: So is -- thank you, Senator.

ACTING PRESIDENT GRIFFO: Senator Adams, do you wish to continue to ask a question? Or are you on the bill?

SENATOR ADAMS: No, I do not. Thank you.

ACTING PRESIDENT GRIFFO: The debate is closed. The bell is being rung.

The house will come to order. We will read the last section.

I want to remind the members that we will be following Rule 9, Section 3(e), which allows for two-minute explanations. The summer solstice will be joining us in the next

90 minutes.

Last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

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

SENATOR ADAMS: I'm going to vote no, and I'm going to encourage my colleagues on both sides of the aisle to do so.

This is one of those bills that it crosses neighborhoods, it crosses philosophies, it crosses ethnicities, it goes to the foundation of what we do as adults, as parents, on how we instruct our children.

I believe that Senator Golden, his spirit is right, but there's some technical aspects that can have some serious implications on what takes place in our neighborhoods, around our schools.

The issues of plainclothes officers or people who pretend to be police officers,

law enforcement officers, there are some serious questions here, and we need to think clear of them before we vote.

I vote no on this bill.

ACTING PRESIDENT GRIFFO: Senator Adams to be recorded in the negative.

Please raise your hands, continue to raise your hands.

Senator Montgomery, to explain her vote.

SENATOR MONTGOMERY: Yes, Mr. President, briefly to explain my vote.

This bill is one of those subtle, nuanced approaches to racial profiling. It sort of puts it into law, and it also gives the police an opportunity to charge a person, particularly a young person -- that's who I'm primarily concerned about -- with a crime for no other reason except that person, even though the person didn't commit a crime, wasn't about to commit a crime, was nowhere near a criminal act, but they could still be charged with a crime, an A misdemeanor crime.

And, Mr. President, I spend a bit of time in court. And who do I see in those

courts? In fact, as recently as last week I was called on the phone, on my cellphone here in Albany, because the police had swept up several of the young men in my district. They were in a park next to a school. And I had to call in to vouch for them so that they would not be prosecuted.

So this is a very serious issue. It is not -- it's not something that we just are talking about. It's very, very, very serious.

So I'm adamantly opposed to this. And I say to you, Mr. President, there is no other reason for this legislation except to create a crime associated with this so-called failure to identify.

So I appreciate all of the explanations, they're all excellent. But I want you to know right here and now that I consider this to be a racial profiling legislation which gives the police, which sanctions the police stopping -- not only stopping and frisking, but charging a young person for no apparent reason.

Thank you. I'm voting no.

ACTING PRESIDENT GRIFFO: Senator Montgomery to be recorded in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1569 are Senators Adams, Breslin, Connor, Diaz, Duane, Gonzalez, Hassell-Thompson, L. Krueger, Montgomery, Oppenheimer, Parker, Perkins, Sabini, Sampson, Savino, Serrano, Smith, Stavisky and Thompson.

Absent from voting: Senators Huntley, C. Kruger and Schneiderman.

Ayes, 40. Nays, 19.

ACTING PRESIDENT GRIFFO: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 1882, by Senator Wright, Senate Print 6176A, an act to amend the General Business Law.

SENATOR LIZ KRUEGER: Explanation.

ACTING PRESIDENT GRIFFO: Explanation, Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

The bill before us is a wireless telephone consumer bill. It provides for uniform disclosures and detailed information, for the first time requiring that of the wireless telephone industry in this state.

This is an effort to establish uniformity among the major providers of the wireless industry. It is a bill that has been developed working with AARP and the five major wireless providers in the state.

ACTING PRESIDENT GRIFFO: Thank you, Senator Wright.

Senator Krueger.

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

ACTING PRESIDENT GRIFFO: Senator Wright, will you yield for a question from Senator Krueger?

SENATOR WRIGHT: Yes, I will, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

Does this bill address the primary

concern that I have been receiving memos about that would allow a customer of a cellphone service to have 15 days after their first bill before -- and allow them to cancel after they've had 15 days after the first bill, so they can actually see for the first time what the real cost of this contract will be for them?

ACTING PRESIDENT GRIFFO: Senator Wright.

SENATOR WRIGHT: Through you, Mr. President. No, this does not provide for a mandatory 15-day repayment.

What it provides for is a disclosure of the various requirements, fees, the trial periods and whether or not there is an early termination date.

What we have attempted to recognize here is the need to provide uniform disclosure and detailed information yet at the same time recognizing that the wireless industry is in fact a national industry, the wireless plans are in fact national plans.

And we have been very conscious not to insert provisions that would put New York

State at a competitive disadvantage and make requirements that only apply to New York State, thereby increasing the cost to consumers in New York State.

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

ACTING PRESIDENT GRIFFO: Senator Wright, will you yield for an additional question?

SENATOR WRIGHT: Yes, I will, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

The other serious issue that has been raised when people come to talk to me about the need to do consumer protection for people with the cellphone industry is the ability to file a complaint and have it resolved.

Is there a complaint resolution mechanism in your bill for consumers?

SENATOR WRIGHT: Through you, Mr. President, yes, there is.

There is a very specific procedure that requires the Consumer Protection Board of this state to receive and catalog the complaints. And as part of that, we have a requirement that they will issue a report and an analysis of those complaints a year from now -- excuse me, two years from now -- so that we have data to evaluate the nature of the complaints and the ability to address those complaints if necessary.

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

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

SENATOR WRIGHT: Yes, I will, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR LIZ KRUEGER: So if I heard your answer correctly, Senator, I could make a complaint, the Consumer Protection Board would then record the complaint and tell us, the Legislature, later. But could the Consumer Protection Board do anything to

address my complaint?

ACTING PRESIDENT GRIFFO: Senator Wright.

SENATOR WRIGHT: Mr. President, through you. Yes, the Consumer Protection Board can address those complaints.

The intent is to ensure that the complainant uses and makes available the complaint services provided by the provider. One has to recognize that this is a highly competitive industry, and therefore the providers of service are very intent on retaining their customers. They don't want to lose those customers, they want to resolve the complaints, so the focus is on the provider resolving the complaint.

In the absence of that, then there's a provision for the Consumer Protection Board to intervene.

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

ACTING PRESIDENT GRIFFO: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you. I appreciate the sponsor's answers to my

questions.

I don't think his bill does what we need to do. He said they've worked on this with AARP. I'm sure that's true. But as of today, AARP has put in a memo of opposition urging us not to vote for this bill. They would far prefer we vote for a bill by Senator Flanagan, S3293.

And the reasons are that they are very disturbed that they would not have an option to cancel after receiving the first bill and having 15 days to review that bill and understand technically what they've walked themselves into.

They would also prefer a model where if they made a complaint about being misinformed or being provided wrongful information by their provider, that there would be actually a mechanism to resolve the complaint, not just report the complaint.

I certainly agree with the sponsor that the cellphone industry is a competitive industry and that they want to keep us as customers. But my analysis of agreement with that leads me to the opposite analysis, which

is they're certainly not going to flee New York State.

New York State is one of the ripest territories for getting more and more customers in the cellphone industry -- the division of the phone industry, by the way, that they want to grow because they don't have to worry about putting wires in the ground or showing up at your house. So it's a much more cost-effective model for them.

They're certainly not going to flee New York. They desperately want our business. I think New York State has a long, important history of having important consumer protections, of representing the interests of our people through consumer protection laws that may not match any other state in the country.

And the fact is we do have the ability, the power, the authority and I think the obligation to protect customers under our consumer protection laws. And so while I agree this is a bill that attempts to go partway, it doesn't go far enough for me.

I would very much like us to take

up Senator Flanagan's bill, which has an Assembly cosponsor, and which would require disclosure, provide estimates of total monthly bills. It would include more detailed coverage maps of where the phones will work. It would allow consumers to cancel their cellphone contracts 15 days after receiving their first bill without penalty. It would require cellphone companies to disclose to customers the 911 capabilities of the system.

There's nothing that says we in New York can't pass good, smart consumer protections. I respect Senator Flanagan for putting out a bill that does that. I wish that was the bill we were voting on today, because I'd be voting yes on that bill.

But I'll be voting no on this bill, Mr. President. Thank you.

ACTING PRESIDENT GRIFFO: Thank you, Senator Krueger.

Does other Senator wishing to be heard?

Senator Wright.

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

ACTING PRESIDENT GRIFFO: Senator Wright, on the bill.

SENATOR WRIGHT: I'd like to point out a couple of pieces of information for clarification.

Unfortunately, I was not given the courtesy of the memo of opposition, so I'm not aware of what it contains. What I do know is that we convened a meeting of the representatives of AARP here in New York State, the national representatives of AARP, and the five major providers in this state.

As a result of a daylong series of meetings and dialogue, this was the outcome. And it also reflects modifications as requested by AARP. So they were full participants. We wanted to ensure a cooperative venture.

I'm not suggesting that this is the bill they prefer. Clearly it is not. But it is the bill that I believe is in the best interests of New York State.

The provisions reflected in the Flanagan bill, in fact, as requested by AARP, are consistent with regulations imposed in

California. Unfortunately, those regulations had exactly what we had predicted, and that was adverse impacts on the consumer and adverse costs. As a result, those requirements were rescinded by the California Utility Board.

Similarly, Connecticut has looked at it and opted to study the issue rather than impose standards.

So to date there is no state that has imposed standards. We would be the first under this proposal. And in turn, it provides the disclosure and protection necessary for informed consumers to make informed decisions.

Equally important, I did not suggest that the cellphone providers would leave this state. We know full well that New York is a large market, and in fact it's a very competitive market. That is not the issue. The issue is adding additional costs to the consumers in this state.

And that's what happens when you set a separate set of standards for one state when you have a national industry with national standards and national plans.

We have attempted to bridge that gap, ensuring that our consumers have appropriate and necessary disclosure information to make clear choices in a competitive market without any added costs or burden to that consumer.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Wright.

Any other Senator wishing to be heard?

Debate is closed. The Secretary will ring the bells.

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1882 are Senators Adams, Breslin, Connor, Diaz, Duane, Flanagan, Gonzalez, Hassell-Thompson, Huntley,

Klein, L. Krueger, C. Kruger, Montgomery, Onorato, Oppenheimer, Parker, Perkins, Sabini, Sampson, Savino, Serrano, Stachowski and Stavisky. Also Senator Thompson.

Absent from voting: Senator Schneiderman.

Ayes, 37. Nays, 24.

ACTING PRESIDENT GRIFFO: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 2006, by Senator O. Johnson, Senate Print 1353A, an act to amend the Vehicle and Traffic Law.

SENATOR LIZ KRUEGER: Explanation.

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

SENATOR OWEN JOHNSON: This is referred to as the Segway bill. It's an electric personal assistive mobility device, a two-wheel, tandem-wheel thing powered by an electric motor which you can move around on, up to 12 miles an hour.

New York City doesn't want it there, it's not going to be there. But they are using it for their police, so they must find some value in it as far as portability goes and moving around.

This allows it to be used anyplace where it's not prohibited in the state of New York, with the exception of the city, which is off-limits. Localities can make their own regulations about it. But generally speaking, it's allowed to be used alongside any roadway, sidewalk, or walkway and so on -- in-line skating aisle, bicycle path, whatever.

And I think they've proved very valuable in the industry and very valuable I think in many cases for moving around your own community.

If a person under 16 uses it, rides it, he has to wear a helmet and so on and so on.

Any other questions or comments?

ACTING PRESIDENT GRIFFO: Senator Krueger, do you wish to ask Senator Johnson a question?

SENATOR LIZ KRUEGER: Yes, I do,

Mr. President. You were reading my mind.

ACTING PRESIDENT GRIFFO: Senator Johnson, do you yield?

SENATOR OWEN JOHNSON: Yes, I will.

ACTING PRESIDENT GRIFFO: Perhaps we can adjust the mike for Senator Johnson.

Senator Krueger?

SENATOR LIZ KRUEGER: Thank you very much, Mr. President. Just two questions.

We have debated this bill before. I have voted against it before. I am delighted to see that the City of New York is now out of this bill, because I had great concerns about it in the high-density City of New York.

But this bill also takes the Segway, or the electric personal assistive mobility device, out of motor vehicle, Vehicle and Traffic Law.

So does that mean -- see, if it was a motor vehicle, there would be insurance requirements on it. Since it's now removed from motor vehicle law, does that mean that the owner/rider would have no insurance

requirements on them? And if so, what happens if, let's say, I'm driving one, I hit someone it's no longer a vehicle under motor vehicle law. Does the person I harmed have any redress to me since I'm not required to have insurance?

ACTING PRESIDENT GRIFFO: Senator Krueger, can you repeat that question, please, directly?

SENATOR LIZ KRUEGER: Certainly. I'll try to simplify it.

My understanding is under this bill one of these devices would not be defined as a vehicle under motor vehicle law. But it could still hit someone. And so if I was the person who was hit, would I have any right to sue? Would that person have any obligation for insurance who hit me?

Because if they were driving a small motorcycle, they would have insurance under New York State law. I think they wouldn't be required to have insurance under this law, and I'm wondering if I'm right.

ACTING PRESIDENT GRIFFO: Senator Johnson.

SENATOR OWEN JOHNSON: If persons cause injury or damage to another person's property, in many instances you're not required to have liability insurance, but you can be sued or people can take you to court and get compensation.

Same way here. It's my impression that this would be just categorized as a bicycle, it's so slow and really a very safe vehicle, pedestrian-safe. If you run into them, you bounce off a little bit.

So probably your homeowner's insurance would cover that, and I think that's -- so we didn't get into the insurance. It's not a motor vehicle as such under the insurance law. Under motor vehicle law, I mean.

So I think you're on your own. But it's just like a bicycle or your kid's on in-line skates, runs into somebody on the sidewalk. Same situation.

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

ACTING PRESIDENT GRIFFO: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Well --

SENATOR OWEN JOHNSON: I might add that 47 other states have adopted this already, including most of our surrounding states. And they haven't raised that problem there.

ACTING PRESIDENT GRIFFO: Thank you, Senator Johnson.

Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

Well, I have a memo here from the New York State Conference of Mayors and Municipal Officials saying it's an unfunded mandate, that while they'll have the ability to opt out of this law and choose not to have these vehicles used on their sidewalks and/or on their roadways or highways -- and I agree with them that I think it is an unfunded mandate.

I'm also, again, concerned that we have no-fault and insurance for other motorized vehicles that are used on our streets but this would no longer recognize these devices as a vehicle but, as Senator

Johnson aptly said, more like a bicycle. My concern of course is I'm not sure they are like bicycles. I think they are, perhaps, more like electronic scooters.

And so I still wonder whether we are making the right decision by saying it's okay unless a locality goes through the process of voting not to make it okay in their communities.

But I also recognize that it's very different in Senator Johnson's district than it is in my own district. I do understand that the uses or the concerns in a rural or a suburban area, or an area with large sidewalks, or an area with large bike paths, may be different than the City of New York.

So since a city of a million or more -- hence, the City of New York -- would still not allow these vehicles, despite my continuing concerns about liability and safety and traffic congestion patterns on sidewalks and roads, I will vote for the bill this year and hope that we educate all the towns and townships and villages in this state to their right to say no, this isn't going for work for

us, we don't want these vehicles on our streets and/or on our sidewalks.

I also think there continues to be a problem in the bill involving the right to declare that you are disabled and therefore need to use one of these even if your local town or village is opposed to them, because it doesn't have the same standard of disability and proof of disability that we require for people to prove disability for special permits and documentation for cars and other vehicles.

So with continuing concerns, but with respect for other localities' rights to make their own decisions, this year I'll vote yes.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Krueger.

Any other Senator wishing to be heard?

Debate is closed. The Secretary will ring the bells.

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 2006 are Senators Leibell, Marcellino, Morahan, Oppenheimer, Sabini and Saland.

Absent from voting: Senator Schneiderman.

Ayes, 56. Nays, 6.

ACTING PRESIDENT GRIFFO: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 2024, by Senator Bonacic, Senate Print 6294 --

SENATOR KLEIN: Explanation.

ACTING PRESIDENT GRIFFO: Explanation, Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. President.

This is an act to amend the Retirement and Social Security Law in relation to the investment of public funds with

companies doing business with nations identified as state sponsors of terrorism. The bill directs the New York State Comptroller to refrain from investing pension funds in companies that do business with or in nations identified as state sponsors of terrorism.

I was motivated to do this legislation by an article that I had seen in the Wall Street Journal within the last ten days by a Sarah Steelman, who's the Missouri state treasurer. And she is on a campaign with all of the states in the country to do legislation of this nature.

But as far as I'm concerned, when we put money into the hands of terrorists, it's equivalent to arming the terrorists. Our state pension fund is somewhere between $140 billion and $145 billion. And we should not be supporting or investing in those companies that profit from doing business with these terrorist nations.

Our country has a balanced set of statutes which determine who is or isn't a state terrorist. There are factual inquiries,

and it's determined by the conduct of those nations. And it's not political inquiries to be determined by the politics of our own nation.

There are five presently on the list. It is Cuba, it is Iran, it is North Korea, it is Sudan and it is Syria.

You know, President Bush, when he spoke on the days following 9/11, said -- and I'm not going to get into whether his deeds matched his words, but his words were good. He said: "Either you are with us or with the terrorists." Let's not allow our public employee monies to be with the terrorists.

ACTING PRESIDENT GRIFFO: Thank you, Senator Bonacic.

Senator Klein.

SENATOR KLEIN: On the bill, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Klein, on the bill.

SENATOR KLEIN: I welcome Senator Bonacic to the fight against terrorism involving our pension fund.

I was very proud that this past

Sunday I was joined by Senator Eric Adams, Senator Craig Johnson, and Senator Toby Stavisky, where we announced legislation that I introduced about a month ago really that mirrors what Senator Bonacic is trying to pass today.

In addition to the legislation, we also released a very comprehensive analysis of the New York State pension fund. As Senator Bonacic said, New York State's pension fund is the second largest in the United States. And it's a total of $140 billion serving about 995,000 members.

One of the things we were able to do is by taking a look at the pension fund's equity investments, we passed it on to an organization which specializes in analyzing pension funds all over the United States to see if any of the companies that these pension funds are invested in are in turn supporting countries that are sponsoring terror.

As Senator Bonacic said, there are several nations which are on the State Department's index or watch list. And the countries that I'm concerned about are North

Korea, Iran, Sudan, as well as Syria. When I in turn passed our information from our New York State pension fund to this organization, called Conflict Securities, when that they ran their analysis, we found, lo and behold, that our $140 billion pension fund, $14 billion of that pension fund is indeed invested in corporations that are in turn doing business with one of these four nations.

That's 16 percent of our total pension fund investments, our equity fund investments, and it represents 232 companies. And these aren't small investments. Some of these investments are quite large.

As a matter of fact, upon further analysis, we were able to find some of the investments that are over $100 million in the New York State pension fund. And again, these are companies that are in fact doing business with these nations that are sponsoring terror.

Over $500 million in the New York State pension fund invested in the Chevron Corporation, which has a connection and does business with Sudan. ConocoPhillips, total investment of $402 million, does business with

Iran and Syria. Coca-Cola, over $249 million in investments, does business with Iran, North Korea, Sudan as well as Syria. Royal Dutch Shell, over $209 million in investments, does business with Iran, Sudan and Syria. There are several others on this list as well.

I think it's very, very important for us in New York State not to be behind the curve but ahead of the curve. There's several states out there, like California, like New Jersey, like Florida, as well as Missouri, that have passed comprehensive legislation which would indeed give the state comptroller the ability and discretion to divest, if necessary, from these companies that do business with one of these four nations.

We've done this in the past. This is not something that's new. We've used social investing very, very well in New York State on a lot of very, very important issues. We were able to change policies in South Africa and end apartheid through the power of our pension. We were able to change things in Northern Ireland, again because of our pension fund.

When Alan Hevesi was state comptroller, he brought the Swiss banks to their knees when they weren't properly paying reparations to Holocaust survivors. The list goes on and on.

Again, I think this has come a time when New York State, while we're sending our men and women overseas each and every day to fight a war on terror, we're not using our most lethal weapon against terrorism, our $140 billion pension fund.

I think also it's worth looking at history once again. By actually sponsoring a company or investing in a company that does business with a nation like Iran, where there's clear evidence that they're sponsoring terror, that's the equivalent of the United States investing in, let's say, Nazi Germany or Imperial Japan in 1941.

You know, I think we really have to use the power of our pension fund. Maybe not necessarily to divest, but certainly I think we can certainly change policies in these corporations to, I think, help us fight the war on terror.

So while I support this legislation and I congratulate Senator Bonacic for actually bringing this before us today, I think this is a long road. And I hope all of us here today, both sides of the aisle, in a bipartisan fashion can show that New York State will not be behind the curve, that we will join California, we will join Missouri, we will join Florida and these other states in really using the leverage, our financial resources, that we have invested in our pension funds to do some good and do our part in New York State to help fight terror.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Klein.

Senator Craig Johnson.

SENATOR CRAIG JOHNSON: Thank you. On the bill.

ACTING PRESIDENT GRIFFO: Senator Johnson, on the bill.

SENATOR CRAIG JOHNSON: I want to commend and congratulate Senator Bonacic for this piece of legislation.

And I also want to commend my good

friend Jeffrey Klein for the legislation which is a similar piece, that when we spoke on Father's Day in New York City in front of the U.N. to make the point that this really is not just a New York effort but a worldwide effort to force divestiture in these nations.

I introduced a bill last month that would authorize the Comptroller to divest from Iran. It has an Assembly same-as piece, sponsored by Chuck Lavine. And it's ready to be passed, that we can take the first step to authorize our Comptroller, Tom DiNapoli, to start the process to divest from foreign companies that do business in Iran.

Because that right now is probably the greatest threat in the Middle East. They are starting a nuclear program. Everyone knows about that. They are funding terrorist activities not just in Iraq, but also, in likelihood, in Palestine and fostering the problems in the Palestine/Israel conflict. And, quite frankly, they are the greatest threat to our greatest friend in the Middle East, Israel.

But I'm happy to stand up here and

support this bill that Senator Bonacic has put forth. We have to address certain particular issues that make a little bit more complex. For instance, we as a country are not permitted to have our companies divest in Iran or North Korea or Sudan. A little bit of a difficulty is that there is no law that prohibits U.S. companies from investing in Syria. That's something we should probably address. That's something we should have our Congress take up. Because Syria is a threat to stability in the Middle East, and this is a an issue that we should be urging our representatives in Congress to take up.

But right now we need to move this forward. I'm going to work with you, Senator Bonacic, to find an Assembly sponsor. I didn't see anywhere there was an Assembly sponsor. But I'm going speak to my colleagues, my friend in the Assembly. Even the Assembly sponsor for my Iran legislation, Chuck Lavine. Hopefully we can get him maybe to get on board and move this forward, because it's so important.

We really do have to put our money

where our mouth is, so to speak. And we really need to have our strength of our pension fund say no to investing in companies that invest in countries that do terrorist activities.

So I congratulate you, Senator Bonacic. I congratulate you, Jeffrey Klein, Senator Klein, for your leadership. And I thank you very much.

I will be voting yes, Mr. President. Thank you.

ACTING PRESIDENT GRIFFO: Senator Duane, on the bill.

SENATOR DUANE: Thank you, Mr. President.

I was pleased to vote for Senator Robach's legislation regarding the State Comptroller's using our pension funds as a way to stop the genocide in the Darfur. And in addition, I also reached out to the Governor and to the Comptroller on that issue.

In regard to specifically this legislation, I think that the embargo that we've had against Cuba is frankly stupid. And because they are included on the U.S. list, I

think that makes this legislation unfortunately one that I can't support. And I think that that's been a ill-conceived policy and one which has actually stopped the relationship and in fact the spread of democracy in that nation.

So I'm going to be voting in the negative when it comes up for a vote here, Mr. President.

ACTING PRESIDENT GRIFFO: Is there any other Senator wishing to be heard?

Senator Perkins.

SENATOR PERKINS: Through you, Mr. President, I'd like to ask the sponsor a quick question.

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

SENATOR BONACIC: Of course.

ACTING PRESIDENT GRIFFO: Senator Perkins.

SENATOR PERKINS: Thank you so much.

Just in your remarks you mentioned some of the countries that this legislation might apply to. I'm not sure if you meant

that the legislation applied to them or if it was just some countries that you were mentioning.

I just want to be clear about Cuba. Because as my colleague noted, I don't also see Cuba as a terrorist nation. And I was wondering if this legislation actually applies to Cuba as well.

ACTING PRESIDENT GRIFFO: Senator Bonacic.

SENATOR BONACIC: It does.

The United States Department of State determines the countries which are deemed to be sponsors of terrorism. And Cuba in particular has been designated since March 1st of 1982 and has continued with that designation on all of the presidents from '82 to the present time.

ACTING PRESIDENT GRIFFO: Senator Perkins.

SENATOR PERKINS: On the legislation, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Perkins, on the bill.

SENATOR PERKINS: On the bill.

I appreciate the explanation. And I also very much appreciate what it is that you're attempting to do. In fact, conceptually and in many details, I actually would be supportive of it and would commend you in the direction that you're suggesting that we should go.

But as you mentioned, Cuba still being on that list is a concern of mine. And so I therefore will not be able to be supportive of this bill. But you can be sure that we're on the same wavelength otherwise.

ACTING PRESIDENT GRIFFO: Senator Larkin, on the bill.

SENATOR LARKIN: Thank you, Mr. Speaker.

First I'd like to congratulate my colleague Senator Bonacic for being forthright. And I thank Senator Klein, we've talked before about some of the issues, and Johnson. But I think specifically what Senator Bonacic is really laying out is a clear plan of what we should be doing.

You know, we look everyday at the media, we look at the TV, we listen to the

radio, we read papers, and we understand where the world is at. But we're the leaders of the free world, and we have to take some positions.

I understand what Senator Perkins said he can't -- I understand what Senator Duane said he can't adjust to it. But let's be realistic. We have a golden opportunity now, in conjunction with our Comptroller, to put forth some restrictions on what we do with our pension funds. We're not talking about the State Legislature's pension fund, we're talking about pension funds. We're talking about the responsibilities and authority we want the Comptroller to do.

We can't stand around and say this is wrong, this is wrong, this is wrong and then when something happens, well, why didn't you do something? What we're basically saying in this legislation is that we want to give some power to the Comptroller and let him look at it.

This is serious business. And I think we've got to open our eyes and not just say, Well, I don't like it because of this. I

think you'd better start to think. You'd better start to think. Because this is serious business.

Someone just said let's look at Syria, let's look at this here and let's look at that. This is a step right up. I strongly suggest you think about how you vote on this bill. I'm voting aye.

ACTING PRESIDENT GRIFFO: Thank you, Senator Larkin.

Senator Serrano.

SENATOR SERRANO: Thank you, Mr. President.

I also rise to echo the concerns of many of my colleagues regarding the inclusion of Cuba on this list. I think the fact that Cuba is listed, and not other countries with similar political persuasions, such as China, shows that there is a political slant to the information provided by the State Department.

And I would say that since the State Department's information is the basis of this bill, that we should consider that the information is not good. And if we continue to disinvest, and Senator Duane talked about

the embargo, illegal embargo -- but if we continue to disinvest in places like Cuba, all we are doing is hurting the people of that island nation.

So it's very important that we think long and hard and not paint with a broad brush and simply say that all of these on this list are bad and therefore we should not invest. We should look at the politics behind it and the politics back in 1982 in which Cuba was then put on this list and see, has Cuba -- can anyone in this chamber tell me has Cuba been a threat to our national security? It's really not.

And we need to revisit our relationship with Cuba. And I think we also need to revisit, in this legislation, the inclusion of that country and really go after the countries that sincerely wish to do harm to this nation.

Thank you.

ACTING PRESIDENT GRIFFO: Senator Stavisky.

SENATOR STAVISKY: Thank you, Mr. President. And thank you, Senator Klein,

Senator Bonacic, for bringing this issue to our attention.

I wish Cuba were not on the list. But there are four countries that are on the list. And we know that North Korea and the Sudan and Syria -- and there's one more -- Iran, these four nations are on the list. There are foreign investments.

This is something I think extremely important. Divestiture has been successful over the years. It worked with apartheid until there was a government change in South Africa. This is something that can work. And it seems to me that New York State pension funds can be invested in a fiscally responsible manner to have a good return on the investment and at the same time that we act in a socially responsive and responsible manner.

And I think it's extremely important that New York State begin its divestiture of funds in countries that there's no question do support terror, and those four countries do.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: The chair recognizes Senator Diaz for a very brief explanation.

SENATOR DIAZ: Thank you, Mr. Chairman.

This is a great bill, and I congratulate Senator Bonacic on this bill. The only thing that I question is, are we willing to stop such a good bill because Cuba is included? Are we now becoming the Cuban ambassador here? I believe Cuba has Hugo Chavez to spend his oil money there.

So please, ladies and gentlemen, we're talking business here. We're talking very serious threats against our country, our nation, and we're saying Cuba, Cuba, Cuba.

Cuba -- Fidel has been there for 40-some years, and he's still alive and kicking. And now he has Hugo Chavez to help him. So don't come here saying that we cannot support this bill and let Iran and Iraq and all those terrorist nations getting away because of Cuba.

This is a good bill. I'm voting in favor of it.

ACTING PRESIDENT GRIFFO: Thank you, Senator Diaz. Is there any other Senator that wishes to be heard?

Debate is closed. The Secretary will ring the bells.

The Secretary will read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Hassell-Thompson, to explain her vote.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President. Just very briefly.

I appreciate the sentiment and the intent of this bill, but I will have to vote no with the inclusion of Cuba. Cuba does not fall into the category of the intent of this bill as I understood it. So I will in fact be voting no.

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

Senator Perkins, to explain his vote.

SENATOR PERKINS: Thank you, Mr. President. I just want to explain my vote a little bit.

You know, I again can't express enough my appreciation to the sponsor for the direction in which this bill is going, again with the exception of having included Cuba. Cuba, quite the opposite of being a terrorist, has an outstanding record of being an ambassador of goodwill, especially for developing countries, whether it be in Africa, whether it be in South America.

So I know the history of why that country has been declared a terrorist. But you know, Nelson Mandela was declared a terrorist and spent quite a few years in jail because of that. And so, you know, yesterday's terrorists are really today's heroes and freedom fighters.

And so I just want to hope that we can move the State Department, if necessary, to get the record straight. Because Cuba is quite a remarkable accomplishment for a lot of

underdeveloped countries as a way to become successful.

Thank you.

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

SENATOR PERKINS: I'm voting in the negative. Thank you.

ACTING PRESIDENT GRIFFO: Senator Perkins will be recorded in the negative.

Senator Volker.

SENATOR VOLKER: Mr. President, I normally don't get into these esoteric debates, but may I remind some people that Cuba almost got us into World War III when the Russian missiles were moved to Cuba?

And let me remind you that a lot of the aid they've given to those counties is guns and weapons. You know, it's still a totalitarian country. And I realize that Fidel Castro is a very clever guy and has put all kinds of stuff out that he's really a wonderful guy and he's a great guy.

You only need to talk to some of the people in Florida who came from Cuba. They will tell you about what a wonderful

fellow he is and what a wonderful country Cuba is.

I'm always amazed at the fact that some people seem to think just because you haven't bombed anybody lately, or that you haven't killed anybody that we know of, that they're a fine country. But we know one thing. They're not on our side, that's for sure. And not only are they not on our side, they're on the side of communist countries all over the world.

So I just have a problem -- I'm not so worried about Cuba, I'm a lot more worried about other people, except for one thing. Cuba sits right next to us. And they are a very dangerous country.

I vote aye.

ACTING PRESIDENT GRIFFO: Senator Volker to be recorded in the affirmative.

Senator Parker, to explain his vote.

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

First let me thank Senator Bonacic for his work on this bill. This is really,

really important, really critical for our nation. I will be voting aye on this bill because I think that it's incredibly important that we put our money where our mouth is, or, in this case, take our money out of places that are in fact presenting a danger to this country.

But I certainly have some concerns about Cuba being involved in this list. I think we should not be ahistorical about this and we should understand that if you have a problem with Fidel Castro, understand that this government put Fidel Castro in power. If anybody's interested in a little history lesson, my office is 517, and I'll go through it with you year by year.

A man educated in this country and put up against the Battista government. So, you know, we should not -- we should be very, very careful about how we talk about these things.

But this is an important bill and I think that this piece of it, although important, does not -- is not a poison pill for this particular bill. So I'll be voting

aye.

ACTING PRESIDENT GRIFFO: Senator Parker to be recorded in the affirmative.

I was concerned that Senator Brodsky might want to explain his vote too -- Assemblyman Brodsky.

Senator Robach to explain his vote, the pride of Brockport.

SENATOR ROBACH: Yes, Mr. President, just briefly. I rise to support this.

And earlier this year we passed a bill to do similar measures in Darfur, which everyone knows what's going on there. Very bad atrocities, the women, children, displacement. Don't even like to think about what's going on there.

And unfortunately the need for these types of bills comes from a variety of reasons in response to these terrible atrocities. We really, in today's world -- I would like to think that a place like the U.N. would rise, when there's such obvious acts of terrorism and even worse in some cases, where people are being killed, hurt, maimed,

civilians, not soldiers, people going about their everyday life of all ages. But unfortunately, that doesn't exist.

So the one thing we can do that is meaningful in today's world is express ourselves via the usage of our resources, our dollars. And unfortunately, I think until things get better in the world, we're going to have to continue to try and take these steps not only as New Yorkers but as human beings to try and make the world a better place.

So I applaud Senator Bonacic for this bill, and the others supporting this, and proudly cast my vote in the affirmative.

ACTING PRESIDENT GRIFFO: Senator Robach to be recorded in the affirmative.

Senator Nozzolio, to explain his vote.

SENATOR NOZZOLIO: Mr. President, I rise and ask to explain my vote.

I wish to be recorded in the affirmative on this legislation. I was not intending to rise, but when I heard the comment that yesterday's terrorist could be tomorrow's hero, it disturbed me greatly.

There were 3,000 Americans, most of whom were New Yorkers, that were shot out of the sky because of terrorist-sponsored murder. We shall not forget what occurred to our nation and our state in the City of New York on September 11th. I shudder to think that anyone could characterize terrorist activities in the words of heroism, on the side of the terrorists.

The only heroes that we saw that day of September 11th were those who gave their lives so that others could live. And the destruction of the terrorists to our fabric of living in our society is deep, and it shall not be forgiven. And it certainly shall not be forgotten.

I'm shocked that that could ever be characterized in such a trivial way. That we have to do all we can to support legislation like Senator Bonacic has brought to the floor today, to send the signal that we will not tolerate this type of activity against the United States of America. That the largest, most horrific crime ever to take place on American soil took place that day because of

terrorist activities.

And I rise with righteous indignation and a great deal of sadness to have to proclaim and to remind some that that day was the culmination of terrorist activities. And that the real heroes will never be the terrorists. The real heroes were those brave men and women, firefighters, emergency medical personnel, police officers, who risked their lives to save others in that horrific tragedy.

Mr. President, I vote aye.

ACTING PRESIDENT GRIFFO: Senator Nozzolio to be recorded in the affirmative.

Senator Serrano, to explain his vote.

SENATOR SERRANO: Hi. Just to clarify, Senator Perkins was mentioning Nelson Mandela, who was called a terrorist and then obviously proven otherwise.

Just to make sure that the record reflects what was actually said by Senator Perkins, he was referring to Nelson Mandela, who I feel everyone in this chamber here reveres as someone who did do many great

things and continues to do so.

And I think it's shameful to use -- to invoke the souls of those lost on September 11th to instill fear on this issue when we've been talking about Cuba very specifically. We all agree that what was done on September 11th was horrible. But that should not preclude us from being smart about a bill that includes Cuba.

So I think it's important that we not mix things up and continue to sully this entire debate. We have to focus on what it is, and that is the one point.

I vote no.

ACTING PRESIDENT GRIFFO: Senator Serrano to be recorded in the negative.

Senator Diaz, to explain his vote.

I may remind you, Senator Diaz, we are under Rule 9, Section 3.

SENATOR DIAZ: And that means two minutes.

ACTING PRESIDENT GRIFFO: The two-minute rule.

SENATOR DIAZ: No, I'll only take one. Just to tell my colleague Senator

Serrano that it is not a shame to invoke the memory of 9/11.

On the contrary, 9/11 shall never be forgotten. And we always -- it will never be forgotten. And it is not a scaring tactic to invoke the memory of 9/11. 9/11, our city was attacked by terrorists. That was something that more than 3,000 people gave their life -- firemen, police officers, everybody. That's a day of shame, a day to remember.

And I am sorry to hear my colleague saying that it's a shame to invoke that memory. No, it's not a shame. That is a day that shall never be forgotten and shall be always talking about in the memory so our children, our nation and never we forget that date. That's the day that should always be remembered.

I'm voting yes.

ACTING PRESIDENT GRIFFO: Senator Diaz to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 2024 are

Senators Duane, Gonzalez, Hassell-Thompson, Perkins, and Serrano.

Absent from voting: Senator Schneiderman.

Ayes, 56. Nays, 5.

ACTING PRESIDENT GRIFFO: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 2026, by Senator Maziarz, Senate Print 6356, an act to amend the Labor Law.

ACTING PRESIDENT GRIFFO: Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

This is a bill that I have supported in the past, and it deals with public works projects and the prevailing wage rate. But I do have a few questions that I would like to ask the sponsor for purposes of clarification.

So would the sponsor yield to a few brief questions?

ACTING PRESIDENT GRIFFO: Senator Maziarz, will you yield?

SENATOR MAZIARZ: Certainly, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Little.

SENATOR LITTLE: Thank you. Thank you, Senator Maziarz.

Just to clear this up so that we don't have any misunderstanding -- and I do have a letter from the Association of Towns also looking for clarification on this -- if, and this happens in my district quite frequently, a developer is building some houses and he builds them on a cul-de-sac, he builds the road and then, when the houses are complete and the development is ready, the town gets the deed to the road and takes over that road to those houses.

My question to the sponsor is, would the developer have to use -- would he be required to use prevailing wage rates in developing that road before it even becomes a town road?

ACTING PRESIDENT GRIFFO: Senator Maziarz.

SENATOR MAZIARZ: That is not the

intent of this legislation, no.

SENATOR LITTLE: Thank you.

Also, if you live in the city, in the city of Glens Falls, and your sidewalk is in pretty disrepair, you can replace that. So if I were to replace my sidewalk in front of my house, would I be required -- would that be considered a public works project? Would I be required to use prevailing wage rate, is my question to the sponsor.

ACTING PRESIDENT GRIFFO: Senator Maziarz.

SENATOR MAZIARZ: Well, I think I would comment that if you have a broken sidewalk and you live in Glens Falls, you should maybe consider moving to the city of North Tonawanda, where they don't have broken sidewalks. No, that's just a --

(Laughter.)

SENATOR LITTLE: I will take that under consideration.

SENATOR MAZIARZ: The answer it your question is no, Senator.

SENATOR LITTLE: Thank you, Senator.

Also, frequently when you are building a house you need to do a sewer or water hookup to a municipal water supply. From the house to the sewer water hookup, is that considered a public works project and would prevailing wage be necessary?

ACTING PRESIDENT GRIFFO: Senator Maziarz.

SENATOR MAZIARZ: No. No, it's not the intent of this legislation.

SENATOR LITTLE: Thank you. I believe that clarifies the intent of the legislation, and I thank the sponsor for responding.

SENATOR MAZIARZ: Thank you.

ACTING PRESIDENT GRIFFO: Thank you, Senator Little. Thank you, Senator Maziarz.

Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 60th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61. Nays,

0.

Senator Schneiderman absent from voting.

ACTING PRESIDENT GRIFFO: The bill is passed.

The Secretary will read the supplemental active list, noncontroversial.

THE SECRETARY: Calendar Number 531, by Senator Volker, Senate Print 3844A, an act to amend the Penal Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 531 are Senators Adams, Hassell-Thompson and Parker.

Ayes, 58. Nays, 3.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number

532, by Senator Volker, Senate Print 3845A, an act to amend the Penal Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 532 are Senators Hassell-Thompson, Montgomery and Parker.

Ayes, 58. Nays, 3.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 636, by Senator Skelos, Senate Print 4058B, an act to amend the General Business Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 952, Senator Golden moves to discharge, from the Committee on Rules --

SENATOR DUANE: Lay it aside, please.

THE SECRETARY: -- Assembly Bill Number 8930 and substitute it for the identical Senate Bill Number 4078A, Third Reading Calendar 952.

ACTING PRESIDENT GRIFFO: The substitution is ordered.

Senator Duane, do you wish to lay it aside?

SENATOR DUANE: Yes, Mr. President.

ACTING PRESIDENT GRIFFO: The bill is laid aside.

The Secretary will continue to read.

THE SECRETARY: Calendar Number

1150, by Senator Libous, Senate Print 1589D, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1193, by Senator Sabini, Senate Print 1725B, an act to amend the Racing, Parimutuel Wagering and Breeding 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.)

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

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

This bill comes out of the -- to correct what I feel and many feel was an inequity in racing law, where we had a situation where, in an effort to broaden the appetite for people at OTBs, that they could see tracks from out of state and even other countries, and that by doing that we would protect New York's equine agriculture and racing by making sure that the New York tracks were held harmless if their handles from OTBs dropped.

That was misused and misinterpreted about a year and change ago, two years ago, when one of our tracks stopped racing for a long period of time and yet tried to bill the OTBs money despite the fact that the OTBs were then forced to pay for racing that didn't exist. So this bill tries to correct that inequity.

I want to thank Chairman Larkin for his support on this and the various OTBs around this state. It really just corrects the intention of what the Legislature really

wanted to happen, which is make everybody whole here and ensure that our tracks and our OTBs stayed flourishing or at least doing as best they can in tough circumstances.

And as I said, I wanted to thank Chairman Larkin for his support in this. I'll be voting aye. Thank you.

ACTING PRESIDENT GRIFFO: Senator Sabini to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 61. Nays, 0.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1938, by Senator Padavan, Senate Print 6267A, an act to amend the Real Property Tax Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 4. This act shall take effect July 1, 2007.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Skelos, that completes the reading of the noncontroversial calendar, supplemental active list.

SENATOR SKELOS: Mr. President, if we could now take up, on the controversial calendar, Calendar Number 952.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 952, substituted earlier by Member of the Assembly Silver, Assembly Print Number 8930, an act to amend Chapter 280 of the Laws of 2006.

SENATOR CONNOR: Explanation.

ACTING PRESIDENT GRIFFO: An explanation has been called for.

I want to announce that there is a local fiscal impact statement here at the desk.

SENATOR SKELOS: Lay the bill aside temporarily, please.

ACTING PRESIDENT GRIFFO: The bill will be laid aside temporarily.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to motions and resolutions, I believe there are some motions to be made at this time.

ACTING PRESIDENT GRIFFO: Motions and resolutions.

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, on behalf of Senator Hannon, on page number 23 I offer the following amendments to Calendar Number 932, Senate Print Number 4640, and ask that said bill retain its place on Third Reading Calendar.

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

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, on behalf of Senator Leibell, I wish to call up Senate Print Number 3652, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT GRIFFO: The

Secretary will read.

THE SECRETARY: Calendar Number 396, by Senator Leibell, Senate Print 3652, an act to amend the Executive Law.

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

ACTING PRESIDENT GRIFFO: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is restored to the order of third reading on the calendar.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT GRIFFO: Senator Skelos.

SENATOR SKELOS: There will be a meeting of the Rules Committee at 2:00 p.m. in the Majority Conference Room, and the Senate will stand at ease.

ACTING PRESIDENT GRIFFO: There will be a meeting of the Rules Committee at 2:00 p.m. in the Majority Conference Room.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 1:55 p.m.)

(Whereupon, the Senate reconvened at 2:19 p.m.)

ACTING PRESIDENT MAZIARZ: The Senate will come to order.

Senator LaValle.

SENATOR LaVALLE: Mr. President, please recognize Senator Stavisky for an announcement.

ACTING PRESIDENT MAZIARZ: Senator Stavisky.

SENATOR STAVISKY: There will be an immediate conference of the Minority in the Minority Conference Room.

ACTING PRESIDENT MAZIARZ: There will be an immediate conference of the Minority in the Minority Conference Room.

Senator LaValle.

SENATOR LaVALLE: Mr. President, the Senate will stand at ease.

ACTING PRESIDENT MAZIARZ: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 2:20 p.m.)

ACTING PRESIDENT NOZZOLIO: The Senate will come to order.

Senator Johnson.

SENATOR OWEN JOHNSON: Mr. President, there will be an immediate conference of the Majority in the Majority Conference Room.

ACTING PRESIDENT NOZZOLIO: Immediate conference of the Senate Majority in the Majority Conference Room.

The Senate will stand at ease.

(Whereupon, the Senate reconvened at 4:22 p.m.)

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could go to the supplemental calendar and take up Calendar Number 952.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 952, substituted earlier today by Member of the Assembly Silver, Assembly Print Number 8930, an act to amend Chapter 280 of the Laws

of 2006.

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

Senator Golden.

SENATOR GOLDEN: Yes, Mr. President. I ask for unanimous consent to replace the sponsorship of my bill, Bill Number 4078A, with Senator Martin Connor.

SENATOR SKELOS: No objection.

ACTING PRESIDENT GRIFFO: So ordered.

SENATOR GOLDEN: Thank you.

ACTING PRESIDENT GRIFFO: Senator Connor.

SENATOR CONNOR: Yes, Mr. President. I had earlier laid aside this bill, and I would like to remove that and have no objection to it being noncontroversial.

SENATOR SKELOS: Mr. President, please take up Calendar Number 952, noncontroversial.

ACTING PRESIDENT GRIFFO: The Secretary will 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, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT GRIFFO: Senator Skelos.

SENATOR SKELOS: On the regular calendar, if you could call up Calendar Number 544, noncontroversial.

ACTING PRESIDENT GRIFFO: The Secretary will read Calendar Number 544.

THE SECRETARY: In relation to Calendar Number 544, Senator Seward moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 6272 and substitute it for the identical Senate Bill Number 1658, Third Reading Calendar 544.

ACTING PRESIDENT GRIFFO: The substitution is ordered.

There is a local fiscal impact note

at the desk.

The Secretary will read.

THE SECRETARY: Calendar Number 544, substituted earlier by Member of the Assembly Silver, Assembly Print Number 6272, an act to amend the Tax Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Skelos.

SENATOR SKELOS: If we could now go to Senate Calendar Number 65A, noncontroversial.

ACTING PRESIDENT GRIFFO: The Secretary will read.

Senator Skelos.

SENATOR SKELOS: Mr. President,

anxious to end the day on a positive note, I neglected to ask the Rules report to be read first. And then we'll take up the calendar.

ACTING PRESIDENT GRIFFO: The Secretary will read the report of the Rules Committee.

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

Senate Print 100, by Senator DeFrancisco, an act to amend the Executive Law;

1284A, by Senator Volker, an act to amend the Environmental Conservation Law;

1469, by Senator Morahan, an act to authorize;

1474, by Senator Morahan, an act authorizing;

1476, by Senator Morahan, an act to authorize;

2142, by Senator Wright, an act to amend the Vehicle and Traffic Law;

2388A, by Senator Leibell, an act to amend the Public Health Law;

2441, by Senator Morahan, an act to

amend the Tax Law;

2863A, by Senator Farley, an act to amend the Banking Law;

3241, by Senator Golden, an act to amend the General Municipal Law;

3546A, by Senator DeFrancisco, an act to amend the Arts and Cultural Affairs Law;

3754A, by Senator Trunzo, an act in relation to authorizing;

3817, by Senator LaValle, an act to amend the Education Law;

3927, by Senator Trunzo, an act to amend the Retirement and Social Security Law;

3982A, by Senator Hannon, an act to amend Chapter 521 of the Laws of 1994;

3985A, by Senator Hannon, an act to amend the Public Health Law;

3986A, by Senator Hannon, an act to amend the Public Health Law;

4247, by Senator Leibell, an act to amend the Executive Law;

4329, by Senator Lanza, an act to amend the Social Services Law;

4393, by Senator Flanagan, an act

to amend the Public Officers Law;

4440, by Senator Golden, an act to amend the Social Services Law;

4888A, by Senator Libous, an act to amend the Vehicle and Traffic Law;

5039, by Senator Savino, an act authorizing;

5046A, by Senator Fuschillo, an act to amend the Executive Law;

5229A, by Senator Alesi, an act to amend Chapter 530 of the Laws of 1988;

5304, by Senator Marcellino, an act to amend the Environmental Conservation Law;

5340, by Senator Hannon, an act to amend the Public Health Law;

5521, by Senator Hannon, an act to amend the Social Services Law;

5667, by Senator Leibell, an act to amend the Retirement and Social Security Law;

5740, by Senator Saland, an act to amend the Education Law;

5743, by Senator Flanagan, an act to amend the Arts and Cultural Affairs Law;

5793, by Senator Flanagan, an act to amend the Executive Law;

5927, by Senator O. Johnson, an act to amend the Environmental Conservation Law;

6063, by Senator Farley, an act making an appropriation;

6172, by the Senate Committee on Rules, an act in relation to authorizing;

6305, by Senator Marcellino, an act to amend the Environmental Conservation Law;

6318, by Senator Griffo, an act providing;

6323, by Senator Marcellino, an act to amend the Environmental Conservation Law;

6333, by the Senate Committee on Rules, an act to amend Chapter 444 of the Laws of 1997;

6337, by the Senate Committee on Rules, an act to amend Chapter 181 of the Laws of 2005;

6347, by Senator Robach, an act establishing;

6354, by the Senate Committee on Rules, an act to amend the Tax Law;

6357, by Senator Saland, an act to amend the Criminal Procedure Law;

6361, by Senator Saland, an act to

amend the Education Law;

6378, by Senator Alesi, an act in relation;

And Senate Print 6379, by Senator Bonacic, an act to amend the State Finance Law.

All bills ordered direct to third reading.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

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

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed, nay.

(No response.)

ACTING PRESIDENT GRIFFO: The report is accepted.

SENATOR DeFRANCISCO: Please return to motions and resolutions.

ACTING PRESIDENT GRIFFO: Motions and resolutions.

Senator Breslin.

SENATOR BRESLIN: Mr. President, I move to amend Senate Bill 4255 by striking out the amendments made on June 20th and restoring it to its previous print, 4255B.

ACTING PRESIDENT GRIFFO: So ordered.

SENATOR BRESLIN: Thank you.

ACTING PRESIDENT GRIFFO: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, on behalf of Senator Morahan, on the supplemental calendar, I offer the following amendments to Calendar Number 2032, Senate Print Number 1476, and ask that said bill will retain its place on the order of 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 DeFrancisco.

SENATOR DeFRANCISCO: Would you please do the noncontroversial reading of Senate Calendar 65A.

ACTING PRESIDENT GRIFFO: The Secretary will read Senate Calendar 65A, noncontroversial.

THE SECRETARY: In relation to Calendar Number 2028, Senator DeFrancisco moves to discharge, from the Committee on Rules, Assembly Bill Number 6575 and substitute it for the identical Senate Bill Number 100, Third Reading Calendar 2028.

ACTING PRESIDENT GRIFFO:

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2028, by Member of the Assembly Towns, Assembly Print Number 6575, an act to amend the Executive Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2029, by Senator Volker, Senate Print 1284A, an act to amend the Environmental Conservation Law.

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, 59. Nays, 1. Senator Serrano recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2030, Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 7936 and substitute it for the identical Senate Bill Number 1469, Third Reading Calendar 2030.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2030, by Member of the Assembly Jaffee, Assembly Print Number 7936, an act to authorize Congregation Ribnitz.

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, 60. Nays, 1. Senator Bonacic recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2031, by Senator Morahan, Senate Print 1474, an act authorizing.

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, 60. Nays, 1. Senator Bonacic recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2032, Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 7937A and substitute it for the identical Senate Bill Number 1476A, Third Reading Calendar 2032.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2032, by Member of the Assembly Jaffee, Assembly Print Number 7937A, an act authorizing.

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, 59. Nays, 2. Senators Bonacic and Larkin recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2033, by Senator Wright, Senate Print 2142, an act to amend the Vehicle and Traffic Law.

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, 59. Nays, 2. Senators Duane and L. Krueger recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2034, by Senator Leibell, Senate Print 2388A, an act to amend the Public Health Law.

ACTING PRESIDENT GRIFFO: Read the last section.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT GRIFFO: The bill is laid aside.

THE SECRETARY: Calendar Number 2035, by Senator Morahan, Senate Print 2441, an act to amend the Tax Law.

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

The Secretary will read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2036, Senator Farley moves to discharge, from the Committee on Rules, Assembly Bill Number 9159 and substitute it for the identical Senate Bill Number 2863A,

Third Reading Calendar 2036.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2036, by Member of the Assembly Towns, Assembly Print Number 9159, an act to amend the Banking 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2037, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 7757 and substitute it for the identical Senate Bill Number 3241, Third Reading Calendar 2037.

ACTING PRESIDENT GRIFFO:

Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2037, by Member of the Assembly Jeffries, Assembly Print Number 7757, an act to amend the General Municipal 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2038, Senator DeFrancisco moves to discharge, from the Committee on Rules, Assembly Bill Number 5202A and substitute it for the identical Senate Bill Number 3546A, Third Reading Calendar 2038.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2038, by Member of the Assembly Millman, Assembly Print Number 5202A, an act to amend the Arts and Cultural Affairs 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2039, Senator Trunzo moves to discharge, from the Committee on Rules, Assembly Bill Number 6582A and substitute it for the identical Senate Bill Number 3754A, Third Reading Calendar 2039.

ACTING PRESIDENT GRIFFO: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2039, by Member of the Assembly Eddington,

Assembly Print Number 6582A, an act in relation to authorizing.

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, 59. Nays, 2. Senators Bonacic and Larkin recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2040, by Senator LaValle --

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT GRIFFO: The bill is laid aside.

THE SECRETARY: Calendar Number 2041, by Senator Trunzo, Senate Print 3927, an act to amend the Retirement and Social Security Law.

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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2042, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 8097A and substitute it for the identical Senate Bill Number 3982A, Third Reading Calendar 2042.

ACTING PRESIDENT GRIFFO: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2042, by Member of the Assembly Gottfried. Assembly Print Number 8097A, an act to amend Chapter 521 of the Laws of 1994.

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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2043, by Senator Hannon, Senate Print 3985A, an act to amend the Public Health 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2044, by Senator Hannon, Senate Print 3986A, an act to amend the Public Health Law and others.

ACTING PRESIDENT GRIFFO: Read

the last section.

THE SECRETARY: Section 20. This act shall take effect April 1, 2008.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2045, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 8525 and substitute it for the identical Senate Bill Number 4247, Third Reading Calendar 2045.

ACTING PRESIDENT GRIFFO: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2045, by Member of the Assembly Lancman, Assembly Print Number 8525, an act to amend the Executive 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2046, Senator Lanza moves to discharge, from the Committee on Rules, Assembly Bill Number 7905 and substitute it for the identical Senate Bill Number 4329, Third Reading Calendar 2046.

ACTING PRESIDENT GRIFFO: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2046, by Member of the Assembly V. Lopez, Assembly Print Number 7905, an act to amend the Social Services Law.

ACTING PRESIDENT GRIFFO: Last section.

SENATOR DeFRANCISCO: Please lay that bill aside temporarily.

ACTING PRESIDENT GRIFFO: Lay it

aside temporarily.

THE SECRETARY: In relation to Calendar Number 2047, Senator Flanagan moves to discharge, from the Committee on Rules, Assembly Bill Number 1108 and substitute it for the identical Senate Bill Number 4393, Third Reading Calendar 2047.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2047, by Member of the Assembly Destito, Assembly Print Number 1108, an act to amend the Public Officers Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to

Calendar Number 2048, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 1469 and substitute it for the identical Senate Bill Number 4440, Third Reading Calendar 2048.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2048, by Member of the Assembly Englebright, Assembly Print Number 1469, an act to amend the Social Services 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2049, Senator Libous moves to discharge, from the Committee on Rules,

Assembly Bill Number 7877A and substitute it for the identical Senate Bill Number 4888A, Third Reading Calendar 2049.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2049, by Member of the Assembly Gantt, Assembly Print Number 7877A, an act to amend the Vehicle and Traffic 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2051, Senator Fuschillo moves to discharge, from the Committee on Rules, Assembly Bill Number 217B and substitute it for the identical Senate Bill Number 5046A,

Third Reading Calendar 2051.

ACTING PRESIDENT GRIFFO: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2051, by Member of the Assembly Pheffer, Assembly Print Number 217B, an act to amend the Executive Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 90th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2052, by Senator Alesi, Senate Print 5229A, an act to amend Chapter 530 of the Laws of 1988 authorizing the Department of Social Services.

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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2053, Senator Marcellino moves to discharge, from the Committee on Rules, Assembly Bill Number 8339 and substitute it for the identical Senate Bill Number 5304, Third Reading Calendar 2053.

ACTING PRESIDENT GRIFFO: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2053, by Member of the Assembly Sweeney, Assembly Print Number 8339, an act to amend the Environmental Conservation 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.)

ACTING PRESIDENT GRIFFO:

Senator Marcellino, to explain his vote.

SENATOR MARCELLINO: Thank you, Mr. President.

I rise in support this bill and thank my colleagues for their support.

In 1993 this body created the Environmental Protection Act, the first ever permanent, dedicated environmental funding mechanism in this state. The EPF generally supports capital projects and programs that protect the water we drink, the air we breathe and the food we eat, and the quality and safety of our communities which we call home.

After more than 10 years of EPF funding, plus the 1996 Clean Water Clean Air Bond Act, there has been great progress. But total funding today is inadequate. Sprawling development across New York State consumes open space and farmland, threatens clean water, increases fuel consumption and air pollution, and creates more solid waste.

But this same sprawling development

has resulted in an exponential increase in receipts from the real estate transfer tax, the primary source of funding for the EPF. However, a smaller and smaller percentage of the real estate transfer tax revenue has been dedicated to conservation, while at the same time the cost of the environmental protection has increased.

Currently less than 1.1 cent per dollar -- that's 1.1 cent per dollar -- of every state revenue goes to the environment, which is a lower rate than at any time in the last 10 years and is well below the national average.

Within the EPF there are numerous programs where demand greatly outstrips available funding. Examples of grossly underfunded categories include open space, farmland protection, nonpoint source water pollution control, municipal recycling, pollution prevention, state land stewardship, local waterfront revitalization, community forestry and urban, suburban and rural parks and historic preservation, amongst others.

This bill will address this

shortfall by permanently increasing the portion of the real estate transfer tax that is dedicated to the EPF and providing a mechanism to ensure that any future growth in the real estate transfer tax revenue that is driven by development is rightly dedicated to the preservation of the environment.

This is a good thing we're doing tonight, ladies and gentlemen. I proudly vote aye.

ACTING PRESIDENT GRIFFO: Senator Marcellino to be recorded in the affirmative.

Senator Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

While I totally agree with Senator Marcellino's history of and support for the Environmental Protection Fund and the importance of it and what it's been doing, and why we need more money in the Environmental Protection Fund, I find that I have to vote no on this bill because it's taking more money out of the real estate transfer tax to move into EPF when we still don't put any money

into a real housing trust fund to build housing in this state.

And if we have some much money coming in from a real estate tax, I find it amazing that we won't commit any of it to actually dealing with our housing crisis. And I would argue we have an ability to do both things.

We could put RETT money into a real housing trust fund to invest in building affordable housing and preserving affordable housing throughout the great state of New York, and we could pass that bottle bill to come up with the money to provide to the EPF, so we could have a win/win.

This bill doesn't get us a win/win. It gets us more money for EPF but lowers our opportunities of finally using some of that real estate transfer tax money for the preservation and the building of desperately needed affordable housing.

And so I will vote no, Mr. President. Thank you.

ACTING PRESIDENT GRIFFO: Senator Krueger to be recorded in the negative.

Announce the results.

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

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2054, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 8081 and substitute it for the identical Senate Bill Number 5340, Third Reading Calendar 2054.

ACTING PRESIDENT GRIFFO: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2054, by Member of the Assembly Gottfried, Assembly Print Number 8081, an act to amend the Public Health 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2055, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 1462A and substitute it for the identical Senate Bill Number 5521, Third Reading Calendar 2055.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2055, by Member of the Assembly Englebright, Assembly Print Number 1462A, an act to amend the Social Services 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2056, by Senator Leibell, Senate Print 5667, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2057, by Senator Saland, Senate Print 5740, an act to amend the Education 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.)

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

SENATOR SALAND: Thank you, Mr. President.

We all recall earlier this year during the course of the adoption of the budget, as part of the education portion of the budget, we adopted a provision which was termed the Contracts for Excellence, which required schools that had received more than $15 million or more, or 10 percent more increase in aid from the prior year, to be subject to the contract.

When the Governor initially provided us with his budget, there was somewhere in the area of I think 115 or 116 schools on that list. This was the last item that closed at the education table, and when it closed there were some significant changes that were made.

But there were some unintended consequences, and we attempted to address that earlier with a bill that basically provided that the Big Five would remain subject to the

contract and other schools would have a one-year, in effect, break in which to be prepared for the contract.

There are a number of schools that are on that list, which is now 56, which were not on the original list and, when the budget was adopted, they were in the process of adopting their budgets and really had no ability to plan for this unanticipated event.

What this bill proposes to do is to in fact deal with that in the following fashion. There are some 579 schools in these districts that are captured under the current contract language. This would propose to reduce the 56 school list to 21, would leave I believe 535 school buildings still under the contract. It would remove, I believe, 44.

The standard by which we would choose to remove them would be if you are a successful school -- and a successful school is one in which 80 percent of those taking the tests, 80 percent or more, either in the case of the five Regents, are attaining 65 or better, or, in the case of the 4th and 8th grade required English and math, are

performing at Levels 3 and 4.

This list, incidentally, every year will change, because some schools will come on, some schools will go off. Next year's list, you have no idea what it will be. And historically some 50 percent of the schools fall off from year to year.

What this attempts to do is to say in addition to those successful schools, those schools that are not in compliance -- because, for example, they did not attain the participation rate required among students with disabilities, which is under NCLB required to be at a 95 percent level, they have been unable to attain that and therefore, under NCLB, they fail to be a school in compliance -- we say those types of more or less technical deficiencies should not hamstring a district and force them to use all of those additional monies they've received to deal with what is an isolated problem.

What we propose to do here is to basically undo the law of unintended consequences and at the same time ensure that those high-performing schools still have the

ability to deal with their student populations with a far greater degree of discretion than would be provided were they subject to compliance with the contract.

And again, these are schools that are generally higher performing schools, a number of which are successful schools. And of the schools districts that are involved, as distinguished from school buildings, two-thirds of them have only one building that's not in compliance.

Mr. President, obviously I support this bill and believe it's much needed and would certainly hope that all of my colleagues would share that same sentiment. Thank you.

ACTING PRESIDENT GRIFFO: Senator Saland to be recorded in the affirmative.

Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you very much.

This bill is a good bill. And I think that in some instances the press may get some of these nuances incorrectly, and you may, Senator Saland, be hearing from the press saying why are we making it easier or, you

know, why are we not holding school districts' feet to the fire and all that.

But this makes excellent sense, because we know of some very fine individual schools that got caught up in the Contract for Excellence which really didn't appropriately have this placed upon them. Where, you know, the contract says that there are only so many areas that you can improve within, and it really limits you.

And so this is a very good bill. And you will have to be answering to the press. Because when we took all the districts out other than the Big Five a month or two back, they didn't understand it then. So good luck.

I'm voting yes.

ACTING PRESIDENT GRIFFO: Senator Oppenheimer to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 61. Nays, 0.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number

2058, by Senator Flanagan, Senate Print 5743, an act to amend the Arts and Cultural Affairs Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

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

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

I'd particularly like my colleagues on this side of the aisle to draw heed to this, because this is an important piece of legislation that amends the Arts and Cultural Affairs Law in relation to prohibiting the advertising and conducting of certain live musical performances or productions.

Now, I didn't lay this aside in the interests of brevity today. This bill was introduced on May 3rd. Curiously, on February 13th, I introduced a bill, an act to amend the

Arts and Cultural Affairs Law in relation to the advertising and conducting of certain live musical performances or productions.

This bill, the purpose of this bill in the sponsor's memo makes it unlawful to advertise or conduct a live musical performance through the use of false, deceptive or misleading affiliation, connection or association between a performing group and a recording group.

Curiously, the purpose of my bill and Senator Flanagan's bill is the same.

The problem has been that there are copycat groups, particularly groups from the 1950s, some of whom the members have passed on to their great reward, and there are now people performing throughout the state under the names of the same group but they're different members. And some people feel that that's a problem.

And for those of us on this side of the aisle, the newer members may not have experienced this, but we've had legislation on occasion where a word or two is changed and it was pilfered. And that's good, and I'm going

to vote for this bill because it's in the spirit of good government. But since this bill was to prevent copycatting, I just want to note for the record that this is a copycat bill.

(Laughter.)

SENATOR SABINI: And since in the justification that was also copied from my bill Senator Flanagan says they expect -- people expect to see the real thing and not impersonators, I would submit we should follow that as well.

I'll be voting aye, Mr. President.

(Laughter.)

ACTING PRESIDENT GRIFFO: Imitation is the greatest source of flattery.

Senator Sabini to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2059, Senator Flanagan moves to discharge, from the Committee on Rules,

Assembly Bill Number 4251A and substitute it for the identical Senate Bill Number 5793, Third Reading Calendar 2059.

ACTING PRESIDENT GRIFFO: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2059, by Member of the Assembly Ramos, Assembly Print Number 4251A, an act to amend the Executive Law and the Public Health 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2060, Senator O. Johnson moves to discharge, from the Committee on Rules, Assembly Bill Number 8731 and substitute it for the identical Senate Bill Number 5927,

Third Reading Calendar 2060.

ACTING PRESIDENT GRIFFO: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2060, by Member of the Assembly Sweeney, Assembly Print Number 8731, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2061, by Senator Farley, Senate Print 6063, an action making an appropriation to the Schenectady Healthcare Practitioner Volunteer Program.

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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2062, by the Senate Committee on Rules, Senate Print Number 6172, an act in relation to authorizing the City of Elmira.

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

The Secretary will read the last section.

THE SECRETARY: Section 9. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number

2063, by Senator Marcellino, Senate Print 6305, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2064, by Senator Griffo, Senate Print 6318, an act providing for the election of delegates.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

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

SENATOR CONNOR: Thank you, Mr. President.

I'm certainly going to support this. It obviously adopts the delegate selection plan and primary provisions adopted by each of the major parties and allows each party to do its own thing.

I do want to comment on something, since I guess it was seven years ago I got into a bit of a brouhaha on the floor about the alleged lack of small D democratic opportunities that the then Republican selection plan was presenting. And I wanted to compliment the Republican Party for having, for the first time since we started 20 years ago in effect making ballot access easier, actually has a far better, open, easier ballot access provision for presidential candidates than does my own party.

The Democratic Party, you have to get -- the candidates have to get 5,000 signatures to get on the ballot. And in the Republican Party, if they qualify for federal matching funds or they're recognized as a prominent candidate with some serious support,

they can, upon application, automatically be placed on the ballot.

We probably will find in the Democratic side, if anyone is disappointed by the petition process, a federal lawsuit such as plagued the Republicans in past years in terms of the process.

One other technical thing, and I don't know how it affects the Mayor of the City of New York, but I don't think he'll probably sign any petitions or want to carry any. But the petitioning process certainly for the Democrats spans that period in November when enrollment changes take effect. So any new members of the party could be ineligible to sign in the first weeks of petitioning or carry a petition and eligible to sign or carry in the second part.

This could present a lot of technical problems in that process. But I guess it's too late to do anything about it. That certainly won't prevent me from voting for the bill.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator

Connor to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 61. Nays, 0.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2065, by Senator Marcellino --

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT GRIFFO: The bill is laid aside.

THE SECRETARY: Calendar Number 2066, by the Senate Committee on Rules, Senate Print.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT GRIFFO: The bill is laid aside.

THE SECRETARY: Calendar Number 2067, by the Senate Committee on Rules, Senate Print 6337, an act to amend Chapter 181 of the Laws of 2005 amending the Election 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2068, by Senator Robach, Senate Print 6347, an act establishing the City of Rochester.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 24. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2069, by the Senate Committee on Rules, Senate Print 6354, an act to amend the Tax Law.

ACTING PRESIDENT GRIFFO: Read

the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2070, by Senator Saland --

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT GRIFFO: The bill is laid aside.

THE SECRETARY: Calendar Number 2071, by Senator Saland, Senate Print 6361, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 27. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Marcellino, that completes the noncontroversial reading of Calendar 65A.

SENATOR MARCELLINO: Thank you, Mr. President. Can we now proceed to the controversial reading of Calendar 65A.

ACTING PRESIDENT GRIFFO: The Secretary will ring the bell.

We will proceed with the reading of the controversial calendar, 65A.

The Secretary will read.

THE SECRETARY: Calendar Number 2034, by Senator Leibell, Senate Print 2388A, an act to amend the Public Health Law.

ACTING PRESIDENT GRIFFO: Read the last section.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President. If the sponsor would yield.

ACTING PRESIDENT GRIFFO: Senator Leibell, do you yield?

SENATOR LEIBELL: Yes, I do.

ACTING PRESIDENT GRIFFO: Senator

Duane.

SENATOR DUANE: Thank you, Mr. President. I'm wondering, what is "brain to computer"?

ACTING PRESIDENT GRIFFO: Is that question directed to Senator Leibell?

SENATOR DUANE: It is, but through you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Leibell.

SENATOR LEIBELL: It is a pilot program where you're able to control a computer keyboard with your eyes.

SENATOR DUANE: I'm sorry, Mr. President, could you ask him to repeat it? I didn't get that.

ACTING PRESIDENT GRIFFO: Can we have some in the house so the Senators can exchange, please.

Senator Duane, would you repeat your question to Senator Leibell?

SENATOR LEIBELL: Senator Duane, could you speak up, please? When you're passionate, you're very loud. Could you get passionate?

(Laughter.)

SENATOR MARCELLINO: Not too passionate.

SENATOR DUANE: Mr. President, if the sponsor wants passionate --

(Laughter.)

SENATOR LEIBELL: Senator Duane, would you please lower your voice.

ACTING PRESIDENT GRIFFO: We have now been here for three seasons, so engage.

SENATOR SCHNEIDERMAN: In the other house you could get engaged.

(Laughter.)

ACTING PRESIDENT GRIFFO: Do you have an announcement to make, Senator Duane?

(Laughter.)

SENATOR DUANE: I wouldn't want Senator Rath to miss it, so I'm going to defer it for the time being.

ACTING PRESIDENT GRIFFO: Your question, Senator Duane?

SENATOR DUANE: Yes. But I don't know whether I got the answer to this. What does "brain to computer" refer to?

ACTING PRESIDENT GRIFFO: Senator

Leibell.

SENATOR LEIBELL: Yeah, sorry, Mr. President. It's a pilot program which allows for an eye connection to a computer for control purposes.

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

ACTING PRESIDENT GRIFFO: Senator Leibell, do you yield?

SENATOR LEIBELL: Yes.

ACTING PRESIDENT GRIFFO: Senator Duane.

SENATOR DUANE: What is it about the eyes?

SENATOR LEIBELL: It's a camera tracking the eyes, so you can move a keyboard.

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

ACTING PRESIDENT GRIFFO: Senator Leibell, will you yield?

SENATOR LEIBELL: Yes, Mr. President.

ACTING PRESIDENT GRIFFO: Senator

Duane.

SENATOR DUANE: And how is that accomplished? How does the keyboard and the eyes -- what helps them to have the interaction?

SENATOR LEIBELL: Well, I'm not an engineer. But the camera would track the eyes, and it would translate to the keyboard. And that's how it would function.

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

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

SENATOR LEIBELL: Yes, Mr. President.

SENATOR DUANE: About how many patients in New York presently have this -- I mean, frankly it's with a chip, a computer chip. So how many New Yorkers have this computer chip now?

ACTING PRESIDENT GRIFFO: Senator Leibell.

SENATOR LEIBELL: It's many hundreds. And the reason we are addressing

through this bill the need for a registry is to try and get a more accurate number, because we don't think we have an accurate number.

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

ACTING PRESIDENT GRIFFO: Senator Leibell, do you continue to yield?

SENATOR LEIBELL: Yes, Mr. President.

SENATOR DUANE: Do any other states have this registry?

SENATOR LEIBELL: There has been an effort to do it nationally, and that has not happened yet. Which is why we're attempting to do it. And yes, there are other states.

SENATOR DUANE: And through you, Mr. President, what are those other states?

ACTING PRESIDENT GRIFFO: Senator Leibell, do you continue to yield?

SENATOR LEIBELL: I don't have the names. I think Massachusetts may be one.

ACTING PRESIDENT GRIFFO: Senator Duane, do you wish to continue to pose

questions or to speak on the bill?

SENATOR DUANE: Excuse me?

ACTING PRESIDENT GRIFFO: Do you wish to continue to question?

SENATOR DUANE: Yes, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Leibell, will you yield?

SENATOR LEIBELL: Yes.

ACTING PRESIDENT GRIFFO: Senator Duane.

SENATOR DUANE: Does the metropolitan New York ALS society support this?

ACTING PRESIDENT GRIFFO: Senator Leibell.

SENATOR LEIBELL: Well, maybe I should speak directly on the bill.

This is one of the most devastating diseases that there is out there. I don't know if you've known anyone who has suffered from ALS, but it is a -- usually within three years there's death. And it is -- my interaction with many of the families of people who have succumbed from this terrible

disease, as well as I spent a day down at Columbia Presbyterian Hospital meeting with some of the top researchers in this area.

And I was asked by family members as well as those researchers to help them to try and put together this registry, which they feel would give them critical information.

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

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

SENATOR LEIBELL: Yes.

SENATOR DUANE: And has the metro New York supported or opposed this legislation?

SENATOR LEIBELL: I'm not familiar with the group. I'm not. I've met with the families and, as I said, people who are in research in this area. The leading researchers in the United States are in New York City.

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

ACTING PRESIDENT GRIFFO: Does the sponsor continue to yield?

SENATOR LEIBELL: Yes.

ACTING PRESIDENT GRIFFO: Senator Duane.

SENATOR DUANE: What about the national ALS Association? Do they support this legislation?

SENATOR LEIBELL: I don't believe I've had any contact with them. I do believe nationally they would rather have a national registry through Congress, but Congress hasn't done that.

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

ACTING PRESIDENT GRIFFO: Senator Leibell, do you continue to yield?

SENATOR LEIBELL: Yes.

ACTING PRESIDENT GRIFFO: Senator Duane.

SENATOR DUANE: Anyone specifically at Columbia requested this registry?

ACTING PRESIDENT GRIFFO: Senator

Leibell.

SENATOR LEIBELL: Yeah, I've spoken to -- and I don't have their names with me, but I've spoken to academics there and researchers who felt it would provide assistance.

See, one reason is because New York State is such a large state, it's larger than so many countries. If we could get an accurate grip on it here, and on the statistics, it's perceived as being very helpful.

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

ACTING PRESIDENT GRIFFO: Senator Leibell, would you continue to yield?

SENATOR LEIBELL: Yes.

ACTING PRESIDENT GRIFFO: Senator Duane.

SENATOR DUANE: Thank you, Mr. President. I was wondering if the sponsor could describe to us what bulbar ALS is.

ACTING PRESIDENT GRIFFO: Senator Leibell.

SENATOR LEIBELL: No. I've heard the term, I've had them describe it to me, but I would not be able to describe it with any accuracy for you.

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

ACTING PRESIDENT GRIFFO: Senator Duane, on the bill.

SENATOR DUANE: The fact is is that the Greater New York chapter of the ALS Association, which is the only voluntary health association in New York State that represents people with ALS, don't support this legislation.

In addition, the metro New York chapter doesn't support it and the national ALS Association does not support this legislation.

There is one other state that has such a registry. That is Massachusetts. But the national ALS Association very, very much wants only a national registry and the New York ALS Association also only wants a national registry. And they are working on getting that.

In fact, it seems like there's only one research scientist at Columbia Presbyterian who has requested this, and he has done it without the approval and probably even very much consultation with the established ALS chapters and the national ALS Association.

I also just want to mention that bulbar ALS is the ALS that makes it impossible, as the disease progresses, for someone to speak. It's the one that affects the muscles in the throat.

I agree that ALS is a very, very tragic and just a devastating, devastating disease. It's one which also oftentimes families are afflicted or members of families are afflicted with it, so there can be more than one family member that has it.

In addition, it's something that probably embryonic stem cell research perhaps might provide a key for a treatment that would actually work for someone with ALS.

I would encourage my colleagues to hold off on supporting this legislation until such time that those who are doing research --

and they may have very good intentions, but I think it's inappropriate for them to run roughshod over those families and individuals who actually live day-to-day with ALS or have lived with ALS. And until and unless such time that they are together with those doing research are able to get what they really want and what would be most helpful, because of course ALS does not -- it doesn't really pay any attention to boundaries.

So until the established and in fact the only ALS organizations on the state and national level request this, I think we should accede to their wishes and work towards getting a national registry, because that would really be the most helpful thing we could do to help them at this time.

So I am encouraging my colleagues to accede to their wishes and vote in the negative on this bill.

ACTING PRESIDENT GRIFFO: Senator Leibell.

SENATOR LEIBELL: Would Senator Duane yield, please.

ACTING PRESIDENT GRIFFO: Senator

Duane, would you yield for a question?

SENATOR DUANE: Yes, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Leibell.

SENATOR LEIBELL: Senator Duane, one of my constituents, Bill Monti, who lost a son to this terrible disease, he and numerous families have spoken to me about this and requested it.

The bill came to me -- and maybe I didn't explain this to you -- through the state association. I didn't just come up with this. It came to me through the state association.

But let me ask you this question. We're a state of about 19 million people. That's a large population. We are in agreement that this is a terrible disease. We are in agreement, they haven't created yet a national registry, can you tell me what harm there would be in having a state registry?

ACTING PRESIDENT GRIFFO: Senator Duane.

SENATOR DUANE: Mr. President,

the ALS Association, which is the largest and in fact the only association -- there's locals, but the only statewide organization -- opposed the original version of this bill. And while it's been amended, they still oppose it. They don't think that it's going to achieve the results which have been --

SENATOR LEIBELL: Senator Duane --

SENATOR DUANE: If I may just finish, that it won't achieve the public health benefits that, again, may be well-intentioned but which have not -- which there's not consensus on and which have not been agreed to.

And by the way, the state association works with the other statewide associations, and they all agree that they don't want to follow the Massachusetts model. They believe that the best way to go is to create a national registry.

ACTING PRESIDENT GRIFFO: Senator Leibell.

SENATOR LEIBELL: Senator Duane, this bill has been passed before by this body

on I think two other occasions. Did you vote for this in the past?

ACTING PRESIDENT GRIFFO: Senator Duane.

SENATOR DUANE: Through you, Mr. President, I have.

Again, I voted for it in the past because I thought that the intentions of the sponsor of the legislation were good. And I knew less then about ALS and those who work on ALS than I do now.

In the meantime, I've actually done my homework, or at least some of my homework on it, reached out to representatives and have discovered that well-intentioned though the legislation may be, it's a piece of well-intentioned legislation which the advocates do not want.

ACTING PRESIDENT GRIFFO: Senator Leibell.

SENATOR LEIBELL: Well, I can tell you that I have met with the advocates. I have met with them on numerous occasions. I've met with the top researchers in the United States, which fortuitously are in New

York City. And they would disagree with your position.

Thank you.

ACTING PRESIDENT GRIFFO: Any other Senator wishing to speak?

Debate is closed. The Secretary will ring the bell.

SENATOR DUANE: Mr. President, I think I still have the floor.

ACTING PRESIDENT GRIFFO: You did not have the floor. Senator Leibell asked for the floor and asked for you to yield to a question, Senator Duane. You yielded to a question from Senator Leibell.

I would ask you now to explain your vote.

SENATOR DUANE: Mr. President, I was speaking on the bill. I was asked to yield to a question.

ACTING PRESIDENT GRIFFO: You sat down, Senator Duane.

SENATOR DUANE: No, I have not sat down, Mr. President.

On the bill.

ACTING PRESIDENT GRIFFO: On the

bill, Senator Duane.

SENATOR DUANE: There is in fact an ALS Registry Act, of which the legislation is carried in the house by Eliot Engel, a New Yorker, and Senate Majority Leader Harry Reid. Their legislation would create a national ALS registry, which would gather information from the national community of people with ALS and their families and their supporters and advocates. All of the state organizations would participate.

The registry would then, I hope, since it would be a national registry, efficiently collect information, share the data on a much larger scale, and it could be used as a tool for national surveillance as well as be a national place for all researchers to use.

And I think that the most comprehensive and accurate data probably -- not probably, but would ensure that that kind of collection of data would work best, as it does with other registries, comprehensive registries.

So I'm not even sure, you know,

when I looked more closely at the bill, you know, who is going to be setting this up. Who are the consultants that are going to be involved in it? There's lots and lots of unanswered questions about how this registry would be set up. What physicians, what organizations would be part of creating this registry and implementing the registry?

I mean, it does say that whoever it is that's doing the registry would have to cooperate with, you know, physicians and voluntary organizations, but it's not -- it's very unclear about how and whether all the stakeholders would be involved in it.

You know, there are already pilot programs across the nation. They are -- their mandate is to look at and try to find the most effective ways to collect accurate information, ways that that information could be verified and how it is that that information could be shared and collected.

And actually, interestingly -- anyway, I just want to go back and say that even the New York chapter of the ALS Association is in opposition to this. And I

just -- I don't think that this is -- we shouldn't be doing something for people that they don't want done.

So I'm going to encourage my colleagues to vote no on this. And I feel we should continue to consult with the metropolitan and the statewide ALS associations before we make this move.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: You are now seated, correct, Senator Duane?

SENATOR DUANE: I am.

ACTING PRESIDENT GRIFFO: Senator Leibell.

SENATOR LEIBELL: Mr. President, on the bill.

ACTING PRESIDENT GRIFFO: Senator Leibell, on the bill.

SENATOR LEIBELL: I'll try and answer a couple of points that came across from Senator Duane.

This is modeled, this legislation, after the cancer registry that we did, which has been very successful and continues to provide knowledge and information.

And I also pointed out to you that the information came to us through the state organization, the statewide organization. I've told you that I spent a day at Columbia Presbyterian, which I would not wish to indicate to you gave me great technical knowledge. I'm not a scientist. But it did lead me to me to understand a little bit more about the complexities of this research and how it's tied into in many other types of research.

And I certainly am also hopeful that stem cell research will provide knowledge and information in this area.

Congress, I'm pleased that they have legislation. And I hope it is successful. If in fact it is ultimately successful, by passing this we will have wasted no time and we will have garnered information from our own population that will be in no way in conflict with what they would gather if in fact Congress ever does enact that legislation.

This is about gathering knowledge. It's about gathering scientific information.

It's about helping people and helping families that suffer from a terribly dreadful disease. And I cannot understand why we would wish to in any way put this off. These families, they suffer now. Possibly we can give them some hope by enacting this legislation.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Farley, on the bill.

SENATOR FARLEY: Yes, Senator Duane and Senator Leibell, I rise in support of this.

And let me just say, as a former national chairman of the Council of State Governments -- and Senator Marcellino has been regional chair of the Council of State Governments, as have I, and Senator Hannon was the head of suggested state legislation -- let me just say what this does.

Actually the federal government is kind of slow to move on some of these issues. And so often on something like this, this could be an impetus to get a national registry, I'll tell you that right now.

New York has been a leader, you

know, in many areas of banking and so forth, where we have moved first and then the federal government has acted as a result of what we have done, the success of it.

All this is is an information gathering for 19 million people in this, the second or third largest state in the nation. And Massachusetts has already done it. You're going to see other states do this. And then they see how this works, it dovetails together, and you'll end up with a national registry.

I think it's a good bill. There's no reason to not support this. I am confident that the national registry say, gee, our priority is to get a national list -- but they don't have one. And this could be an impetus to get one. And it is the way things happen nationally, because the Council of State Governments, this is an example of something that is done all the time in different areas. States move one by one, and all of a sudden the federal government moves along with it.

I urge support of the bill.

ACTING PRESIDENT GRIFFO: Any

other Senator wishing to speak?

Debate is closed. The Secretary will ring the bells.

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 Padavan, to explain his vote.

SENATOR PADAVAN: Thank you, Mr. President.

Annually for the last three or four years the ALS Association has conducted a cavalcade that begins in Manhattan, goes through the center of the city of New York, Queens, and all the way out to Long Island. And one of the places they spend time at and gather is the parking lot at St. John's University, where I meet them, along with other elected officials.

And so over the years I've gotten to know many of the leaders, as well as many of those who are suffering by ALS, and know

the wishes, desires and the goals of that organization and the individuals directly affected.

Now, a lot of discussion that we heard was relevant to the reporting mechanism in this bill. But what is overlooked is perhaps the more important part of the bill, and it says very directly that the commissioner shall develop, work with counties and cities in the state for the diagnosis and treatment of these diseases and shall cooperate with local health authorities, physicians, hospitals, clinics and voluntary associations in the development of suitable facilities for the diagnosis, treatment and control of ALS.

And that's what they keep talking about when they gather there. They say there's not enough going on in this state and perhaps in the nation that deals with developing -- we know there's no cure. But certainly we have to move in the direction of developing treatment modalities, ways of dealing with the disease. And that's not going on in this state to the extent that it

should and can, and that's what they're calling for.

Now, I can't get involved into the discussion on the reporting, because I don't know enough about that other than what I read. But I know do know that this part of the bill is very significant. And if there's any one you should vote for, it's for that.

I vote aye.

ACTING PRESIDENT GRIFFO: Senator Padavan to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 2034 are Senators Adams, Connor, Duane, Gonzalez, Hassell-Thompson, L. Krueger, Perkins, Sampson, Savino, Schneiderman, Serrano, Stachowski and Thompson. Also Senator Montgomery. Also Senator Diaz.

Absent from voting: Senator C. Kruger.

Ayes, 45. Nays, 15.

ACTING PRESIDENT GRIFFO: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 2040, by Senator LaValle, Senate Print 3817, an act to amend the Education Law.

SENATOR OPPENHEIMER: Explanation, please.

ACTING PRESIDENT GRIFFO: Explanation.

SENATOR LaVALLE: Thank you, Mr. President.

There could not be a better segue into this bill than the discussion that we had this morning on Senator Fuschillo's bill on the Roosevelt School District. The bill that we have before us is a bill that is essentially a disclosure bill, a bill that asks our school districts to provide greater transparency into the budget process and how budgets are presented to the voters.

One of the provisions here, we just talk about the point of the Roosevelt School District. There are provisions here on how a budget is presented in a comparison report card asking for information on the total dollar amount actually spent pursuant to the school budget adopted the previous year, the

total amount to be appropriated under the proposed budget for the ensuing year, the maximum amount of money available under the contingent budget cap for the ensuing year, and the total dollar amount to be appropriated under the proposed contingent budget.

This is but one of many provisions that asks the school district to give to the voter, in as plain language as they possibly can, information so that the voter can make intelligent decisions and can be really involved in the budget process.

It provides for notice when a school budget -- and we've had a discussion on this floor on fund balances, whether they exceed the 2 percent. And one of the things in drafting this bill that I've found very interesting is that we do not have fines or if a school district exceeds the 2 percent, nothing ever happens to the school district. Nor would we want to really fine a school district for exceeding the 2 percent, because we would be fining our taxpayers and just adding to the very burden.

And so what we do in this bill is

to say that the school district, if it has been brought to their attention that they did something inappropriate, in violation of the Education Law, that they must notify the public, simple notification: Yeah, you know, we didn't realize that we were in excess of the 2 percent limit. We carried 4 percent. And so the taxpayer can understand what it is that their school district is doing.

Also, in the way a budget is presented, so many of you, I am sure -- outside of the City of New York -- have had taxpayers come to you indicating that if they didn't pass the budget that certain things would be left out. This Legislature over the years has ensured that many items, such as transportation and other things, are part of a contingent budget. We didn't want to go through and deny children transportation because the district was using that as a hostage to get people to vote yes.

So here we merely say if there's going to be a contingent budget, what is it that will be in that? Just don't tell me you're going to eliminate sports, but tell us

you're going to eliminate junior varsity tennis or freshman football or women's field hockey or women's soccer. Be specific so that the voter understands, if they don't support the budget, what the contingency budget would look like.

So what we try and do -- and this bill could not be brought before this body at a more relevant time, when everything is all about disclosure, greater transparency, giving people information, making them part of the process. And that's what this bill does.

SENATOR OPPENHEIMER: Mr. President.

ACTING PRESIDENT GRIFFO: Senator Oppenheimer.

SENATOR OPPENHEIMER: On the bill.

ACTING PRESIDENT GRIFFO: Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: There is much to applaud in this bill, Senator LaValle. I particularly like the fact that you're demonstrating very clearly what would and would not be in a contingency budget. I think

that's very valuable. I think demonstrating what is in the surplus funds is valuable.

But on the whole, I feel there are some damaging things in here, and I just want to speak briefly on them.

For one, nothing prohibits a school district now from doing just what you are recommending in your budget. Indeed, in our school district, it is fully presented and we do get sometimes, I think, more information than we really want.

But as you say, information is valuable and voters should be informed. And I think it's important that we do that. And that's why I say part of this bill is very good.

But if you examine it more closely, this also has a requirement to do the proposed construction bonding at the same time. And I really think -- at the same time as you do your school budget vote. And I think that's the crux of my problem right there.

To do all the projects at the same time presents a number of problems. It's a huge problem for SED because they will be

handling these requests for approval of construction bonding in many districts at the same time. That's a problem.

A second problem is if this is done in the third week in May, when we must do our budget votes, then construction could not possibly start until the following year. And the figures that you present in May of one year will not hold the same when they go into the ground a year later.

It doesn't offer the flexibility that is needed when you go to bond for construction. You want to have flexibility as far as your labor and construction markets, as far as the bond markets. And all of that is not available if you don't have the flexibility. It must be this third week in March and no alternatives.

I think that is the main problem that I have. And I see it as a problem for many of the people so intimately involved in school funding and education issues. And I think there's a rather extraordinary communion of folks who don't want to see this happen, who want to see this bill defeated. And it is

so extraordinary, this communion, that I'm going read them out.

For instance, SED, State Education Department, does not want to see this happen. The School Boards Association is against this bill. The superintendents, the New York State Superintendents of Schools is against this bill. The New York State United Teachers is against this bill. Isn't it quite remarkable? I've never seen all these groups working together. Quite extraordinary.

So I think, because I'm afraid something will strike me dead if I voted for this -- but no, seriously, I think the important thing is that we have to have the flexibility for when we put these bond resolutions before our constituencies. And I think it is damaging to do it at the same time as we do our budget votes in May.

I'll be voting no.

ACTING PRESIDENT GRIFFO: Senator Craig Johnson.

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

ACTING PRESIDENT GRIFFO: On the

bill.

SENATOR CRAIG JOHNSON: With all due respect to my good friend and colleague Senator Oppenheimer, I view this measure not as a glass half empty but a glass almost all the way full, and I will be voting in favor of this legislation.

I see this as a critical piece of legislation for our constituents. That's what the issue we're talking about here. With all due respect to the SED, to the School Boards Association, to the superintendents and to the teachers union, that's not what this bill is about.

This bill is about taxpayers who we represent who live in our districts who are faced on Election Day, the third Tuesday in May, with whether or not they want to see their property taxes go up.

Oftentimes these budget votes are very confusing. Our school boards try very hard to educate the voting public about what's in a school budget, but oftentimes -- and I think everybody is experiencing it, especially members who represent the suburbs -- Senator

Marcellino, Senator LaValle, myself, Senator Oppenheimer, to name a few -- the fights that we see amongst our friends and neighbors over the school budgets, and a lot of times it's about information or misinformation that's being given on a school budget.

Oftentimes it's about the consequences of a failed budget vote. Senator Fuschillo, my good friend, talked about Roosevelt today and how the Roosevelt budget vote, the first time around, failed. In my district last month the Westbury School District budget vote failed for the first time and they had to go to a second round of votes.

Oftentimes the voters, when they see a second budget vote fail, then it goes into contingency. But there are times when that contingency budget is actually very close in amount to what a proposed budget would be, and so you don't really know what's going to be lost.

So what you have here -- and I commend Senator LaValle for this legislation -- is a way to ensure full information about you're voting upon. And

that full information provides and shows that this is the consequence if we don't pass a budget, look what could happen.

And it really requires the school board -- whose representatives are our neighbors, our friends, our constituents -- to think ahead of time during the process what the consequence will be if a budget fails.

Now, interestingly, I think many of us know that in -- and this administration has started talking about our state budget process starting earlier. There's talks about starting the budget process for the state budget in November, giving a substantial period of time to talk about what's going to be in next year's budget.

This does the same thing and will require our school boards to do a little bit of the same thing, to start thinking about a budget earlier because they're going to be really required to do two budgets, the budget they hope to have passed and, if the budget doesn't get passed, what's the contingency budget. And that way the entire voting public knows, look, this is what could happen if you

don't support a first budget.

And that's a good thing. It's a good thing to know whether or not the JV tennis program is going to get cut, the driver's education program is going to get cut, the French program is going to get cut, or the school busing program is going to get cut. The voters have a right to know because it's their tax dollars that are supporting these programs and these schools.

I truly appreciate the concerns that my colleague Senator Oppenheimer has and the concerns that these groups have put forth in expressing reservations about this legislation. But I think that given all the difficulties we are seeing today with our residents who are facing the difficult choice of whether or not they can continue to afford to live in the area that Senator LaValle represents or the areas that I represent, we need to make the decision a little bit easier, and putting forth and supporting this initiative will help do that.

So I support Senator LaValle's initiative, I commend Senator LaValle, and I

will be voting yes on this initiative.

Thank you very much.

ACTING PRESIDENT GRIFFO: Senator Stavisky.

SENATOR STAVISKY: I have a question for Senator LaValle, if he would yield.

ACTING PRESIDENT GRIFFO: Will the sponsor yield?

SENATOR LaVALLE: Yes, I will, Mr. President.

SENATOR STAVISKY: Is there any provision for an emergency situation where a school district finds an unanticipated special, expensive need that would have to be bonded out?

ACTING PRESIDENT GRIFFO: Senator LaValle.

SENATOR LaVALLE: Senator Stavisky, as you would probably imagine, in the drafting of this bill I was very intimately involved. And we talked about -- I talked about that, and I've got to find that one section, because I can't -- unless you have it there.

But there was -- in the discussion on this bill we thought about putting in the -- allowing for emergencies. Because a boiler could explode. To replace a boiler you would need, you know, voter approval or -- although there are certain, you know, exceptions.

And I'm glad that Senator Oppenheimer brought up this issue of the bonding, and you're bringing it up, because some of these things can be resolved in a chapter amendment.

The issue of the bonding being at the same time was done because many of our taxpayers, particularly senior citizens, feel offended that it is brought up in January and February when, you know, a large percent are being snowbirds down in Florida.

Now, whether it's just a coincidence or not, they feel offended. And that resentment builds up a negative attitude when they can vote on the budget. Because they say, You know what you did to me, you know, in January and February, I'm going to vote no on the budget.

I don't have an answer for you on -- without looking through the bill, unless you've looked through it and you know it either exists or it doesn't exist. Does it exist?

SENATOR STAVISKY: (Shrugging.)

SENATOR LaVALLE: You don't know.

But it's a good point. It's a good point. Because there had been discussion on this very issue, and I honestly don't know whether it got into this version.

ACTING PRESIDENT GRIFFO: Senator Stavisky.

SENATOR STAVISKY: I think I'm going to have an answer in a moment.

SENATOR LaVALLE: I think I was right in what I said, that there are other provisions outside of this that allow you, in emergency situations, to move forward.

SENATOR STAVISKY: Because I would not -- through you, Mr. President, I'm sure you would agree we would not want a bond issue to replace a boiler. That's just bad policy.

On the other hand, if, let's say,

there's a flood, as we've been experiencing, and perhaps there's extensive damage to a school, then perhaps this is a more serious situation that could require an emergency appropriation.

SENATOR LaVALLE: Those kinds of things are allowed in law. I mean, all the time there are fires and schools have to be repaired and they are repaired in those circumstances.

SENATOR STAVISKY: Through you, Mr. President, Senator LaValle raises another interesting question.

Do they have any provision for absentee voting in these school board elections?

ACTING PRESIDENT GRIFFO: Senator LaValle.

SENATOR LaVALLE: I'm sorry?

ACTING PRESIDENT GRIFFO: Can we have some order, please.

Senator Stavisky.

SENATOR STAVISKY: Through you, Mr. President, are there any provisions made for absentee voting in the school board

elections?

SENATOR LaVALLE: Of course there are.

SENATOR STAVISKY: So, Mr. President, presumably the senior citizens can vote on an absentee ballot if they're indeed snowbirds.

Thank you, Senator.

ACTING PRESIDENT GRIFFO: Thank you.

Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you. I guess I want to direct this -- if Senator Craig Johnson would yield.

ACTING PRESIDENT GRIFFO: Senator Johnson, do you yield to a question from Senator Oppenheimer?

SENATOR CRAIG JOHNSON: Of course, Senator. Yes, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Oppenheimer.

SENATOR OPPENHEIMER: Well, I did not want to forget to say that the opportunity -- this is a statement I'm making; then I'll ask my question -- the opportunity

to put in emergency legislation I would assume is not under question. Because if you have a burnt-out school or a flooded-out school, you have to do something.

So I think that even though it might not specifically be written into the bill, I think under an emergency situation we would always be able to correct what the problem was.

In the case of Bronxville in Westchester, which Bronxville High School got flooded out, we had emergency legislation so that we could do something. So again --

ACTING PRESIDENT GRIFFO: Senator Oppenheimer, are you speaking on the bill or do you have a question?

SENATOR OPPENHEIMER: No, I said I was making a statement. Now I'm going to ask my question.

And the question is that there seems to be perhaps some kind of a problem which I'm trying to understand, because I don't experience that problem where I am in my county. And we both have suburban counties, so I can't imagine that they're that

different.

But why is it not available to you now, since all these resources are there and we do require them, more or less, in our county, by going to your school board -- here's your question -- by going to your school board and saying, This is what we expect you to do. We -- you know, the population of your school district -- are very interested in seeing that you give us a full representation of all of your reserve funds, of, you know, what -- I know, you're shrugging.

But you can appeal to your school board to say, This is what we expect, we the voters of this school district.

So I'll first present it to Senator Craig Johnson, and then I will ask for Senator LaValle.

ACTING PRESIDENT GRIFFO: Senator Johnson.

SENATOR CRAIG JOHNSON: Thank you very much. Thank you, Mr. President. Thank you, Senator, for the question.

I think it's very simple. I think

that we represent the residents of our district as a senatorial body. And oftentimes school boards may or may not take the suggestion. I'll give you a perfect example, and something that we handled today not just, you know, six hours ago, and that was the food allergy bill.

When I was a county legislator, I had to enlist the Nassau County Board of Health to recommend to school boards to enact a food allergy guideline. Now, it was just a recommendation. They could do it if they wanted to, or they could not do it. Some school boards in Nassau County did it; some didn't, and for a variety of reasons.

Same here. Now, with this piece of legislation, we have an opportunity to make a statement to direct the school boards to do this. To do this. It is that important, I believe. Not as a sponsor or cosponsor, but simply as an interested Senator representing the 7th Senatorial District, to have all my school boards undertake this responsibility.

And they can do it. I believe they can do it. They have the staffing, they have

the personnel to prepare, while they're preparing the budget and the information for the budgets, to also prepare the information to show the what-if scenario to fully educate the voters.

SENATOR OPPENHEIMER: Thank you.

ACTING PRESIDENT GRIFFO: Senator Oppenheimer.

SENATOR OPPENHEIMER: If Senator LaValle would please respond to that same question.

ACTING PRESIDENT GRIFFO: Would the sponsor yield?

SENATOR LaVALLE: Yes, I will.

It feels a little bit like a candidate night, that you're asking several people that one question.

But this was drafted with the purpose of ensuring that information gets to the public, that it's done uniformly. Yes, there are probably school districts that are exemplary, that they feel a connection with their taxpayer and are responsive. But I would tell you, on the issue of the surplus monies and the way a budget is formulated,

with other monies buried in there, school districts for the most part have adopted, unfortunately -- and I can't understand why -- a them-and-us attitude.

And so if there is one level of government that doesn't have transparency and doesn't have disclosure, it's at the one level where 68 percent of an individual's tax bill is school taxes. That should be the level that has the greatest disclosure, the greatest communication, so that people feel part of the process.

So, I mean, I can't tell you out of more than 700 districts whether 200 are rogues and the other 500 are exemplary, good citizens.

I also would say to you, Senator, that being a school board member is a volunteer position. It's a volunteer position. They can only spend so much time in their life to scrutinize this huge budget. In Suffolk County and Nassau County there are many budgets well over $100 million and growing. And growing. How do we expect a volunteer to go through that budget in detail?

And many times I'll say to a school board member, How could you support this? They go [shrugs], I didn't even know it was in there.

So I think we need standards so that everyone can properly disclose what is going on in a very complex situation.

ACTING PRESIDENT GRIFFO: Senator Oppenheimer.

SENATOR OPPENHEIMER: Well, I do appreciate -- yes, I'm on the bill.

ACTING PRESIDENT GRIFFO: Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: I do appreciate what my colleagues are saying. And perhaps I don't have too many examples of what they're describing in my county, though I can hear that there are certain examples in the other counties.

I feel the example of the snowbirds voting their ire when it comes time for the regular school budget, that doesn't hold water. Because I was going to say the same thing that Senator Stavisky said, which is if they're so interested in voting down a bond

issue, then they ought to be voting in absentee. And we certainly have a lot of absentee voters.

But the very problematic piece of all of this is putting the bonding on the same vote date as the regular school board and school budget vote. And that presents so many problems, makes it so much more costly when you have to delay by one year getting into the ground to do your construction.

And seeing as how every entity that seems to be involved in school and school budgeting and school education, every entity seems to be against this, I will be voting no.

ACTING PRESIDENT GRIFFO: Is there any other Senator that wishes to be heard?

Debate is closed. The Secretary will ring the bells.

Read the last section.

THE SECRETARY: Section 9. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 2040 are Senators Adams, Connor, Dilan, Duane, Gonzalez, Hassell-Thompson, L. Krueger, Montgomery, Onorato, Oppenheimer, Perkins, Sampson, Schneiderman, Serrano, Smith, Stachowski, Stavisky and Thompson.

Absent from voting: Senator C. Kruger.

Ayes, 42. Nays, 18.

ACTING PRESIDENT GRIFFO: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 2065, by Senator Marcellino, Senate Print 6323, an act to amend the Environmental Conservation Law.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT GRIFFO: Explanation, Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

In 2003 we passed the first brownfield law in this state, after many, many years of hard work and a lot of effort on a lot of people's parts.

From just about day one, people were asking us to amend the bill and change it. We held off because we felt the bill should be given a chance to operate and function, see what it did in the real world. Let's see what would happen when various organizations, municipalities, lawyers, developers and the like got involved.

After a few years it became evident that the bill was not working the way it was intended. The bill had the opportunity and the potential to be the greatest environmental cleanup measure and the great economic development measure that this state has seen.

After meeting with various individuals, organizations and groups, we began to develop the bill that is before us today. This bill clarifies that brownfield sites with historic fill are eligible for the program. And this change will allow a large number of sites to enter the program,

especially those located on our waterfronts and those in our inner cities.

This Senate bill moves the Brownfield Opportunity Areas from the DEC to oversight by the Department of State. The BOA program encourages community planning in neighborhoods burdened by brownfields, by providing funds to help assess the conditions fueling abandonment and decay and to create a community vision that subsequent cleanups and community development projects will help fulfill.

This amendment will remove the delays in funding for this key program that ensures community participation and revitalization of distressed areas and the attraction of new investment to those areas, which is a key element here.

This Senate bill modifies the environmental easements on remediated brownfields to meet the standards of the Uniform Environment Covenancy Act. These standards were developed by the National Conference of Commissioners of Uniform State Laws. These changes will offer more certainty

for national developers looking to do cleanups in New York State.

The bill is a good step. Is it everything I would want? No. Does it address every issue I think might have to be addressed? No. The committees -- and we're in communication with the En Con Committee in the other house, chaired by my friend Assemblyman Sweeney -- are going to hold some hearings over the summer to address the issue, to see what we can do to develop approval.

Right now there is no corresponding bill in the other house. So we're going to try to come together on this issue and see if we can close some of the loopholes and some of the doors that are still left open by the prior bill.

But I do believe that this bill provides us a good basis to work from. And if we had to pass this bill today and it was to become law, it would eliminate probably 75 to 80 percent of the objections that are out there by any groups.

Thank you.

ACTING PRESIDENT GRIFFO: Senator

Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. If the sponsor would yield for a few brief questions.

ACTING PRESIDENT GRIFFO: Senator Marcellino, will you yield for a few brief questions?

SENATOR MARCELLINO: Yes, I'm happy to yield.

ACTING PRESIDENT GRIFFO: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you.

Under this legislation, if I am the owner -- I purchased a state Superfund site with full knowledge that it was a polluted site, a Class 2 Superfund site -- as soon as this bill passes, as of the effective date, I would be able to transfer that into a brownfield site and receive tax credits for a cleanup that I'm already legally obligated to perform. Is that not correct?

ACTING PRESIDENT GRIFFO: Senator Marcellino.

SENATOR MARCELLINO: As long as the site is owned by someone who didn't do the

spilling. The program is only for volunteers.

SENATOR SCHNEIDERMAN: Yes. If I am a purchaser who purchased with knowledge a Class 2 Superfund site, know I have to clean it up when I buy it, that's factored into the purchase price, this program, as of the day this bill becomes law, would get me off the hook and I could make it a brownfield, receive tax credits for obligations that I'm already under. Is that not correct?

SENATOR MARCELLINO: The answer is yes.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. Thank the sponsor.

On the bill.

ACTING PRESIDENT GRIFFO: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: This is one of the most remarkable end-of-session moves I've seen in a few years.

We know that we have a problem with our current Superfund and brownfield programs. We know that under the last administration's Department of Environmental Conservation, sites languished, there was not the kind of

vigorous pursuit of polluters and responsible parties that the law contemplates.

Now, all of a sudden, we've got a new sheriff in town, a new DEC commissioner who maybe is more interested in pursuing polluters and responsible parties.

So what this would do -- ladies and gentlemen, before you vote for this, think carefully -- this would take Class 2 Superfund sites -- which are the worst sites in the state. We have no Class 1 Superfund sites in the state. The worst polluted sites are Class 2 Superfund sites. They are under this bill -- and everyone who owns one, as long as you weren't the actual polluter, but most of these sites have been passed along over time, would be immediately removed from the obligation to clean it up with no cost to the state and place it into the brownfield program where you could receive tax credits.

This is some transfer from the taxpayers of the State of New York to big property owners, developers, and businessmen of the State of New York.

So, you know, you can't blame

people for trying. They should try to get money. Capitalists are in business to make money. If I buy stock in a company, I want them to make money. But they shouldn't be given the money, by the Senate of the State of New York, of the taxpayers of the State of New York, to clean up sites that they're already under a legal obligation to clean up.

Now, the new DEC commissioner is working -- and, as the sponsor has correctly acknowledged, the Assembly is working -- to come up with proposals to amend our current brownfield bill. Why we would make this hollow gesture in favor of some developers, in favor of some people who are not eligible for the substantial tax credits under the brownfield law and want to be, why we would do this, I don't know. There may be some hidden financial connection that I can't see.

But I know that the Environmental Advocates are opposed to it quite simply for this reason. This bill, while it contains provisions we all support, does not deal with the problem of the tax credits, which is the principal problem of the brownfields program.

It doesn't deal with the problem that we have tax credits that are given out today that have no proportionality to the amount of cleanup.

This bill in fact would create another loophole and transfer millions and millions more dollars of tax credits to the developers. Let me give you --

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

SENATOR CONNOR: Yes, excuse me, Mr. President. Would Senator Schneiderman yield for a question?

ACTING PRESIDENT GRIFFO: Senator Schneiderman, will you yield?

SENATOR SCHNEIDERMAN: Let me just check my place in my voluminous notes, and I'd be happy to yield to the distinguished gentleman from Brooklyn Heights.

ACTING PRESIDENT GRIFFO: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

I would ask Senator Schneiderman if he had occasion, as I did, to read the entire PlanNYC proposal proposed by the mayor of

New York City, which includes congestion pricing, and if he was aware of the fact that it also includes a similar brownfields provision exonerating persons who own polluted sites and giving them taxpayer funds to clean them up.

SENATOR SCHNEIDERMAN: Yes. We're taking a slight trip a bit afield, but it is absolutely correct that the PlanNYC legislation does include a brownfields provision. It is not the same as this, but it has several features which in fact, when we met with the mayor's representatives, I have objected to.

Among other things -- I don't want to give ideas that might be seized upon to the detriment of the public interest, but among other things, the mayor's proposal actually provides that companies can self-certify their cleanup, which is viewed as very problematic by a lot of environmentalists.

SENATOR CONNOR: Right. It's even more problematic than --

SENATOR SCHNEIDERMAN: But yes, you are correct that there is a brownfields

program there. And should the congestion pricing legislation ever grace this house, I look forward to a discussion of these matters then.

But meanwhile, back at the current caper, the brownfields tax credit program currently has no requirement that limits the amount of tax credit to the amount of money spent on the cleanup. So think of the lust of the developers for these tax credits when you hear the following examples. I'm trying to get Sabini's support.

Here's an example of one cleanup. The cost of the site preparation, the cleanup, was $1.5 million. But the development was a $500 million development, making that developer eligible for $110 million in tax credits for a $1.5 million cleanup.

Ah, another example. This in Manhattan, in fact. A $770 million development proposal, they spent $18.2 million on cleanup, but they got a $157.6 million tax credit.

So the problem with the brownfields program that the Assembly is attempting to

address, that Commissioner Grannis is attempting to address, is that the tax credits are already out of control. The only thing that is putting some limits on some of the sites, the worst sites, is that currently, under the existing program, Class 2 Superfund sites and other Superfund sites -- but the worst are the Class 2 sites -- are not eligible for these tax credits. That is the one thing that is holding back the sea.

This bill would immediately transfer every existing Class 2 site held by a purchaser -- not by a polluter, but held by someone who bought it with knowledge of the pollution -- and turn it in a brownfield so they're eligible for these tax credits. That is a monumental transfer of the taxpayer dollars we are supposed to protect to developers and real estate interests in the State of New York.

I hope you are all listening and paying attention. It is not necessary for us to pass this bill. It is a one-house bill. Hearings are being held. The new commissioner wants to take a more aggressive approach to

going after the very polluters -- the very holders of polluted property, excuse me, the responsible parties for pollution of Superfund sites that this bill would transfer into the brownfields program.

So, ladies and gentlemen, it is late in the day and it's late in the session. Whatever interests have compelled you to move forward and advance this bill today, I urge you to rethink it. This is a bad bill for the people of the State of New York. This is a bad bill for the taxpayers of the State of New York.

And the final piece of this that I must raise that adds insult to injury is that this bill would enable local governments to authorize sites to be brownfields. Now, I love my local government. I love the independent mayor of my local government -- more so since he's independent. But municipalities who are not paying for the tax credits should not be authorized to accept applications for brownfields. If I'm running a municipality, I want everyone in my municipality to get state tax credits for

cleanups. That is bad public policy.

So I would urge all of you, particularly anyone who has any notion or any claim to being a fiscal conservative, do not give away taxpayer dollars to developers. Do not open up the floodgates for the brownfields program while we are in the process of attempting to review and modify the program.

I appreciate the fact that we have to do something about this. The work is underway by Commissioner Grannis and by the Assembly, led by that great Assemblyman Diaz. And I hope that you will all think carefully before we vote for something -- the good Diaz.

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

SENATOR SCHNEIDERMAN: Yes, yes, let me just finish this sentence. Momentito, por favor.

So I urge all of you, before we go off on what I have a feeling will be another entertaining frolic or detour, to think carefully about this bill and vote against it.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator

Diaz.

SENATOR DIAZ: Would Senator Schneiderman yield for a question.

ACTING PRESIDENT GRIFFO: Senator Schneiderman, do you yield?

SENATOR SCHNEIDERMAN: [In Spanish.]

SENATOR DIAZ: [In Spanish.]

SENATOR SCHNEIDERMAN: [In Spanish.]

SENATOR DIAZ: [In Spanish.]

ACTING PRESIDENT GRIFFO: For the benefit of the stenographer.

SENATOR SCHNEIDERMAN: Don't worry.

(Laughter.)

ACTING PRESIDENT GRIFFO: Muy bien.

(Laughter.)

SENATOR DIAZ: This is the bad Diaz. The good Diaz is on the other side.

SENATOR SCHNEIDERMAN: The good Diaz, supporting the Assembly hearings.

SENATOR DIAZ: Senator, I'm just going to pick up on what Senator Connor asked.

Could you please explain to me in Spanish, in English, in German, in whatever you want, what is the difference between this granting permission or exemptions to developers and Mayor Bloomberg's plan?

SENATOR SCHNEIDERMAN: Si.

ACTING PRESIDENT GRIFFO: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you.

There's actually very little overlap between this proposal and Mayor Bloomberg's proposal. This proposal is a statewide proposal that specifically transfers a certain category of sites, Superfund sites, or makes them eligible for transfer into the brownfields program.

The mayor's proposal is more of a prospective program. It doesn't retroactively transfer sites, which is what this bill does. But it does have some provisions, and I mentioned it in conference -- si?

SENATOR DIAZ: No. No.

SENATOR SCHNEIDERMAN: Excuse me. Momentito.

It does allow for easing the

requirements, to a certain extent, for certification of brownfield cleanup. And some environmentalists have raised that as a problem. But it's a very different provision.

SENATOR DIAZ: Mr. President.

ACTING PRESIDENT GRIFFO: Senator Diaz.

SENATOR DIAZ: Would Senator Schneiderman please yield for another question.

ACTING PRESIDENT GRIFFO: Senator Schneiderman, do you continue to yield?

SENATOR SCHNEIDERMAN: Oh, I continue to yield.

SENATOR DIAZ: Does Bloomberg's plan give tax money to landowners as this bill does, yes or no?

ACTING PRESIDENT GRIFFO: Senator Schneiderman, the question is yes or no.

SENATOR SCHNEIDERMAN: Thank you, Mr. President, but I work alone.

(Laughter.)

ACTING PRESIDENT GRIFFO: Senator Schneiderman, you're out of order.

(Catcalls from floor.)

SENATOR SCHNEIDERMAN: How can I be out of order? I can't be ruled out of order in a debate with him.

ACTING PRESIDENT GRIFFO: Senator Diaz --

SENATOR DIAZ: Yes or no?

SENATOR SCHNEIDERMAN: The answer is in a different way the mayor's program does make it easier for developers to get brownfield tax credits. Or, actually, it's a very different provision. It enables them to end their requirement to clean up the site at all.

So it is a different way, but it does confer a benefit on developers, yes. It's a different benefit.

SENATOR DIAZ: Mr. President, through you, can I get an answer yes or no?

ACTING PRESIDENT GRIFFO: Senator Schneiderman, would you please give an answer to Senator Diaz and can you do it with a yes or no?

SENATOR SCHNEIDERMAN: Yes or no. That's the best -- it's a different program. Senator, it's not the same.

ACTING PRESIDENT GRIFFO: Senator Diaz.

SENATOR DIAZ: Through you, Mr. President, would the Senator yield for another question.

SENATOR SCHNEIDERMAN: Yes, I will yield for another question.

SENATOR DIAZ: Are you supporting Mayor Bloomberg's plan?

SENATOR SCHNEIDERMAN: I support the concept of congestion pricing. I have raised some of the problems I have with the plan, including this one, in conference.

When you were in conference when the mayor's people were there? I'm sorry. Senator Diaz, if you had been in conference when the mayor's people were there last time, I specifically raised this issue of brownfield sites with them in the conference.

Senator Savino is nodding her head, and you know her to be a good and honorable person.

SENATOR DIAZ: Mr. President.

ACTING PRESIDENT GRIFFO: Senator Diaz.

SENATOR DIAZ: Will the Senator still yield for another question.

ACTING PRESIDENT GRIFFO: Senator Schneiderman, do you continue to yield?

SENATOR SCHNEIDERMAN: Well, I'm getting a lot of huffing here. So una mas. Una mas.

SENATOR DIAZ: Okay, I -- Senator, I just want you to be honest with yourself and with everybody else. You cannot come and attack a bill because it's a Republican bill that gives credits to -- and then support Mayor Bloomberg, who does the same thing.

Either you are for it or you are against it. Or you were for the bill before you were against it. What is it? Thank you very much.

(Laughter.)

ACTING PRESIDENT GRIFFO: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you. Just to wrap up. Yes, I would like to answer that, and believe me, I will later.

No, I appreciate what the Senator

is saying. He's calling attention to the fact that there are brownfield provisions, as Senator Connor did somewhat more briefly, in the brownfields program proposed by the mayor. The mayor's program is a very complicated proposal. And most of us who support the concept of congestion pricing have one problem or another with part of the bill.

That, I would like to suggest -- if we put that aside, let's look at every bill on the merits, whether it's Republican or Democrat. And when Mayor Bloomberg proposed that plan, he was a Republican too. So it was a bipartisan act to encourage him, but it's also an act encouraged by all of the environmental justice groups I've worked with in the City of New York for many years.

This bill is a completely separate issue. It is an unnecessary bill. It is a bill that transfers Class 2 Superfund sites in the brownfields program, confers billions of dollars, potentially, of tax credits paid for by the taxpayers on developers.

We should not be supporting this bill. We should allow the Assembly hearings

to go forward. I would suggest that we should conduct our own hearings on the issue, if necessary. And we should be working with the new DEC commissioner, who right now has his sights set on targeting the responsible parties in these Class 2 Superfund sites.

And what are we doing? Are we helping him? Are we helping to get the polluters to pay? Are we helping to get the property owners to clean up? No. We're proposing to transfer those sites into a program so that these people can get tax credits paid for by our constituents.

I urge everyone to vote no, including my friend de boricua.

ACTING PRESIDENT GRIFFO: Senator Johnson.

SENATOR CRAIG JOHNSON: Thank you, Mr. President. Mr. President, will the sponsor of the bill yield for a couple of short questions, please.

ACTING PRESIDENT GRIFFO: Senator Marcellino, will you yield for a couple of questions?

SENATOR MARCELLINO: Yes, I will.

ACTING PRESIDENT GRIFFO: Senator Johnson.

SENATOR CRAIG JOHNSON: Thank you. Through you, Mr. President. Senator Marcellino, I just want to clarify a couple of things.

Did this bill go before the Environmental Conservation Committee, the committee that you chair and that I am the ranking member on?

SENATOR MARCELLINO: No, it did not. It was introduced into the Rules Committee.

SENATOR CRAIG JOHNSON: Mr. President, through you, will the sponsor continue to yield?

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

SENATOR MARCELLINO: Yes.

ACTING PRESIDENT GRIFFO: Senator Johnson.

SENATOR CRAIG JOHNSON: And I believe that -- and correct me if I'm wrong, was this bill introduced on June 18th of this year?

SENATOR MARCELLINO: Yes, this bill was.

However, I must state for the record that that bill was part of the Upstate Now package that was passed in this house. And Senator Schneiderman voted for it, and so did you, Senator Johnson. As did everybody else. Because the bill passed unanimously, I think.

SENATOR CRAIG JOHNSON: Through you, Mr. President, will the sponsor continue to yield?

ACTING PRESIDENT GRIFFO: Senator Marcellino, will you yield?

SENATOR MARCELLINO: Yes.

SENATOR CRAIG JOHNSON: Thank you, Senator Marcellino.

Is there an Assembly same-as bill?

SENATOR MARCELLINO: I think I said that at the early part of it. There is none.

SENATOR CRAIG JOHNSON: Okay. Through you, Mr. President, will the sponsor continue to yield?

ACTING PRESIDENT GRIFFO: Senator

Marcellino, do you continue to yield?

SENATOR MARCELLINO: Yes.

SENATOR CRAIG JOHNSON: I apologize, I was detained. I didn't hear that.

SENATOR MARCELLINO: No problem.

SENATOR CRAIG JOHNSON: Can you tell me which groups or -- advocacy groups or other interested parties either support this legislation or oppose this legislation?

SENATOR MARCELLINO: We have NYPIRG's memo in opposition.

Senator Schneiderman mentioned EA. They rescinded their memo of opposition. If you check it out now, you'll find that Environmental Advocates no longer opposes the bill. They've rescinded that memo in opposition, Senator.

In NYPIRG's opposition memo, they actually say "We commend the Senate for identifying the weaknesses in the BCP program and proposing measures to address them." They talk about the tax credits, as did Senator Schneiderman. But what you have here is a situation where some groups are making the

perfect the enemy of the good.

We can address other issues in hearings, you're right. And I said that also in my opening remarks, that we will be holding hearings on this program. Senator Schneiderman talks about Class 2 sites. They can't get in the program any longer, Senator. That door closed in 2005.

You're right, a site could get in. But in my mind the issue here is cleaning up. If I lived in a community with a lot of brownfield sites, I'd want this bill, because I'd want to encourage as much cleanup as I possibly could.

The attorney general then, who is now governor, was responsible or should have been bringing suits against polluting sites. I am all for going after polluters. I am all for supporting Commissioner Grannis in any targeting of polluters that he can find. And the current attorney general as well as the prior one should be aggressively taking these people or organizations or companies or whatever to court to bring them in and make them pay for the cleanup.

However, pending that long litigation process -- and, Senator, as you well know -- you're an attorney, you know the process; so does Senator Schneiderman -- it's very difficult to find some of these groups. They're gone. They're hidden by rows and rows and rows of phony corporations that have long since gone away.

If I lived in those communities, I'd want the cleanup. I think that was part of what Mayor Bloomberg was talking about. He wants the cleanup in the City of New York. He wants the dollars invested in the City of New York. He wants the jobs created by the cleanups to occur in the City of New York, as I do in every community from Buffalo to Montauk. I want the cleanup to occur in all of those communities. I want the tax revenues to occur when these sites are cleaned up and put back on the tax rolls.

We are not spending enough money on cleanup. As I said in discussion of the EPF expansion bill, which passed this house just a few moments ago, we are not spending enough on cleanup. It's not that there's too much

money. It's not being spent in the right places.

We need to get those communities clean. We need those brownfield sites clean. And we need to encourage and entice organizations to come in -- you don't have people walking in and saying, Ah, we can a make a fortune by cleaning up a site.

They're going to have to buy a polluted site and engage in cleanup, which is a rigorous process, and undergo scrutiny while they do it. And they're going to have to expend an awful lot of money to do that. And as a result, the community benefits. The state benefits, the city benefits, the neighborhood benefits, everybody benefits from the cleanup.

So I don't understand Senator Schneiderman's objections to putting money into cleaning up sites and neighborhoods and communities. Even NYPIRG agrees with that. We need to clean up these communities. And I think that's the most important aspect of this bill.

ACTING PRESIDENT GRIFFO: Senator

Johnson.

SENATOR CRAIG JOHNSON: Will the sponsor continue to yield.

ACTING PRESIDENT GRIFFO: Senator Marcellino, do you continue to yield?

SENATOR MARCELLINO: Sure. Absolutely.

ACTING PRESIDENT GRIFFO: Senator Johnson.

SENATOR CRAIG JOHNSON: Thank you, Senator Marcellino. And thank you for that answer.

When did Environmental Advocates indicate that they rescinded their opposition to this bill?

SENATOR MARCELLINO: Earlier today.

SENATOR CRAIG JOHNSON: Will the Senator continue to yield?

SENATOR MARCELLINO: About an hour ago, I'm told.

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

SENATOR MARCELLINO: Yes, I do.

ACTING PRESIDENT GRIFFO: Senator

Johnson.

SENATOR CRAIG JOHNSON: Thank you. I find that funny, just because I have documentation dated an hour ago from Environmental Advocates that says they continue to oppose it. But that's neither here nor there --

SENATOR MARCELLINO: Is the Senator suggesting that I'm making a misstatement?

SENATOR CRAIG JOHNSON: No. I am not suggesting -- I'm saying there may be confusion. I think that other than your representation that they oppose it, and I have a statement with a fax timeline that says that an hour ago, from them, they continue to oppose it, there seems to be some sort of miscommunication.

But that being said, Senator, if they supposedly rescinded it, do they now support your bill?

SENATOR MARCELLINO: I don't know. I didn't speak to them.

SENATOR CRAIG JOHNSON: Will the Senator continue to yield.

ACTING PRESIDENT GRIFFO: Senator Marcellino, do you continue to yield?

SENATOR MARCELLINO: Yes.

SENATOR CRAIG JOHNSON: Who spoke to Environmental Advocates that provided you with this information that they rescinded their opposition to this bill?

SENATOR MARCELLINO: Staff members spoke to them.

They simply don't oppose the bill.

SENATOR CRAIG JOHNSON: Will the Senator continue to yield.

SENATOR MARCELLINO: I continue to yield.

SENATOR CRAIG JOHNSON: So they do not support this piece of legislation.

SENATOR MARCELLINO: I think I've said that several times. They don't oppose the bill.

SENATOR CRAIG JOHNSON: Okay, so they don't support this bill.

SENATOR MARCELLINO: I didn't say that. I said they don't oppose the bill.

SENATOR CRAIG JOHNSON: Okay. Will the Senator continue to yield.

SENATOR MARCELLINO: Yes, I continue to yield.

SENATOR CRAIG JOHNSON: You referenced the Upstate Now legislation. Is this bill identical to the Upstate Now bill language dealing with brownfields?

SENATOR MARCELLINO: The only difference is there's a piece that is in here that deals with designated municipalities. Other than that, it's the same.

SENATOR CRAIG JOHNSON: Will the Senator continue to yield.

ACTING PRESIDENT GRIFFO: Senator Marcellino, do you continue to yield?

SENATOR MARCELLINO: Yes.

SENATOR CRAIG JOHNSON: Notwithstanding the Environmental Advocates question, are there any groups that support this piece of legislation?

SENATOR MARCELLINO: No. Not that I know of, let's put it that way.

SENATOR CRAIG JOHNSON: Okay. Mr. President, on the bill.

ACTING PRESIDENT GRIFFO: Senator Johnson, on the bill.

SENATOR CRAIG JOHNSON: I think that Senator Schneiderman spoke eloquently and at length about the concerns. I share the concerns raised by Senator Schneiderman with respect to the tax credits.

I do not disagree with you, Senator Marcellino, with respect to the need to clean up these properties. I agree with you.

The problem I have is that with such an important piece of legislation, to have it introduced through Rules three days ago, to have a simple difference of opinion as to whether or not when one of the leading environmental groups supports it, opposes it or -- let me take that back, opposes it or does not oppose it -- raises a lot of issues, issues that are so important.

I believe we have a better brownfields bill out there. That's the bill sponsored by my good friend and colleague Senator Thompson from Buffalo. That's the bill we should be supporting. That's the bill that will truly address the issues raised by Senator Marcellino. That's the bill that will address the problems here. And I would

certainly look forward to seeing that bill.

So with that said, I thank you, Senator Marcellino, but I will be voting in the negative on this piece of legislation.

Thank you.

ACTING PRESIDENT GRIFFO: Any Senator wishing to be heard?

Debate is closed. The Secretary will ring the bell.

SENATOR MARCELLINO: At the appropriate time, to explain my vote.

ACTING PRESIDENT GRIFFO: Thank you, Senator.

Read the last section.

THE SECRETARY: Section 9. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

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

SENATOR MARCELLINO: As I said earlier, Mr. President, the bill is important. It starts a process. If it were to become a law tomorrow, it would do nothing but increase

environmental cleanup in communities that are in desperate shape and desperately need the cleanup.

There is no good reason to vote against this bill. There is every good reason to vote for this bill. I vote aye.

ACTING PRESIDENT GRIFFO: Senator Marcellino to be recorded in the affirmative.

Senator Thompson, to explain his vote.

SENATOR THOMPSON: First let me just say that I understand the spirit of what Senator Marcellino is attempting to do. I believe that more work needs to be done, and I think he did clearly state that.

And I believe today by voting for this bill it would, for me, coming from the Buffalo-Niagara region, which has so many brownfields, that it would send the wrong message. And so I'm going to oppose this bill.

I think that we have a number of proposals that are in the same ballpark, but this doesn't complete the job. So I would ask that my colleagues consider voting against

this bill so that the Democrats do not send the message that all is right with this bill.

We have a lot of work to do. I believe that we have the Green Apple Initiative that talks about creating more shovel-ready sites, sites that we can access for some developers at a reduced amount of money and putting more shovel-ready sites in so many communities. I think this is a good start, but we have a long way to go.

And I'm going to vote no, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Thompson to be recorded in the negative.

Senator Sabini, to explain his vote.

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

The sponsor used an analogy that I have often agreed with, which is that the perfect shouldn't be the enemy of the good. But I believe, in voting no, the reasons for voting no on this bill is another analogy, which is we have a problem with the brownfields program. It's hemorrhaging money.

We just made more deposits into the program on earlier legislation, but the program is hemorrhaging money.

And for us to give tax credits to people who knowingly buy these sites, the analogy to that is if you have a flat tire, to flatten the other three tires on the car to make the car on a level plain.

ACTING PRESIDENT GRIFFO: Excuse me, Senator Sabini.

Can we have some order, please.

Senator Sabini.

SENATOR SABINI: I believe this just exacerbates the problem and will eventually lead to us coming back to recorrect the brownfields program. So I'll be voting no.

Thank you.

ACTING PRESIDENT GRIFFO: Senator Sabini to be recorded in the negative.

Senator Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you.

I just want to just state on the record, I want a fix to the brownfields

legislation. But my colleagues on this side of the aisle I think have explained very eloquently why this isn't the right fix.

Now, if we were staying longer -- our conference has said we shouldn't go home today or tomorrow, we should stay here till we get things done -- I would love to see the right brownfields legislation come to this floor, be debated and be passed.

But again, this isn't the right one. There are too many what's wrong with pieces of this bill. While there are good pieces of this bill, I will vote no.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Krueger to be recorded in the negative.

Senator Johnson, to explain his vote.

SENATOR CRAIG JOHNSON: Thank you, Mr. President.

Again, I am voting no on this piece of legislation. I commend Senator Marcellino for a good start, but there is more to do. And given this importance of cleaning up the brownfields, addressing the issues with

respect to tax credits, I believe there are better ways to do it. There are ways to do it that Senator Thompson's piece of legislation will do.

We all want to see the brownfields cleaned up. It is of imperative nature to do so. But this bill has too many flaws that don't get addressed.

So I commend Senator Marcellino again for the start, but we need to keep moving forward. There are better bills out there. We should be supporting Senator Thompson's piece of legislation. I will be voting no.

Thank you very much.

ACTING PRESIDENT GRIFFO: Senator Johnson to be recorded in the negative.

Announce the results.

I'm sorry. Senator Hassell-Thompson. My apologies.

SENATOR HASSELL-THOMPSON: That's okay. Thank you, Mr. President.

It's very important, I think, for many of us to just explain why we're voting against this bill.

As someone who has served on a local city council and has petitioned the state to create brownfield legislation, it wouldn't look good for me to just vote no without explaining that while it is critical that we have the wherewithal to clean up these areas, I do not believe in creating loopholes that allow people who, whether accidentally or intentionally, create toxic situations within our communities and then allow them to just walk away or -- and you may not believe that this is a walkaway, but any time you cite loopholes that says that the taxpayer has to pay for it, then that's a loophole.

And so that we're sending the wrong message when we say it's all right, mess it up, we'll clean it up and we'll pay for it. Because too many of our businesses walk away and leave us with this problem.

And so I will be voting no on this bill, Senator Marcellino. And if we come back and redo the bill, I will give consideration to what you have to say.

ACTING PRESIDENT GRIFFO: Senator Hassell-Thompson to be recorded in the

negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 2065 are Senators Breslin, Connor, Dilan, Duane, Gonzalez, Hassell-Thompson, Huntley, C. Johnson, L. Krueger, Montgomery, Onorato, Oppenheimer, Parker, Perkins, Sabini, Sampson, Savino, Schneiderman, Serrano, Smith, Stachowski, Stewart-Cousins and Thompson.

Absent from voting: Senator C. Kruger.

Ayes, 37. Nays, 23.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Would you please go to the active list, the original active list today, and call up Calendar Number 989 on the noncontroversial calendar.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 989, Senator Skelos moves to discharge, from the Committee on Rules,

Assembly Bill Number 2434A and substitute it for the identical Senate Bill Number 5196A, Third Reading Calendar 989.

ACTING PRESIDENT GRIFFO: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 989, by Member of the Assembly Morelle, Assembly Print Number 2434A, an act to amend the General Business Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Can we now go to Calendar 65A and call up Calendar Number 2066.

ACTING PRESIDENT GRIFFO: We arse now returning to the controversial calendar.

The Secretary will read.

THE SECRETARY: Calendar Number 2066, by the Senate Committee on Rules, Senate Print --

SENATOR LIZ KRUEGER: Explanation, please.

ACTING PRESIDENT GRIFFO: Explanation, Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

Our industrial development organizations have the authority to fund not-for-profit civic facilities and some long-term-care facilities and nursing homes. That authorization expires on June 30th of this month. And this is a bill to extend that authorization for two years, until July 1st of 2009.

This is important in my district, as it is, I'm sure, in all of yours. Since 1990, more than 700 not-for-profits have been assisted by IDAs, with project investments succeeding $8 billion. And millions of

New Yorkers have been served by these projects.

In my district alone, I know that I have had a hospital expanding, scrambling to get their financing, their IDA financing by end of this month. I have Paul Smith's College doing a dormitory, scrambling to get that extension done by the end of this month.

So it's important that we extend this for those projects that have not completed their financing, and that we extend it for two years so that our civic facilities and not-for-profits will be able to plan.

You don't do one of these projects in three or four months or in six months. It takes a while to do the planning, the drawings, the permitting, the financing, and to get the IDA financing. Therefore, a two-year extension is very important.

For the past several years we've done one-year extensions. And I will tell you that there is not a same-as bill in the Assembly. The Assembly has a bill that extends this authorization for IDAs seven months. It would be up again in January of

2008.

I have many letters in opposition to that, saying that that is not enough time for these IDAs, right now who don't have their financing, who are beginning a project, they could not possibly get a project done. Nor would they risk planning it in the hopes that we would extend it again in January. So I would ask you to support a two-year extender.

This is not a reform bill. And I had hoped to be standing before you with a reform bill, in concert with making this authorization permanent as well. But I do have a reform bill that I have been working on with the Assembly, looking at the things that they wanted to reform as well as things that we thought were important.

That bill will be on the Rules calendar this evening, and it will on the calendar, although it will be high tomorrow. That bill does a lot of things that people have been asking for IDAs to do, and accountability and transparency as well as helping to have hearings, make people know what's going on with our IDAs and to make the

information very visible to the public.

But the bill before you tonight, as I said, is a two-year extender, which is very important to the civic facilities, the not-for-profits in our community, for those continuing-care retirement projects, which are actually not in the seven-month extender.

So I hope you will support this bill.

ACTING PRESIDENT GRIFFO: Thank you, Senator Little.

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

Would the sponsor please yield, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Little, would you yield?

SENATOR LITTLE: Yes, I will yield.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

So as you just said, this is not a same-as bill. The Assembly is only going to do an extender for seven months.

I've been in the Senate for a little over five years, and it seems like we all always talk about IDA reform but we don't get there. How long does it take to try to move reform of a system that I don't think is working and I've heard you say before, Senator, that you don't think is working the way it should either?

ACTING PRESIDENT GRIFFO: Senator Little.

SENATOR LITTLE: Thank you. Through you, Mr. President.

I too believe that there is some reform needed for IDAs. I also believe that the public authority reform bill that we did two years ago affects IDAs and that many of them have had to conform to the accountability and transparency in that bill.

And in working with my counterpart in the Assembly, we went through the IDA legislation and all the ideas for reform. The bill that will be on the calendar tonight does something about it. It says that an IDA that does not have any bonding over $100,000 will cease to exist after five years.

It also calls on the Department of Economic Development to look at merging and getting IDAs to work together so that we have fewer of them to deal, which I think is important and is also something the Governor has been looking at.

It also, to the membership on an IDA, adds an environmental person to be one of the members on an IDA board, along with local governments, school boards, organized labor and someone from the business community. It adds conflict of interest provisions for board members. It adds a provision for local jobs for local people, saying consideration of an employment workforce within 75 miles of the project is very important, notifying local businesses of the opportunity to bid for IDAs.

It adds records and reporting provisions. It requires a website where hearing minutes will be on the website, where projects are on the website, talking about the evaluation and activities of the IDAs.

It also calls for a study of clawback provisions and how we can go about that. In the area of pirating it says that

the economic development should go to an independent arbitrator to work with the two -- you know, where the job is and the county, the IDA that may be trying to attract one. So that we avoid one IDA pirating a company from another IDA for no other reason than to give them other benefits.

And it continues to do a lot of things -- uniform criteria for evaluating a project, establishes a financial agreement with between the IDA and the project owners. Makes a lot of this information, as I said, available on a website.

The website would have the names of all the board members, a notice of any public hearing. It would be a requirement to have a board member at every public hearing, a record of all public hearings and meetings held after the date the website was established, proposed and adopted resolutions, voting and attendance records and minutes. It would also provide the agency's project funding criteria, the agency's pilot policy, the agency's five most recent financial statements, and any financial assistance agreements.

So I think the website would be pretty thorough. And anyone interested in what a local IDA was doing or finding information about a project, what had been awarded, would be able to get that information on that website.

SENATOR LIZ KRUEGER: Thank you.

Mr. President, on the bill.

ACTING PRESIDENT GRIFFO: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: I want to thank the sponsor for her detailed explanation of both the bill before us, a straight extender for two years, and the bill I believe she wishes was before us, a reform bill. And I believe she had a reform bill the last time this came up to be sunsetted.

And I have to say, I'm as frustrated as perhaps she is that it's a year later now, we've been doing one-year extenders, and we didn't get anywhere with the reform. And we're now in perhaps the last few minutes of the last day of official session, and we're being asked to do a two-year extender rather than a reform bill.

And so I have to say I think the sponsor makes a better argument than I do for why we should only support the seven-month extender of the Assembly, because we tend to only get things done in this Legislature when we're on tight deadlines and something will happen if the deadline isn't there in front of us.

And I would hate the idea of waiting another two years before we fix problems with IDAs.

And I'm not a hundred percent in agreement that her bill goes as far as I would like us to go, because we know from research done by the Comptroller's office that IDAs have gotten out of hand in this state -- not all of them, but too many of them. IDAs were originally intended to provide specific functions at the local level, at the county level, to provide the opportunity for specific strategic industries to be able to be attracted and to grow and create new jobs. And they have morphed over the years into things that I don't even think we recognize as IDAs.

So she talked about some of the reforms we need. And just again to agree with her, we need it streamline and standardize the accountability and the reporting requirements. We need to make sure that they're prohibited from providing bonds to nonstrategic activities. We need to understand and very carefully put into legislation antipirating provisions, which I know the sponsor agrees with me on. She just mentioned that. We need to actually have penalties for IDAs that are in the pirating business.

We need to ensure that there are there is careful evaluation and monitoring to require IDAs to file annual statements, to have public hearings, to make sure the local municipalities are actually approving these deals before they go forward, that we have public hearings so the public can come and testify about why they think something is good or not.

Because remember, what does an IDA do? One of the things it does, it has the power to take away taxes from the locality. It can make projects tax-exempt or decrease

the rate of taxes. And then the locality ends up going what happened to some of my revenue stream that I need for my schools and my public services?

And in fact just on the floor of this Senate this year, we've dealt with several bills where localities have needed to come to us to get help or to get changes in their school aid formulas or to deal with some kind of relief because they didn't realize how much revenue they'd be losing through IDA tax-exemption deals.

Sometimes we've even seen competing IDAs working on different deals for the same company because we don't have the right kind of evaluation and oversight. And yes, we did a public authority reform law that included IDAs to be evaluated by the Comptroller's office. But that even gives us more reason to want to hurry to put into effect the types of reforms for IDAs to make sure that we are being strategic with our tax revenue, with our credits, with our laws, that we are in fact investing in strategic, targeted economic development projects that create jobs.

The sponsor again spoke about studying clawbacks. There have to be clawback provisions in our IDA law. You can't get the deal, not pay your taxes, and then not deliver on job creation for these communities. That's the wrong kind of deal. We've been going down the road for years now knowing what's wrong with IDAs but continuing to do extenders.

I think a one-year extender would be the wrong answer. I think a two-year extender is doubly the wrong answer. This is a one-house bill. Maybe we could bring a seven-month out quickly through a Rules calendar and actually make sure we don't lose the IDA program completely. I completely understand the sponsor's argument about you wouldn't want it to sunset.

But two years more for us to never get what we need done for IDA reform is not acceptable to me. I hope people will vote no, although I'm not sure it matters because it's a one-house bill this late in session.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Krueger.

Is there any other Senator that wishes to speak?

Senator Little.

SENATOR LITTLE: Just if I could for a moment, please.

The seven-month extender is really not adequate and it doesn't -- it really makes the whole IDA funding of civic facilities useless. Because no one can start into this program right now and get it. And if it has to lapse, perhaps that's one way of getting everyone to the table to make civic facilities permanent and to do the IDA reform.

We did try to do the reform and to have agreement before we got to this point. And even though the deadlines were here for the end of session, we were not able to do that.

So I would ask everyone to vote for the two-year extender. And then I am committed to continuing to work on this reform.

Thank you.

ACTING PRESIDENT GRIFFO: Thank you, Senator Little.

Is there any other Senator that wishes to be heard?

Debate is closed. The Secretary will ring the bells.

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 2066 are Senators Adams, Connor, Dilan, Duane, Gonzalez, Hassell-Thompson, Huntley, C. Johnson, L. Krueger, Onorato, Oppenheimer, Perkins, Sabini, Schneiderman, Serrano, Stachowski, Stewart-Cousins and Thompson. Also Senator Stavisky.

Absent from voting: Senator C. Kruger.

Ayes, 41. Nays, 19.

ACTING PRESIDENT GRIFFO: The bill is passed.

The chair recognizes Senator D.

SENATOR DeFRANCISCO: Pardon me?

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

SENATOR DeFRANCISCO: I have a comment to make, Mr. P. Off of Senate Calendar 65A, would you please call up Calendar Number 2070.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 2070, by Senator Saland, Senate Print 6357, an act to amend the Criminal Procedure Law and the Public Health Law.

ACTING PRESIDENT GRIFFO: Senator Duane.

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

ACTING PRESIDENT GRIFFO: Senator Duane, on the bill.

SENATOR DUANE: This is an amended version of the HIV testing of a criminal defendant in a sexual assault case.

And it is true that it incorporates my amendment that free prophylactic treatment

will be provided to save or to ensure the health of sexual assault victims. And that's the sort of good news, that my amendment has become part of this legislation.

But tragically, this bill also keeps in all the bad parts of the legislation, testing the defendant for HIV. And I'm not going to go through it again, but I think I clearly made the argument that it is dangerous for a victim to depend on someone else's HIV status.

And so for that reason and the reasons I outlined last week, I would urge all of my colleagues to still vote no on this legislation.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Duane.

Any other Senator wishing to be heard?

Debate is closed. The Secretary will ring the bell.

Read the last section.

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

November.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 2070 are Senators Connor, Duane, Hassell-Thompson, Huntley, L. Krueger, Montgomery, Parker, Perkins, Sabini, Schneiderman and Serrano.

Absent from voting: Senator C. Kruger.

Ayes, 49. Nays, 11.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator DeFrancisco, that concludes the reading of the controversial calendar.

SENATOR DeFRANCISCO: There will be an immediate meeting of the Rules Committee in Room 332.

ACTING PRESIDENT GRIFFO: There will be an immediate meeting of the Rules Committee in Room 332.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 7:24 p.m.)

(Whereupon, the Senate reconvened at 7:37 p.m.)

ACTING PRESIDENT ROBACH: Senator DeFrancisco.

SENATOR DeFRANCISCO: Can we return to reports of standing committees and have the Rules Committee report read, please.

ACTING PRESIDENT ROBACH: Reports of standing committees.

The Secretary will read.

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

Assembly Print Number 8400A, by Member of the Assembly Schimel, an act authorizing the Village of Great Neck;

Assembly Print Number 9238, by Member of the Assembly Hoyt, an act to amend Chapter 444 of the Laws of 1997;

Senate Print 962A, by Senator Skelos, an act to amend the Public Officers Law and the Civil Practice Law and Rules;

1239, by Senator Saland, an act to

amend the Education Law;

1511C, by Senator Hannon, an act to amend the Public Health Law;

2932A, by Senator Seward, an act to amend the Public Health Law;

3089, by Senator Morahan, an act to amend the Retirement and Social Security Law;

3091, by Senator Saland, an act to amend the Education Law;

3554, by Senator Flanagan, an act to amend the Vehicle and Traffic Law;

3760A, by Senator Trunzo, an act to amend the Social Services Law;

3829, by Senator Skelos, an act to amend the Public Health Law;

3988A, by Senator Hannon, an act to amend the Public Health Law;

4021A, by Senator Hannon, an act to amend the Public Health Law;

4023, by Senator DeFrancisco, an act to amend the Tax Law;

4413A, by Senator Alesi, an act in relation to the initial date of enrollment;

4558, by Senator O. Johnson, an act to amend the Tax Law;

4793A, by Senator Hannon, an act to amend the Public Health Law;

5208, by Senator Padavan, an act to amend the Education Law;

5565A, by Senator Golden, an act to amend the Criminal Procedure Law;

5845, by Senator Larkin, an act to amend the Village Law;

5864, by Senator Padavan, an act to amend the Tax Law;

5866, by Senator Padavan, an act to amend the General City Law;

5878B, by Senator Maltese, an act to amend the Insurance Law;

5943, by Senator Morahan, an act to amend the Public Health Law;

6017, by Senator Bruno, an act to amend the New York State Urban Development Corporation Act;

6060A, by the Senate Committee on Rules, an act to amend the Tax Law;

6067, by Senator Breslin, an act to amend the Real Property Tax Law;

6141A, by Senator Golden, an act to amend the Real Property Tax Law;

6163, by Senator Hannon, an act to amend the Public Health Law;

6191, by the Senate Committee on Rules, an act to amend the Retirement and Social Security Law;

6271, by Senator Leibell, an act to amend the Environmental Conservation Law;

6308, by the Senate Committee on Rules, an act establishing;

6315, by Senator Volker, an act to amend the Public Authorities Law;

6316, by Senator Maltese, an act to amend the Insurance Law;

6319, by Senator Seward, an act to amend the Executive Law;

6327, by Senator Skelos, an act to amend the Tax Law;

6335, by Senator Farley, an act to amend the Tax Law;

6336, by the Senate Committee on Rules, an act to amend the Tax Law;

6339, by the Senate Committee on Rules, an act to amend the Tax Law;

6344, by Senator Hannon, an act to amend the Social Services Law;

6349, by Senator Golden, an act to amend the Real Property Tax Law;

6360, by the Senate Committee on Rules, an act to amend the Insurance Law;

6381, by the Senate Committee on Rules, an act to amend the Education Law;

6383, by Senator Bruno, an act authorizing;

6384, by Senator Golden, an act to amend the Real Property Tax Law;

6386, by Senator Padavan, an act to amend the General City Law;

And Senate Print 6391, by Senator Little, an act to amend the General Municipal Law.

All bills ordered direct to third reading.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

SENATOR DeFRANCISCO: Move to accept the Rules Committee report.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed.

(No response.)

ACTING PRESIDENT GRIFFO: The report is accepted.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Could you please go to the supplemental calendar and do the noncontroversial reading, starting with Calendar 248, please.

ACTING PRESIDENT GRIFFO: The Secretary will read the supplemental active calendar.

THE SECRETARY: Calendar Number 248, by Senator LaValle, Senate Print 2426B, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The

bill is passed.

THE SECRETARY: In relation to Calendar Number 253, Senator Maziarz moves to discharge, from the Committee on Rules, Assembly Bill Number 2514A and substitute it for the identical Senate Bill Number 1606, Third Reading Calendar 253.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 253, by Member of the Assembly John, Assembly Print Number 2514A, an act to amend the Labor 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to

Calendar Number 571 --

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT GRIFFO: Senator Duane, we need to make the substitution first.

The Secretary will read.

THE SECRETARY: In relation to Calendar Number 571, Senator Saland moves to discharge, from the Committee on Rules, Assembly Bill Number 3249A and substitute it for the identical Senate Bill Number 1465B, Third Reading Calendar 571.

ACTING PRESIDENT GRIFFO: The substitution is ordered.

The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 617, Senator Alesi moves to discharge, from the Committee on Finance, Assembly Bill Number 1013 and substitute it for the identical Senate Bill Number 269, Senate Print 617.

ACTING PRESIDENT GRIFFO: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

617, by Member of the Assembly Englebright, Assembly Print Number 1013, an act to amend the State Finance 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 720, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 884 and substitute it for the identical Senate Bill Number 643, Third Reading Calendar 720.

ACTING PRESIDENT GRIFFO: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 720, by Member of the Assembly Englebright, Assembly Print Number 884, an act to amend the

Public Health 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 751, Senator Fuschillo moves to discharge, from the Committee on Rules, Assembly Bill Number 61A and substitute it for the identical Senate Bill Number 4723A, Third Reading Calendar 751.

ACTING PRESIDENT GRIFFO: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 751, by Member of the Assembly Lafayette, Assembly Print Number 61A, an act to amend the General Business 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 813, by Senator Lanza, Senate Print 3443, an act to amend the New York City Health and Hospital Corporation Act.

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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1110, Senator Robach moves to

discharge, from the Committee on Rules, Assembly Bill Number 6757 and substitute it for the identical Senate Bill Number 4820, Third Reading Calendar 1110.

ACTING PRESIDENT GRIFFO: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1110, by Member of the Assembly Abbate, Assembly Print Number 6757, an act to amend the Civil Service 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1234, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 8647A and substitute it

for the identical Senate Bill Number 3166D, Third Reading Calendar 1234.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1234, by Member of the Assembly Weinstein, Assembly Print Number 8647A, an act to amend the Civil Practice Law and Rules.

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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1356, by Senator Skelos, Senate Print 4886B, an act to amend the Executive 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1362, by Senator Trunzo, Senate Print 5817, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1419, by Senator Marcellino, Senate Print 634C, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT GRIFFO: Read

the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1503, by Senator Marcellino, Senate Print 2935, an act to require the New York State and Local Employees' Retirement System.

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

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to

Calendar Number 1732, Senator Skelos moves to discharge, from the Committee on Rules, Assembly Bill Number 9086A and substitute it for the identical Senate Bill Number 6167A, Third Reading Calendar 1732.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1732, by Member of the Assembly Gianaris, Assembly Print Number 9086A, an act to amend the Executive 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.)

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

SENATOR ONORATO: To explain my vote. Thank you, Mr. President.

I would like to thank the sponsor, Senator Skelos, for this very, very worthwhile

bill. I have one of those fuel lines running right through the heart of my community. I live several blocks away from it. And I've received many calls from my constituents regarding the possibility of doing something like this.

So I really commend Senator Skelos for putting it forward, and I vote aye.

ACTING PRESIDENT GRIFFO: Senator Onorato to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1830, Senator Trunzo moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 6017 and substitute it for the identical Senate Bill Number 6162, Third Reading Calendar 1830.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

1830, by Member of the Assembly Sweeney, Assembly Print Number 6017, an act to amend the Legislative 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1859, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 8867 and substitute it for the identical Senate Bill Number 6032, Third Reading Calendar 1859.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1859, by the Assembly Committee on Rules, Assembly Print Number 8867, an act making an

appropriation to pay Linda Zebrowski.

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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1948, Senator Libous moves to discharge, from the Committee on Rules, Assembly Bill Number 8786 and substitute it for the identical Senate Bill Number 6300, Third Reading Calendar 1948.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1948, by Member of the Assembly Millman, Assembly Print Number 8786, an act to amend Chapter 549 of the Laws of 1994 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1984, Senator DeFrancisco moves to discharge, from the Committee on Rules, Assembly Bill Number 9206 and substitute it for the identical Senate Bill Number 6223A, Third Reading Calendar 1984.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1984, by Member of the Assembly Barclay, Assembly Print Number 9206, an act authorizing the Town of Camillus.

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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2005, Senator Montgomery moves to discharge, from the Committee on Rules, Assembly Bill Number 1088 and substitute it for the identical Senate Bill Number 557, Third Reading Calendar 2005.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2005, by Member of the Assembly Millman, Assembly Print Number 1088, an act to amend the General Municipal 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2009, by Senator Hannon, Senate Print 3987A, an act to amend the Public Health Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 1. Senator Hassell-Thompson recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator DeFrancisco, that completes the noncontroversial reading of the supplemental active list.

SENATOR DeFRANCISCO: Would you

please go to Senate Calendar Number 65A and call up Calendar Number 2046 on the noncontroversial calendar that was laid aside earlier today, temporarily, by us.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 2046, substituted earlier today by Member of the Assembly V. Lopez, Assembly Print Number 7905, an act to amend the Social Services 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator DeFrancisco.

SENATOR DeFRANCISCO: If we could go back to the supplemental active list. And would you please call up Calendar Number 571 that was laid aside.

ACTING PRESIDENT GRIFFO: The Secretary will ring the bell, and we will begin the controversial reading of the supplemental active calendar.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Mr. President, could I move to recall the vote on Calendar Number 1234 by which it previously passed the house.

ACTING PRESIDENT GRIFFO: The Secretary will read Calendar Number 1234.

THE SECRETARY: Calendar Number 1234, substituted earlier by Member of the Assembly Weinstein, Assembly Print 8647A, an act to amend the Civil Practice Law and Rules.

ACTING PRESIDENT GRIFFO: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

SENATOR DeFRANCISCO: Lay it aside, please.

ACTING PRESIDENT GRIFFO: The bill is laid aside.

We will return to the controversial reading of Calendar Number 571 of the

supplemental active list.

THE SECRETARY: Calendar Number 571, substituted earlier today by Member of the Assembly Nolan, Assembly Print Number 3249A, an act to amend the Real Property Tax Law.

SENATOR STAVISKY: Explanation, please.

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

SENATOR SALAND: Thank you, Mr. President.

Mr. President, earlier this session we passed an amended version of this bill which increased the fund balance from 2 to 3 to 4 percent.

Subsequently we engaged in negotiations with the Governor's office and the Governor requested additional language in this bill which is not inconsistent with some of the comments made earlier today by Senator LaValle in the context of his truth-in-voting proposal.

What this language does is to require that the school report cards have

additional information, and that additional information is information with respect to unappropriated reserve fund balances, or the so-called reserve fund, as well as other appropriated reserve funds, which would include things such as funds retained for tax certioraris, repair reserve funds, and a host of others that are provided for in law.

And clearly the bottom line that is sought to be part of this report card is exactly what is the percentage of the fund balance that a school is retaining.

These are all in an effort to provide greater transparency, in an effort to ensure that information will be made available to the taxpayers of a given school district as to a more specific accounting of a school's fund balance.

ACTING PRESIDENT GRIFFO: Thank you, Senator Saland.

Senator Stavisky.

SENATOR STAVISKY: If the sponsor would yield for a number of questions.

ACTING PRESIDENT GRIFFO: Senator Saland, do you yield for a number of

questions?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Stavisky.

SENATOR STAVISKY: Mr. President, through you. How does this bill, 1465B, differ from the plain variety of 1465 and 1465A?

You indicated that the Governor had requested some changes. Can you be a little more specific?

SENATOR SALAND: I don't recall the -- quite candidly -- I could get my file. I don't recall the change from the initial version to the A version.

But what this is primarily about is the -- the B version is about the language that you'll find on lines 31 through 39 on page 2, and on page 3, lines 2 through 11.

SENATOR STAVISKY: Thank you, Mr. President. Will the sponsor continue to yield.

ACTING PRESIDENT GRIFFO: Senator Saland, do you continue to yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Stavisky.

SENATOR STAVISKY: We're talking here about unexpended surplus monies. What protections are there that they will not be misused by anybody in the school district?

For example, the Roslyn School District obviously --

SENATOR SALAND: I'm sorry, I didn't hear. For example, the --

SENATOR STAVISKY: I'm saying the legislation increases the amount of the unexpended funds, and it appears on the school report card. What protections are there for the taxpayers in these school districts that we will not have a misuse of the unexpended funds, such as what happened in the Roslyn School District?

SENATOR SALAND: Keep in mind that what reserve funds are about are really what rainy day funds are about. And we are constantly, at our level of government, being told to ensure that we have adequate rainy day

funds for those valleys that we have to contend with from time to time.

The same concept applies to the surplus or reserve fund.

What may have occurred at Roslyn I don't think necessarily -- and I'm more than happy to yield to someone with greater firsthand knowledge -- had to do so much with the presence of a reserve fund as with overreaching and abuse by administrative officials who were committing fraud on the system.

I don't know what lines they were taking those funds out of. But certainly I think, if I remember correctly, when last counted it was somewhere in the area of about $11 million that had been stolen from that district's taxpayers and students. But I'm not sure that could be laid at the doorstep of the reserve fund.

Again, it's intended as the same kind of rainy day fund that we generally are praised for when we provide adequate amounts of money to prepare for those valleys.

SENATOR STAVISKY: Thank you.

Because we want to obviously be sure that the funds are there, not in somebody else's bank account.

The surplus funds that are being retained by the school district, if there's a surplus over that 2 or 3 percent, how are the extra funds beyond that returned to the taxpayers?

SENATOR SALAND: Well, as was pointed out earlier by Senator LaValle, there's concern in some quarters that that is not being adequately monitored.

I'd like to think that the vast majority of school districts abide by the current level, which is 2 percent. And certainly Senator LaValle's proposal I thought was an excellent way of dealing with it which was basically to require publication in the school district, in the school newsletter.

Because if you punish the school district for exceeding the surplus, you run into a problem where you're punishing the taxpayers who help provide the surplus.

SENATOR STAVISKY: And they're the ones that we're concerned about, that the

people pay the correct amount of taxes.

Thank you, Mr. President. Thank you, Senator Saland.

ACTING PRESIDENT GRIFFO: Thank you, Senator Stavisky.

Is there any other Senator wishing to be heard?

Debate is closed. The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 4. This act shall take effect on July 1, 2007.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Oppenheimer, to explain her vote.

SENATOR OPPENHEIMER: Thank you.

This is something that I have been seeking for at least a decade, and I am very, very pleased that the Governor has made this change so that we can approve this bill.

The movement of 2 percent to 3 percent of unrestricted fund balance and then next year, from 2008 to 2009, to

4 percent, is a very important move for some of us that are in districts that are experiencing unexpected but very large sums that have to be expended and are not really something that can be programmed in.

In many cases it's things like tax certioraris that are going almost consistently against us, and in very large sums of as much as a million dollars owed in back taxes. For a small school district, this can be overwhelming. And that's why it is so important to have an increase in our unrestricted surplus funds.

So I'm very happy to see this. It is something that is long overdue. And I thank the Governor for changing his mind and permitting this to go through with the additional language.

ACTING PRESIDENT GRIFFO: How do you vote, Senator Oppenheimer?

SENATOR OPPENHEIMER: Yes.

ACTING PRESIDENT GRIFFO: Senator Oppenheimer to be recorded in the affirmative.

Any of those that are voting in the negative please raise your hands.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 571 are Senators Bonacic, Fuschillo, LaValle and Sabini.

Absent from voting: Senator C. Kruger.

Ayes, 57. Nays, 4.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator DeFrancisco, that completes the controversial reading of the supplemental active list.

Senator DeFrancisco.

SENATOR DeFRANCISCO: May we return to motion and resolutions and adopt the Resolution Calendar.

ACTING PRESIDENT GRIFFO: Motions and resolutions.

All in favor of adopting the Resolution Calendar signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed, nay.

(No response.)

ACTING PRESIDENT GRIFFO: The Resolution Calendar is adopted.

Senator Robach, for a motion.

SENATOR ROBACH: Yes, Mr. President. I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Bill Number 4831, by Senator Hannon.

ACTING PRESIDENT GRIFFO: So ordered.

Order in the house, please.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Mr. President, would you please go to the main calendar and call up Calendar Number 2017.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 2017, by Senator Volker, Senate Print 5561A, an act to authorize the County of Erie.

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

Read the last section.

THE SECRETARY: Section 4. This

act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator DeFrancisco.

SENATOR DeFRANCISCO: May we have the noncontroversial reading of Senate Calendar 65B.

ACTING PRESIDENT GRIFFO: The Secretary will conduct the noncontroversial reading of Senate Calendar 65B.

THE SECRETARY: Calendar Number 2074, by Senator Skelos, Senate Print 962A, an act to amend the Public Officers Law and the Civil Practice Law and Rules.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 8. This act shall take effect on the 30th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2075, by Senator Saland --

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT GRIFFO: The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 2076, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 7351B and substitute it for the identical Senate Bill Number 1511C, Third Reading Calendar 2076.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2076, by Member of the Assembly Dinowitz, Assembly Print Number 7351B, an act to amend the Public Health 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, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2077, Senator Seward moves to discharge, from the Committee on Rules, Assembly Bill Number 2832A and substitute it for the identical Senate Bill Number 2932A, Third Reading Calendar 2077.

ACTING PRESIDENT GRIFFO: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2077, by Member of the Assembly Lifton, Assembly Print Number 2832A, an act to amend the Public Health 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, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2078, Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 7565 and substitute it for the identical Senate Bill Number 3089, Third Reading Calendar 2078.

ACTING PRESIDENT GRIFFO: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2078, by Member of the Assembly Jaffee, Assembly Print Number 7565, an act to amend the Retirement and Social Security 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, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2079, by Senator Saland, Senate Print 3091, an act to amend the Education 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, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2080, Senator Flanagan moves to discharge, from the Committee on Rules, Assembly Bill Number 2496 and substitute it for the identical Senate Bill Number 3554, Third Reading Calendar 2080.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2080, by Member of the Assembly Sweeney, Assembly Print Number 2496, an act to amend the Vehicle and Traffic 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, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2081 --

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

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

THE SECRETARY: In relation to Calendar Number 2082, Senator Skelos moves to discharge, from the Committee on Rules, Assembly Bill Number 8618 and substitute it for the identical Senate Bill Number 3829,

Third Reading Calendar 2082.

ACTING PRESIDENT GRIFFO: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2082, by Member of the Assembly Weisenberg, Assembly Print Number 8618, an act to amend the Public Health 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, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2083, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 8099A and substitute it for the identical Senate Bill Number 3988A, Third Reading Calendar 2083.

ACTING PRESIDENT GRIFFO:

Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2083, by Member of the Assembly Gottfried, Assembly Print Number 8099A, an act to amend the Public Health 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, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2084, by Senator Hannon, Senate Print 4021A, an act to amend the Public Health Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2085, Senator DeFrancisco moves to discharge, from the Committee on Rules, Assembly Bill Number 4606 and substitute it for the identical Senate Bill Number 4023, Third Reading Calendar 2085.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2085, by Member of the Assembly Espaillat, Assembly Print Number 4606, an act to amend the Tax 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, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2087, Senator O. Johnson moves to discharge, from --

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

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

Senator DeFrancisco.

SENATOR DeFRANCISCO: Before laying it aside, would you please make the substitution.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 2087, Senator O. Johnson moves to discharge, from the Committee on Rules, Assembly Bill Number 8015 and substitute it for the identical Senate Bill Number 4558, Third Reading Calendar 2087.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

2087 --

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

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

The Secretary will continue to read.

THE SECRETARY: In relation to Calendar Number 2088, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 8456A and substitute it for the identical Senate Bill Number 4793A, Third Reading Calendar 2088.

ACTING PRESIDENT GRIFFO: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2088, by Member of the Assembly Gottfried, Assembly Print Number 8456A, an act to amend the Public Health Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2089, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 8447 and substitute it for the identical Senate Bill Number 5208, Third Reading Calendar 2089.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2089, by Member of the Assembly Abbate, Assembly Print Number 8447, an act to amend the Education 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, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2090, by Senator Golden, Senate Print 5565A, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2091, by Senator Larkin, Senate Print 5845, an act to amend the Village Law.

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

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2092, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 8176 and substitute it for the identical Senate Bill Number 5864, Third Reading Calendar 2092.

ACTING PRESIDENT GRIFFO: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2092, by Member of the Assembly Farrell, Assembly Print Number 8176, an act to amend the Tax Law.

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

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2093, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 8132 and substitute it for the identical Senate Bill Number 5866, Third Reading Calendar 2093.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2093, by Member of the Assembly Silver, Assembly Print Number 8132, an act to amend the General City Law and the Administrative Code of the City of New York.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 2094, by Senator Maltese, Senate Print 5878B, an act to amend the Insurance Law.

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

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

THE SECRETARY: In relation to Calendar Number 2095, Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 3842 and substitute it for the identical Senate Bill Number 5943, Third Reading Calendar 2095.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2095, by Member of the Assembly Dinowitz, Assembly Print Number 3842, an act to amend the Public Health Law.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

Couldn't have done it without my new counsel.

THE SECRETARY: In relation to Calendar Number 2096, Senator Bruno moves to discharge, from the Committee on Corporations, Authorities and Commissions, Assembly Bill Number 8359 and substitute it for the identical Senate Bill Number 6017, Third Reading Calendar 2096.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2096, by Member of the Assembly Silver, Assembly Print Number 8359, an act to amend the New York State Urban Development Corporation Act.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2097, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 9107A and substitute it for the identical Senate Bill Number 6060A, Third Reading Calendar 2097.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2097, by the Assembly Committee on Rules, assembly Print Number 9107A, an act to amend the Tax Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2098, Senator Breslin moves to discharge, from the Committee on Rules, Assembly Bill Number 8900A and substitute it for the identical Senate Bill Number 6067A, Third Reading Calendar 2098.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2098, by Member of the Assembly Reilly, Assembly Print Number 8900A, an act to amend the Real Property Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2099, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 4408A and substitute it for the identical Senate Bill Number 6141A, Third Reading Calendar 2099.

THE PRESIDENT: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2099 --

SENATOR LIZ KRUEGER: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 2100, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 8759 and substitute it for the identical Senate Bill Number 6163, Third Reading Calendar 2100.

THE PRESIDENT: The substitution

is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2100, by Member of the Assembly McEneny, Assembly Print Number 8759, an act to amend the Public Health Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2101, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 6586 and substitute it for the identical Senate Bill Number 6191, Third Reading Calendar 2101.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

2101, by Member of the Assembly Abbate, Assembly Print Number 6586, an act to amend the Retirement and Social Security 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, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2102, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 7849B and substitute it for the identical Senate Bill Number 6271, Third Reading Calendar 2102.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2102, by Member of the Assembly Bradley, Assembly Print Number 7849B, an act to amend

the Environmental Conservation Law.

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

Read the last section.

THE SECRETARY: Section 8. This act shall take effect January 1, 2008.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 2. Senators Larkin and Rath recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

(Applause from the gallery.)

THE SECRETARY: Calendar Number 2103, by the Senate Committee on Rules, Senate Print 6308, an act establishing the --

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT GRIFFO: The bill is laid aside at the request of Senator Duane.

THE SECRETARY: In relation to Calendar Number 2104, Senator Volker moves to

discharge, from the Committee on Rules, Assembly Bill Number 9048B and substitute it for the identical Senate Bill Number 6315, Third Reading Calendar 2104.

ACTING PRESIDENT GRIFFO: the substitution is so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2104, by Member of the Assembly Peoples, Assembly Print Number 9048B, an act to amend the Public Authorities Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

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

SENATOR THOMPSON: Yes, Mr. President.

I think this is an important piece of legislation. I want to commend Senator Volker for standing strong with many of us as relates to this bill in relation to the City of Buffalo, which has done a great job of turning itself around.

There was an initial bill that would have put blue-collar workers, white-collar workers, teachers, firefighters, lunch ladies and lunch aides, bus aides, everyone would have been pitted against one another as relates to Buffalo's fiscal recovery.

I think this is a great step when we stand together, stand united. And I'm just glad that all the members of the Senate stood together to make sure that we support working men and women and not let other interests divide workers.

And so I'm so glad Senator Volker, Senator Stachowski and all the other members of the Western New York delegation also stood firm on this bill. This is a very good bill. This is how we make good bills great. And I think many of the workers in Buffalo will be very happy about this bill.

Thank you. I support this bill.

ACTING PRESIDENT GRIFFO: Senator Thompson to be recorded in the affirmative.

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2105, by Senator Maltese, Senate Print 6316, an act to amend the Insurance 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, 61. Nays, 1. Senator Seward recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2106 --

SENATOR DeFRANCISCO: Please lay it aside temporarily.

ACTING PRESIDENT GRIFFO: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 2107, by Senator Skelos, Senate Print 6327, an

act to amend the Tax Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2108, by Senator Farley, Senate Print 6335, an act to amend the Tax Law.

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, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2109, by the Senate Committee on Rules, Senate Print 6336, an act to amend the Tax 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, 61. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2110, by the Senate Committee on Rules, Senate Print 6339, an act to amend the Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 2111, by Senator Hannon, Senate Print 6344, an act to amend the Social Services Law and the State Finance Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on July 1, 2007.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Announce the results.

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2113, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 9036 and substitute it for the identical Senate Bill Number 6360, Third Reading Calendar 2113.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2113, by Member of the Assembly Morelle, Assembly Print Number 9036, an act to amend the Insurance Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 2119, by Member of the Assembly Schimel, Assembly Print Number 8400A, an act authorizing the Village of Great Neck Estates.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 2120, by Member of the Assembly Hoyt, Assembly Print Number 9238, an act to amend Chapter 444 of the Laws of 1997 amending --

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

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

That completes the noncontroversial Calendar 65B, Senator Bruno.

SENATOR BRUNO: Mr. President, can we take up Calendar Number 2106.

THE PRESIDENT: Calendar Number 2106. The Secretary will read.

THE SECRETARY: In relation to Calendar Number 2106, Senator Seward moves to discharge, from the Committee on Rules, Assembly Bill Number 9249 and substitute it for the identical Senate Bill Number 6319, Third Reading Calendar 2106.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2106, by Member of the Assembly Magee, Assembly Print Number 9249, an act to amend the Executive Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the same date as a chapter of the Laws of 2007.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

This is a bill that we debated earlier in the year. It would basically exempt most buildings on farms from the building code and the fire prevention laws.

I worry about buildings' safety wherever they are in the state of New York. If a factory is built on a farm, it's no different if a factory is built on a highway. We should have uniform rules. This is a new set of laws that went into effect just this

January. I think we should give them a try.

I continue to think this is a safety issue. I vote no. Thank you, Mr. President.

THE PRESIDENT: Senator Krueger will be recorded in the negative.

Announce the results.

THE SECRETARY: Ayes, 59. Nays, 3. Senators Duane, Hassell-Thompson and L. Krueger recorded in the negative.

THE PRESIDENT: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we lay aside for the day 1914 and 1997.

THE PRESIDENT: Those bills, 1914 and 1997, are laid aside for the day.

SENATOR BRUNO: And, Mr. President, on the main calendar can we take up 740.

THE PRESIDENT: Calendar Number 740. The Secretary will read.

THE SECRETARY: In relation to Calendar Number 740, Senator Flanagan moves to discharge, from the Committee on Rules,

Assembly Bill Number 4111A and substitute it for the identical Senate Bill Number 830B, Third Reading Calendar 740.

THE PRESIDENT: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 740, by Member of the Assembly Brodsky, Assembly Print Number 4111A, an act to amend the General Business Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

SENATOR BRUNO: Mr. President, on the main calendar, 1696.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1696, by Senator Alesi, Senate Print 4744B, an

act in relation to redistributing 2006 bond volume allocations.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, on the controversial calendar can we take up 65B.

THE PRESIDENT: The Secretary will conduct the controversial reading of Calendar 65B.

THE SECRETARY: Calendar Number 2075, by Senator Saland, Senate Print 1239, an act to amend the Education Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 2099, substituted earlier today by Member of the Assembly V. Lopez, Assembly Print Number 4408A, an act to amend the Real Property Tax Law.

SENATOR LIZ KRUEGER: Explanation.

SENATOR DUANE: Explanation, please.

THE PRESIDENT: Senator Golden, an explanation is requested.

SENATOR GOLDEN: Thank you, Mr. President.

The 421-a bill that we're expanding would expand the geographical exclusion areas. It would reserve the 421-a tax benefits for buildings with a minimum of four units.

And it maintains the establishment of a $400 million fund for affordable housing citywide. The dedicated fund would be used to create affordable housing outside the GEA,

focusing on 15 highest poverty-stricken districts in the city.

And it eliminates the negotiable certificate program at the end of 2007.

It was passed in the Assembly this evening unanimously, and it requires the units remain affordable up to 40 years instead of 30 years.

THE PRESIDENT: Senator Krueger.

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

THE PRESIDENT: Senator Golden, will you yield for a question from Senator Krueger?

SENATOR GOLDEN: I do, Mr. President.

THE PRESIDENT: The Senator yields, Senator Krueger.

SENATOR LIZ KRUEGER: Mr. President, through you, if the sponsor would answer, how does this bill treat the Atlantic Yards development differently than any other arrangement under this bill for the City of New York?

SENATOR GOLDEN: It would allow the project to get the credits as long as it maintains 70 percent of affordability.

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

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

SENATOR GOLDEN: I do.

THE PRESIDENT: The Senator yields, Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

So it's 60 percent -- or it's 80 percent of AMI in other parts of the city, or 60 percent?

SENATOR GOLDEN: Sixty percent.

SENATOR LIZ KRUEGER: Sixty percent, thank you. And 70 percent there. But is there not also something different about the amount of rent they can charge?

My understanding is in 421-a in most cases the maximum you would pay of your income was 30 percent. How would that be different here?

SENATOR GOLDEN: This would be 20

percent.

SENATOR LIZ KRUEGER: You would only have to pay 20 percent of your income for rent?

I'm sorry, Mr. President, if through you the sponsor would yield.

THE PRESIDENT: Yes.

SENATOR GOLDEN: Yes, Mr. President, 20 percent.

THE PRESIDENT: Senator Krueger.

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

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

SENATOR GOLDEN: Yes, Mr. President.

SENATOR LIZ KRUEGER: Thank you.

This bill increases the requirements for HPD to monitor affordability requirements but takes away specific tools they had in an original version of this bill, such as regulatory agreements, deed restrictions, resale restrictions, occupancy requirements, other such instruments or

requirements deemed necessary to establish both the realities of these units and legal remedies to enforce such mechanisms.

How would HPD actually implement the rules of this law without those tools?

SENATOR GOLDEN: Those tools are all still there.

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

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

SENATOR GOLDEN: I do.

SENATOR LIZ KRUEGER: Thank you.

This bill expands the exclusionary zones; it adds quite a few of them. And many people are very happy about that. Actually, the Senate Democrats proposed a bill that made the entire City of New York an exclusionary zone.

But is it your understanding that -- I'm sorry, Mr. President. I'm going to rephrase my question. May I start again?

THE PRESIDENT: Please.

SENATOR LIZ KRUEGER: Would the

sponsor mind if I started again?

THE PRESIDENT: Does the sponsor yield?

SENATOR GOLDEN: I do.

SENATOR LIZ KRUEGER: Thank you. I think I need to do these in order.

Under the city law that was passed, the Local Law 58, the City of New York intended to commit an investment of $400 million to a trust fund to then be made available to build affordable housing in 15 geographic districts of the City of New York.

SENATOR GOLDEN: High-poverty districts, yes.

SENATOR LIZ KRUEGER: Under this law where we've expanded the exclusionary zones, is it your understanding, one, that the City of New York intends to continue or is obligated to put the $400 million into this trust fund (a), and then (b) can they use this money in the exclusionary zones for building housing?

SENATOR GOLDEN: Answer B is no. And Answer A is that the 15 designated areas haven't been designated, so we don't know if

they're in the exclusionary zone.

Last question?

SENATOR LIZ KRUEGER: Mr. President, now I have to think about my last question.

THE PRESIDENT: Do you have a last question, Senator?

SENATOR LIZ KRUEGER: Well, I had more, so I have to think carefully about the one I want. Since I've been offered one more.

Is there an estimate in this bill for how much the new tax deductions would cost the City of New York? Under the old law that is sunsetting, the estimate was that the City of New York was losing approximately $400 million in tax revenue per year, but they were choosing to do so under the law.

Under the new law, how much would be the tax revenue lost to the City of New York because of the 421-a credits expected to be distributed under your law?

SENATOR GOLDEN: Over the long period of time, a lot less than if we had not made these changes.

SENATOR LIZ KRUEGER: Mr.

President, could I indulge to ask the sponsor another question.

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

SENATOR GOLDEN: Mr. President, this is absolutely the last question.

SENATOR LIZ KRUEGER: Thank you.

THE PRESIDENT: The sponsor absolutely yields one more time.

SENATOR GOLDEN: Thank you, Mr. President.

SENATOR LIZ KRUEGER: I appreciate the sponsor's patience.

I understand the affordability rules in the bill for rental apartments, where affordability requirements would remain in effect for 40 years from the completion of construction of the building, and they must remain subject to rent stabilization the entire 40-year period. And I'm glad.

But how do we deal with affordability for co-ops and condos that might be built under this new 421-a law, either the definitions of affordability and/or the length of time that those co-op and condo units would

have to stay both within that 40-year timeline, if they did, and the relationship to rent regulation?

SENATOR GOLDEN: The industry is going to have to come up with creative ways of doing it or they're not going to get the credits.

Thank you, Mr. President.

SENATOR LIZ KRUEGER: Thank you.

On the bill.

THE PRESIDENT: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

Well, I appreciate the sponsor's answers. I'm not sure I agree with him on several of the answers. And I just want to give us some context, because there were several bills out in the last several weeks on 421-a, and it confused pretty much everyone. It was a moving target, what would the state do with extension of 421-a.

And the sponsor in the Assembly had multiple bills that seemed to be either complementary or totally contradictory to each other. There were three separate Senate

Republican-sponsored bills that were very, very different in what they did and how they went forward.

There is a chapter amendment -- no, excuse me, two chapter amendments that have already been filed for this law that dramatically change what this law would be. But those bills are high. So unless we stay until tomorrow -- perhaps Senator Bruno is going to announce that -- or the Assembly passes those chapter amendments, but I'm pretty much they're high there also, those chapter amendments would dramatically change what this bill does, the outcome, the cost to the city, the impacts and what could or couldn't be built.

So my frustration here is both with what we see in this bill but also what we don't see in this bill, because you'd need to hold it up to chapter amendments that we're being asked to consider at the exact same time as we're passing this law. And yet we can't do those chapter amendments now.

There are good parts of this bill. We knew we needed to change 421-a. We knew

that we needed to stop giving tax exemptions to developers who were building luxury high-rises.

And we knew we needed to make sure that if the City of New York or we were giving the City of New York the authority or even in some cases ordering the City of New York to create a tax exemption -- from their money, not ours; this is New York City property taxes -- that if they were going to go forward and we were going to go forward with them, we should try to make sure that every dollar of tax exemption was going for building actual affordable units in communities in New York City that desperately needed the assistance of tax credits and exemptions to get those buildings done, and to stop the pattern of allowing, as has been the case up until now, the vast majority of 421-a tax credits going to luxury developments with very few units being built for low-income, middle-income working people.

And so there are good parts of this bill. And it expands the exclusionary zone. And again -- well, it's called the geographic

exclusionary areas, to be technical. And many of my colleagues are very pleased to see those exclusionary areas included in this bill.

But one of the questions I asked the sponsor was would you be able to receive the city's trust fund for housing money if somebody built in the geographic exclusionary areas. And when I asked the City of New York that question, they said no.

So people need to understand, when they're looking at their specific area of New York City, if you're in the geographic exclusion area, you're not going to be able to draw down on any of the $400 million of housing trust fund money, assuming that's still going to be there, for building in your district or your geographic area. So it's important to understand that's one of the things that happens in this bill.

It's also important to understand that -- Mr. President --

(Laughter; catcalls.)

SENATOR HASSELL-THOMPSON: He is out of order. He is totally out of order. There's nothing funny about it.

SENATOR LIZ KRUEGER: Mr. President. Last night, Senator -- Governor -- last night one of my colleagues also waved a white flag at me, and I thought that meant that I had gotten through and he was going to vote with me, but he didn't.

So I suspect this learned gentleman from farther north in New York State who's waving his white flag now also isn't prepared to vote with me.

And I don't have a time limit, sir, because there's two hours on a bill.

Mr. President, I'll continue. Perhaps I might have to start again. You've made me lose track of my --

(Laughter.)

THE PRESIDENT: Senator Krueger continues.

SENATOR LIZ KRUEGER: Excuse me. To continue. Thank you, Mr. President.

So it's important to understand that this bill tied into the chapter amendments, if they are to be passed, also very much changed the deals of what could or could not happen in areas.

For example, one of the very important parts of 421-a -- and I know that Assemblymember Lopez, who's joined us here tonight and is the sponsor in the Assembly, has been a hard fighter for this -- is the importance of making sure that affordable units are built on-site, in the same buildings with the quote, unquote, market-rate apartments.

And that's important both for developing stronger, more stable communities but also because integrated communities and integrated buildings by socioeconomic status are better buildings and better communities.

And this bill we're discussing tonight would still continue to establish that that 20 percent needed to be on-site for the same types of apartments. It was also important that you couldn't have the nice apartments on certain floors for the market-rate people and then the worse apartments -- the smaller apartments, the cheaper fixtures, the thinner walls -- in the other types of apartments.

But in the chapter amendment -- and

I'm urging my colleagues to think about the bill and the chapter amendment as one -- they wouldn't have to build the same kinds of units or the same size units, they would just have to continue to have 20 percent of the floor space used for units rather than 20 percent of the units in the same building.

And so that opens up a whole new area of questions I feel we should be concerned about.

This bill also establishes several sections of the city where there are different rules. I mentioned the Atlantic Yards section. There's also a section in Queens with different rules.

This bill also extends the current rules for at least six months beyond when this law sunsets and in some cases offers exemptions to allow developers to continue under the old rules for up to 2009.

And Senator Golden, when he answered one of my questions and I asked him how much will this cost in tax exemptions compared to the old law, was perhaps right when he said perhaps less over time than the

current law, because the current law has been a failure and has been offering large sums of tax exemptions where they are least needed.

My concern with this bill and the chapter amendments is it pushes this new -- excuse me, it pushes the bad current law years into the future, leaving the City of New York knowing that they will continue under this law to have to give the wrong kinds of tax exemptions to the wrong types of development for years into the future.

I'm not going to ask my colleagues to vote no with me tonight. I know that for many of them in their communities the pieces of this bill that are good are worth it to them. And in fact my district has been, basically, already in the exclusion zone.

So when I talk here tonight and I tell you how important I think it is to get this right and that we haven't gotten this right, even though some people have been talking about this for years, I'm trying to say that, one, we could do better. We actually had better bills written. We had better bills written by Senate Republicans, by

Assembly Democrats.

And yet at the end of the day, everybody changed the deal, and we're passing a bill that isn't nearly as good for the City of New York, won't result in nearly as many new units of affordable housing over the next period of years. And that I think we were here with a test, and that I think we've flunked that test.

So I will vote no, but I'm certainly not asking anyone to vote no with me.

Thank you, Mr. President.

THE PRESIDENT: Is there any other member that wishes to speak on the bill?

The debate is closed.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Sabini, to explain his vote.

SENATOR SABINI: Thank you, Mr. President.

I just want to commend the sponsors, Senator Golden and Chairman Lopez in the other house, because this bill takes a law that was really antiquated and passed in a different time and makes it current under the current housing conditions in our city of New York.

It expands the exclusionary zone to include burgeoning neighborhoods in Western Queens of Corona, Elmhurst, Woodside, East Elmhurst and Jackson Heights, which have a housing crisis now that is forcing people out of those neighborhoods, to move to more remote parts of town where they can afford to live.

One of the best pieces of this bill no one has mentioned is it ensures that residents of a community board will have priority for the rental of at least 50 percent of the affordable housing units in that area, so people will be able to stay in the neighborhoods that they're accustomed to live in or grew up in. So I want to thank the sponsors for all that.

I am concerned about the housing trust fund that the mayor has put forward,

that this may not be used in the exclusionary zones. But the City Council can amend Local Law 58 as a result of this bill and perhaps will do so and make the bill even better.

I vote aye.

THE PRESIDENT: Senator Sabini will be recorded in the affirmative.

Senator Stavisky, to explain her vote.

SENATOR STAVISKY: I want to echo what Senator Sabini just said, because areas of Queens, particularly the areas of Flushing, are included in this exclusionary zoning area.

And the fact that they recognize the importance of the local neighborhoods. The community board is so important, particularly in a burgeoning community such as Flushing where there's been so much construction but it hasn't been affordable. We're delighted with the development, but people have to have a place to live.

And I'm hopeful that in this area that is included in the exclusionary zoning area that we will have, for once, some affordable housing where people can

participate in neighborhood activities and continue to make New York City such a wonderful place to live.

I vote aye.

THE PRESIDENT: Senator Stavisky votes aye.

Senator Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I very much appreciate the debate we just had. And I would like to thank the sponsor and also thank Senator Krueger for drawing out a critical issue.

It is now in the record that, while the language of the bill is vague, the sponsor has indicated that co-ops and condos have to provide for affordability. That is a critical, critical factor for me in my district, and the language of the bill frankly was not that clear. I'm glad we've gotten that clear.

This does protect a substantial part of upper Manhattan. It expands the exclusionary zone in a way that will benefit

many, many of my constituents. I share the concerns about the trust fund. I am concerned about some of the special provisions in here for some areas of New York. But as far as my district is concerned, this is a good deal. I will be voting yes.

THE PRESIDENT: Senator Schneiderman will be recorded in the affirmative on Calendar Number 2099.

Senator Connor, to explain his vote.

SENATOR CONNOR: Thank you, Mr. President.

I know -- and I congratulate the sponsors. I know it's been a difficult process. It's gone on for many, many months. There are contentious features, there have been hearings, there have been many drafts of bills.

I'm sure, like any other bill, it's not a perfect bill. I have voted on hundreds of bills this week, and I didn't see a perfect bill. I saw a lot of good bills.

And this is a good bill because it does update the 421-a program. It expands the

exclusionary zone into areas in my district, the rest of my district in Manhattan and into Brooklyn that are under enormous pressure for development now. The market's hot.

Affordability, under the old law, was being sacrificed, frankly, because the certificates were going somewhere else and people in places like the Lower East Side or in downtown Brooklyn weren't able to remain in the neighborhood. It wasn't affordable.

I think another great feature, a great feature of this is the prevailing wage provision that's provided for the building service workers and so on in larger buildings. I think that's fair and appropriate and it's something we ought to do and we're doing.

And I think I know, I appreciate some of the concern expressed by Senator Krueger or Senator Schneiderman about some of the personal features. But, you know, in crafting a bill like this you have to look at certain realities. There are certain things that are underway, there are certain things have been done in reliance by people, and you have to try and carefully craft the zone to

take account of those things.

Because while you want to take some of the golden eggs and apply them to affordability, you don't want to kill the goose that's the real estate market.

So I'm voting aye, Mr. President.

THE PRESIDENT: Senator Connor will be recorded in the affirmative on Calendar Number 2099.

Senator Adams, to explain his vote.

SENATOR ADAMS: Thank you, Mr. President. I also will vote in favor of this because of the many issues in the bill.

But I want to thank Senator Krueger for her explanation.

And, you know, I think that after six months of being here, and I believe we have been patient listening to each other -- and because at the end of the day we should not raise to the level of being disrespectful to each other. Because these are real issues. Some of the issues that you raise are important.

And I think that when we start waving flags, when we start being

discourteous, when we start being disrespectful, then we get into a spiraling course where no one can articulate their issues. You are here to represent your constituents and the concerns of your constituents. And if we start disrespecting each other, that we don't allow us to articulate those issues that are important to our constituents, we will never get things done.

I respect your concerns. And although I'm voting for this bill, I think you raised some important issues and I hope we all begin the process of respecting each other first and not to the point of being discourteous and disrespectful. Nothing is funny about being disrespectful.

I vote aye.

(Scattered applause.)

THE PRESIDENT: Senator Adams will be recorded in the affirmative on Calendar Number 2099.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 2099 are

Senators L. Krueger and Padavan.

Absent from voting: Senator C. Kruger.

Ayes, 59. Nays, 2.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 2103, by the Senate Committee on Rules, Senate Print 6308, an act establishing the Commission on Health Care Facilities.

SENATOR KLEIN: Explanation, please.

THE PRESIDENT: Senator Hannon, an explanation has been requested by Senator Klein.

SENATOR HANNON: This is a bill that fulfills a provision in the budget that we passed where we had PTAC'd these specific monies. In other words, pursuant to a chapter, it appropriates money to additionally implement the recommendations of the Berger Commission, in this regard for workers who are displaced by recommendations of that committee.

THE PRESIDENT: Senator Klein.

SENATOR KLEIN: Would the sponsor yield for a couple of questions.

THE PRESIDENT: Senator Hannon, will you yield for a question from Senator Klein?

SENATOR HANNON: Mr. President, I'll yield to a question at a time.

SENATOR KLEIN: Through you, Mr. President.

I notice in the legislation there's a half a million dollars that's allocated to both the Senate and the Assembly. Is that only for the two respective majorities?

SENATOR HANNON: It talks about a memorandum of understanding between the Temporary President of Senate and the Speaker of the Assembly.

SENATOR KLEIN: Again through you, Mr. President, would the sponsor yield for a question.

THE PRESIDENT: Does the sponsor yield for another question?

SENATOR HANNON: Yes.

THE PRESIDENT: Senator Klein.

SENATOR KLEIN: You know, I

notice here that one of the qualifications here in sort of finding a way to place these workers is a proven track record of competence in providing job training.

Would you be able to tell me offhand who would be able to fill that bill and be able to train these displaced workers?

SENATOR HANNON: I would presume there is any number of groups that are qualified for that. But it would have to be people who would meet these standards. At the moment I don't have specifics on that.

SENATOR KLEIN: Thank you. Thank you, Mr. Hannon.

On the bill, Mr. President.

THE PRESIDENT: Senator Klein, on the bill.

SENATOR KLEIN: It's rather disheartening that our last sort of half hour, hour of session we're doing a piece of legislation that is acknowledging that the Berger Commission was correct. Here we are doing an employee displacement mitigation program, finding ways to get jobs for workers when we close their hospitals.

It was only last week where we debated, I believe, how Berger was incorrect in closing some of our hospitals. I know we passed legislation in this house that Mr. Farley sponsored keeping Bellevue open, a very laudable cause.

We debated a hostile amendment by my colleague Senator Andrea Stewart-Cousins to keep her hospital, Dobbs Ferry Hospital, open in her district. I know at the time I also mentioned my hospital in the Bronx, Westchester Square.

I think it's worth repeating -- and I think in some cases, to some of you, I'm preaching to the choir -- the findings of Berger were misguided.

If we look at the different hospitals that I talked about, what we did was we closed hospitals that were really low-Medicaid -- in other words, they weren't costing the state a lot of money in Medicaid, because they had a very low Medicaid population -- and they were also hospitals that were running in the black. Which means they were not a burden on the state again.

That seems to be the pattern that I see. And here we are not passing a piece of legislation that I believe will enable the Health Department to keep some of our hospitals open.

I know after we had our long debate last week, my colleague Senator Hannon introduced a piece of legislation very similar to the amendment I attempted to pass last week which I believe would have given the Health Department a lot of discretion in keeping a lot of these hospitals open. In other words, it would give a hospital that was on the Berger list to be closed, the ability to restate their case.

And I think that's a good thing, because I think what we've seen as far as a discrepancy as part of some of the regional recommendations, these hearings that took place around the state of New York that made certain recommendations, that kept some hospitals open, some hospitals would close, really ignoring local community input.

Under Senator Hannon's bill, it would give those individuals the ability to

kind of sort of revisit those recommendations. That's the kind of legislation I think we should be passing now, not a piece of legislation where we're acknowledging that all these hospitals are closing and we're going to leave it up to the two respective majorities to divvy out a pot of money to where these workers will work.

I think that's important. We want to make sure these healthcare workers land safely. But to turn around now and pass this legislation and totally ignore what we can do, I believe, to effectively save our hospitals I think is bad government.

I vote no, Mr. President.

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

Hearing none, the debate is closed.

The Secretary will read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Hannon, to explain his vote.

SENATOR HANNON: Yes, Mr. President, I just want to point out we are dealing with this not because of the other discussions taking place and continuing to take place in regard to Berger but because we had put language in the budget and said that we would have a chapter later. And that's simply what we're doing now.

THE PRESIDENT: Senator Hannon will be recorded in the affirmative on Calendar Number 2103.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 2103 are Senators Adams and Klein. Also Senator Stewart-Cousins. Also Senator L. Krueger. Also Senator Sabini.

Absent from voting: Senator C. Kruger.

Ayes, 56. Nays, 5.

THE PRESIDENT: The bill is passed.

We now move to Calendar Number 1319. This is the last bill.

SENATOR BRUNO: Thank you, Mr. President, for anticipating that request. Thank you.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1319, Senator Griffo moves to discharge, from the Committee on Rules, Assembly Bill Number 5804 and substitute it for the identical Senate Bill Number 4801, Third Reading Calendar 1319.

THE PRESIDENT: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1319, by Member of the Assembly Lifton, Assembly Print Number 5804, an act to amend the Election Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Announce the results.

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

The chair recognizes Senator Smith.

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

And first, Mr. President, let me thank you for presiding over the first portion of this session that we are ending tonight. You have presided on the floor with the adroit ability that you always have. Your intellect, your ability to reason and recall continues to amaze many of us. And I want to congratulate you on your first session where you have presided over the Senate.

(Extended applause.)

THE PRESIDENT: The statements are not germane and are ruled out of order.

(Laughter.)

SENATOR SMITH: Let me also thank Senator Bruno, who in his consistent wisdom has done what he could and done all that he

could to move us to deal with the issues at hand as it relates to the people of this state.

The Governor and his ability to move some agenda items which we did earlier in the year -- those of which, many of us know, some of which took close to 12 to 14 years. Workmen's comp was a big important issue for us, civil confinement, the anti-human trafficking, all of which were successes early on in our year, all of which were very important issues to us, all of which got done because of the time and effort that we all put in.

I do want to thank my floor manager, Senator Tom Duane, for all that you've done this session. You've managed the floor very well. I know Senator Bruno at times felt as though there was need for intervention. But Senator Duane, as he always does, does very well.

My deputy, Senator Jeff Klein, for his guidance and wisdom, his quiet counsel of myself at times on various issues.

Our floor whips, Senator Kevin

Parker, Senator Toby Stavisky. They have always ran into the office: Which way are we voting, how do we corral the members? They did a great job, sweating most of the time. I think they lost a little bit of weight running back and forth between, but they've done a great job also.

To our floor counsel, Chrissy Dickinson, who I'm not sure how you managed to keep us all together, but she did a wonderful job.

To my general counsel, Shelley Mayer, who I know many of you saw her bouncing around like a little bullet. She moves around very quickly. Always very worried, always very concerned, but concerned about the people's business at hand.

To my chief of staff, Mortimer Lawrence, and my friend, Mortimer Lawrence.

And to all of my staff members who have taken the time to do so much, I want to thank all of you. I know many of you have families, and we put some long hours in this year. A lot of your families questioned why you were there, how much time are you going to

give back to us.

And I know we demanded, the members demanded, I demanded much of you. We want you to know that it did not go unnoticed. It doesn't mean you're getting raises, but it did not go unnoticed. You did very well, and we appreciate all that you did.

This was a unique session for us. Many of the members -- Senator Sabini; Senator Ruth Hassell-Thompson; Senator Gonzalez, Senator Stachowski, our finance chair; Senator Valesky; Senator Parker; Senator Breslin; Senator Savino; Senator Adams; Senator Schneiderman -- many of them were involved with the six-way meetings with the Governor, Senator Bruno, Speaker Silver, myself, and Assemblyman Tedisco.

Many of them put a lot of hours in, a lot of effort in, took the time to become expert on issues. The people of this state are thankful to each and every one of you. I am thankful to each and every one of you. You have allowed this conference, the Democratic conference, to show the leadership and the ability that it has to manage and run this

state, which we will do and we plan to do and we will do it very well. You have made people very proud of all that you have done.

I seen some unique things happen. I saw Senator Johnson introduce a divestment bill. I saw Senator Klein add to that idea. I saw Senator Bonacic put the bill on the floor today. I saw it be passed today. Which is a shining example of what happens when we work together, what happens when we confine ourselves to doing what we was elected to do, and that was to handle the people's business.

Staff for the Majority, appreciate all that you have done as well. While at times we are on different sides of the aisle, the bottom line is we are all focused on the same thing, and that is to get the job done for the people of this state so that they know that they can raise their families here, they can have their children go to school, they can be safe, and that you can continue to get your paycheck as well.

You've done a great job as well; I know Senator Bruno will also thank you.

We have some very interesting

initiatives that we took up this year -- foreclosure crisis, subprime lending. Senators Klein, Krueger, Connor, Sampson pushed the issue very hard. Green Apple Initiative. Brownfields. Senator Breslin, Senator Johnson, Thompson, Perkins, Schneiderman. Members working very hard. Reproductive choice: Stewart-Cousins, Diane Savino. Our suburban caucus. Our suburban caucus: Senator Valesky, Senator Craig Johnson, Senator Suzi Oppenheimer, Senator Klein, who I'm still wondering how much suburban he is.

But we've done some very unique things this year. We also had some tough times. Recently on this floor we had to talk about Trooper Brinkerhoff. We had to talk about his family and what it meant to each and every one of us, what it meant to this particular body of Senators, of members, who had to explain to the people of this state that we are here to protect them and to serve them.

We have a tremendous amount of unfinished business that we need to handle

still, Mr. President. We have economic development issues that we have to deal with, tax relief issues, campaign finance issues, paid family leave issues we have not gotten to, Article X siting, healthy schools, judicial pay raise.

There are a number of issues that we still have to deal with, and that is why many of you heard me call for us to stay here and continue our work.

However, I will say to Senator Bruno, I thank you at least for accepting my recommendation and moving beyond 5 o'clock. We are now at 9:30. And at the rate we're going, perhaps we'll be here tomorrow. And I know many of you don't mind being here tomorrow. It's good to take care of our business. My conference, our members are ready to continue to work.

But I do know there comes a time when we have to move on. But however, I am looking forward to us returning. I don't consider this the end of session. I had some decent conversations with Senator Bruno, with the Governor, with the Speaker, and we've all

agreed that it is time for us to continue our work.

So we will pause. We will pause for a moment, we will collect our thoughts, we will take a breather and begin to continue the dialogue. I do hope that when we come back on the 16th or the 23rd, at the call of the Majority Leader, that we will have taken the time to evaluate all the issues that are laid out before us and things that we still have to do.

Our conference has made a commitment to what we consider a nine-to-five agenda. That is, making sure all the people that play by the rules, those that work very hard, have somebody who is prepared to speak up for them. Those who will go to that gas station and say $4 for a gallon of gas is just much too much, we want to stand up for them.

Those who say I can't afford to live in this state anymore because either I'm being taxed out or the fact that I can't afford a home -- we want to talk them as well.

Those that say I can't send my child to a particular public school and get a

decent education, we want to speak up for them. We want to make sure that they know we understand their message, we received their message, and we are going to take care of their business when we come back.

We are not finished. We are not finished. Yes, we've gotten a few things done, but there is a lot more we still have to do. The staff on both sides, those of you in the audience that have advocated for different issues, please do not leave these chambers today with a sense of unaccomplishment, with a sense that we have not done all the business you have asked us to do, because we will be back. We will do more. We will get more done. We will be back with the same commitment that we had before we got here in January.

In closing, let me just say to my friend, to my Senate mentor -- and I say this publicly to many of you who do not understand the relationship that this young man and I have, Senator Bruno. He has been a friend to me, he has been a guiding light to me. He has educated me from time to time on certain

issues. He has even told me from time to time whether or not I should listen to Dean Skelos.

(Laughter.)

SENATOR SMITH: However -- careful. Careful.

However, I say this with all due respect to all of you here, I understand, Senator Bruno, what this institution, the Senate, means to you. I understand that your soul is a part of this institution. And we are looking forward to being your partner and making sure that the people of this state remember and understand the significance of this institution.

This is one of the greatest bodies in this country. People around the country talk about the New York State Senate and how much esteem comes out of each and every one of our members. And I want to thank you for the aura that you have placed over this body. It is clear that it resonates not only through the state of New York but throughout this country.

And I want each and every one of you to know that as I travel the state,

whether we are on this side of the aisle or on that side of the aisle, what is most important to me is that people recognize that when a member of this body speaks, we are speaking on behalf of the people of this state. The 19 million people need to know, irrespective of what we do in this chamber, that we have their best interests at heart.

And that is why I want to thank you each for your cooperation during my first session as Minority leader. Don't know how long that will last. (Pause.) However, I want to thank each and every one of you for your friendship, for your counsel, for all that you've helped me with.

To my members, to my family, to our team, I want to thank you as well. We've had our moments, our growing pains. But I think all in all this has been a tremendous session. We've moved some things. We've got more to do. And I look forward, Mr. President, coming back in a short period of time, when we can continue the business of the state.

To the Governor, who I know will be listening, I thank you for all that you have

done this session. We look forward to working with you.

We have much more to do. We have not completed our calendar. We have not completed what we need to do for the people of this state to let them know we are open for business and that this is a place where you raise your family. But we will be back.

Thank you very much.

THE PRESIDENT: Thank you very much for those remarks, Senator Smith, and thank you for your service to the New York State Senate as Minority leader.

Now, for closing remarks, the Majority Leader of the Senate, serving his 13th year, Senator Joseph Bruno.

SENATOR BRUNO: Thank you, Mr. President, Senator Smith, colleagues.

Senator Smith, in his diligence, was insisting that we work through tomorrow. And I really thought he was going to talk us through to tomorrow.

(Laughter.)

SENATOR BRUNO: But thank you for your kind observations, your great words. I

am proud of you that you are such a quick study.

And my conference was murmuring when you were being so complimentary to me -- I got to tell you, it jeopardizes my leadership.

(Laughter.)

SENATOR BRUNO: But what you don't know is that Senator Smith spends a lot of time in my district, in the great county of Rensselaer. He is one of the locals now. And I'm always happy to know that we are comfortable, we are compatible, we are neighbors.

And so I thank him for his friendship and for the good job that he does as the Minority leader. He is extremely representative.

And when you question how long you'll hold the job, if we can help it, it will be forever.

(Laughter.)

SENATOR BRUNO: But, Mr. President, thank you. We've always enjoyed a great, great relationship, you as

leader here on the floor and now in your present position. Thank you for the good work that you do, and your diligence.

And I want to say thank you to so many people, we could literally be here through the night saying thank you. You look around the room, the people that contribute to all the good things that happen here on behalf of our constituency. It happens because of the hard work, the commitment of the people that are here.

I want to especially thank the Deputy Majority Leader, our floor leader here, Senator Skelos, who is here constantly and continually making things happen.

And, Dean, thank you for doing such an outstanding job and putting up with the likes of some of what we have to put up with generally.

Now, that was supposed to be funny, but you didn't hear me. And I was thinking of Tom Duane.

(Laughter.)

SENATOR BRUNO: And Tommy, Senator Libous, and Senator Trunzo, who are

all part of leadership, Senator Volker, Senator Padavan. Who else? All of the people that I see here. And I could mention each and every one of them by name.

Senator Johnson, our chair of Finance, who has committed a large portion of his life to doing the good work of his district and the people of this state.

And, Owen, thank you for friendship and for all the good things that you do.

And to all of the Senators, all the people that are in our conference, those of you here who really spend so much time, so much energy, so much that goes on in your lives, taking time away from your family to do the kinds of things that you do. And you do it just because you're committed to being in public service. So thank you, thanks for the support you give me as a partner.

And to all of our colleagues here, really on both sides of the aisle, when we are legislating, we differ, we debate, we come in different places sometimes. But you say it right when you say that we are in public service, and that means to all of the people

of this state.

And all of us want the very best things that we can enjoy for our mutual constituency. And people don't care whether they're Republican or Democrat or whatever party; what they want in this state from us is a quality of life. They want results.

And, you know, all of us together we started this session. And, Senator Smith, you recited a lot of what we did and you recited a lot of what we didn't do. And you recited it extremely well. And I'm not going to repeat it.

But if you think about the way we started this session, we really had momentum. We were doing so many great things on behalf of the people of this state. And you said it, with budget reform that we had worked on in this house for 12 years, with civil confinement that we had worked on for 10 years. Ethics and lobby reform that we did in this house four or five years ago, something very, very similarly. Workers' comp, from the time we did the first bill, we tried to upgrade it and couldn't.

We got all that done. We got it done within the first five or six weeks. So there was great, great promise here for all the good things. And how did we do those? We did them as partners, here in this chamber, with the Assembly, and with the Governor providing leadership and direction.

Now, you know, it's sad, but we are ending the regular session tonight. It's June 21st. And it's kind of sad that when Senator Smith recited a litany of good work on behalf of the people of this state, those things are not being done. They're not being done. Why aren't they being done?

We passed in this house almost everything that you mentioned -- from DNA to protect the innocent and to punish the guilty, the whole tax cut package to relieve people of the heavy burden that they bear in this state. Tax rebates for seniors that we deprived in the regular budget, $200 million worth. And that's for lower-income seniors. Jobs, economic development, capital to fund. Death penalty for killing a peace officer. I mean, they're fair game, it seems, in this state.

Why aren't we doing those things? Why? We did them in this house. Why didn't they make it through the Assembly? Where was the leadership of the Governor in these last few weeks and last month?

We are where we are here tonight, and there's very, very important things for the people of this state that aren't getting done because this Governor obsessed about campaign finance reform.

And what does that mean? What does that mean to people who are struggling to keep a child in college, praying that their children can find a job here when they finish their education, praying that they won't move to Carolina or Texas or Florida or California.

Seniors who have to go into assisted living, nursing homes, because they can't stay in their homes because we are, by far, the highest-taxed people in properties in the whole United States. And we still, per capita, are the highest-taxed in the United States.

Why can't we get that kind of relief? Why can't we? Because our Governor,

who is our leader here, our partner, who started this session with the momentum, doing a budget that returned a billion, 300 million dollars to the property taxpayers, set a record for education -- a billion-eight, a record, 21-plus-billion going into education. We fixed healthcare here in this house. We did a lot of these things.

Now, I don't take any pleasure in standing here with my colleagues saying that we have left a lot of the people's business undone. And Senator Smith, you are right. You recited many, many of the things -- and I have two pages worth that I'm not going to review.

But let me just share with you, we're still here, we're elected to serve through December 31st of '08. And we shall return. Senator Smith wanted to stay through the night and through tomorrow. How are you fixed for Monday? You all right? Okay, good. We will have to return, because we do have all of this unfinished business.

Now, what I'm saying really is intended to engage this Governor in a positive

way, not a negative way, to engage this Governor in what is really important on behalf of the people of this state.

And if you ask people about priorities -- do I want to be protected, do I want to be able to support my family, can I pay my taxes, can I pay my tuition -- that's what the people want from us. They want help.

And you go ask anybody out on the street, Do you know what the finance laws, the campaign finance laws are? When you get up in the morning, do you wonder if your Senator is going to pass a campaign finance reform bill? Is that how people go to sleep at night in this state and wake up in the morning? I don't think so.

Now, why can't a bright, articulate, intelligent chief executive understand that? I talked with him I don't know how many times today, talked with him this morning, talked with him yesterday, talked with him Monday. And each conversation almost began and ended with: You have to do campaign finance reform or nothing else happens. We don't fund jobs, we don't fund a

lot of the things that need to be funded, we don't do that.

And I said, We will try, but I don't believe we can get there. We couldn't get there in five months. How are we going to get there in a few hours or a few days?

Now, I'm sharing this with you because, Senator Smith, you were relating things we haven't done. And I am sharing with you that we've done them, most of them have been done in this house. And why aren't they done on behalf of the people of this state? Because people are preoccupied with one issue, campaign finance reform.

Now, I'm not going to go on and on and on. But what I have said is that is an issue that we will debate in any forum, any place, with this Governor at any time. Because we feel that freedom of expression and the freedom of speech is guaranteed by our Constitution, and that means that people can step up and support whomever they want as long as they do it in an accountable way with transparency.

That's what America is all about,

is freedom of expression. You ought to be able to support people you want to, work against and financially support people that you don't want to see, their opponents. That's what it's all about.

So we are going to return. We're going to try and do the congestion pricing for the city. We're going to try and get that done. Why? Because it's the right thing to do. Now, how do you do it? It's very troublesome, it's very difficult, like a lot of good things.

But I have to applaud this Mayor for his vision, for his creativity, for his leadership, for stepping up. And we do have a deadline that the feds, the Undersecretary of Transportation confirmed, of July 16th. This is a billion-one, billion-two. Five hundred million potentially can go to New York City if we do it right. And they're very interested in making that happen.

So I share these thoughts with you. And I have the privilege of having the last word. And I know there's some people there just dying to get up and answer me. But

please save it. Okay? And remember it. Make some notes. And we will have an opportunity to continue our discussion and our relationship.

I want to thank Mike Avella, our chief counsel; Jeff Lovell, our budget analyst; Steve Boggess, our Secretary to the Senate, everybody that has been involved. John McArdle, our director of communications.

And you know, when you look around, you start thanking people, you can go on indefinitely, but I thank you all. Because without you being here, many times days, nights, weekends, we just don't function. So I really, sincerely thank you.

Amy Leitch in my office, my executive assistant, and Smitty, who assists her. They're just here and they're just working and they just do whatever it takes. And everyone else that is here. And I just thank you for from the bottom of my heart.

And when Senator Smith talks about this being part of my life, you are right. What happens here in the Senate on behalf of the people -- and I understand the dynamic of

partnering. Believe me, I've committed -- this is the 31st year of my life, my adult life with many of you here and many of you that weren't here when we started.

And I thank you. I thank you for being adversarial, I thank you for being productive, I thank you for being constructive. And I especially, especially thank my conference for bearing with me through trials and tribulations and being there and being supportive, and this great team that we have here and many others that can't be here.

Present intent will be to get back here sometime in July, to hopefully negotiate some of the things that are undone, and come back in a productive, constructive way. Partnering with the Governor, respecting his leadership, respecting our relationship here, and the Assembly, and recognizing that together we get a lot of great things done and apart we just don't make it happen.

So looking forward and looking upward and looking onward. I want you to be safe through this weekend until we get back

together. And we'll have good thoughts for each other, everybody.

And I am being reminded, by way of I may talk us past midnight -- but I will try not to -- and would ask that we recommit any of the bills that are outstanding and on the calendar to Rules.

And will suggest that there being no further business to come before the Senate, that we stand adjourned, subject to the call of the Majority Leader, and intervening days to be legislative days.

Thank you all, and God bless you.

(Extended applause.)

THE PRESIDENT: All outstanding bill are recommitted to the Rules Committee.

The Senate is adjourned subject to the call of the Majority Leader, all intervening days to be legislative.

Senate adjourned.

(Whereupon, at 10:01 p.m., the Senate adjourned.)