NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

July 26, 2007

3:19 p.m.

REGULAR SESSION

SENATOR JOSEPH E. ROBACH, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT ROBACH: The Senate will come to order.

I ask everyone present to rise and join me in the Pledge of Allegiance.

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

ACTING PRESIDENT ROBACH: In the absence of clergy, we will bow our heads in a moment of silence.

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

ACTING PRESIDENT ROBACH: Reading of the Journal.

THE SECRETARY: In Senate, Wednesday, July 25, the Senate met pursuant to adjournment. The Journal of Tuesday, July 24, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Skelos.

SENATOR SKELOS: Mr. President, I move that we adopt the Resolution Calendar in its entirety.

ACTING PRESIDENT ROBACH: All in favor of adopting the Resolution Calendar signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: The Resolution Calendar is adopted.

Senator Skelos.

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

ACTING PRESIDENT ROBACH: There will be an immediate meeting of the Rules

Committee in the Majority Conference Room.

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:21 p.m.)

(Whereupon, the Senate reconvened at 3:28 p.m.)

ACTING PRESIDENT ROBACH: Senator Skelos.

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

ACTING PRESIDENT ROBACH: Reports of standing committees.

The Secretary will read.

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

Senate Print 6432, by the Senate Committee on Rules, an act establishing;

And Senate Print 6435, by Senator Griffo, an act to amend Chapter 181 of the Laws of 2005.

Both bills ordered direct to third reading.

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

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

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Any opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: The report is accepted.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT ROBACH: Senator Skelos.

SENATOR SKELOS: If we could now take up the Rules report noncontroversial, beginning with Calendar Number 2149.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 2149, Senator Griffo moves to discharge, from the Committee on Rules, Assembly Bill Number 9363 and substitute it for the identical Senate Bill Number 6435,

Third Reading Calendar 2149.

ACTING PRESIDENT ROBACH: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2149, by Member of the Assembly Carrozza, Assembly Print Number 9363, an act to amend Chapter 181 of the Laws of 2005 amending the Election Law and the State Finance Law.

ACTING PRESIDENT ROBACH: Senator Skelos.

SENATOR SKELOS: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT ROBACH: There is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT ROBACH: All in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Those opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: The message is accepted.

Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT ROBACH: The bill is passed.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT ROBACH: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could take up Calendar Number 2148, noncontroversial.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Calendar Number 2148, by the Senate Committee on Rules, Senate Print 6432, an act establishing the New York City Traffic Congestion Mitigation Commission.

ACTING PRESIDENT ROBACH: Read the last section.

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

SENATOR DIAZ: Lay it aside.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

SENATOR SKELOS: Mr. President, I believe Senator Diaz laid the bill aside.

So if we could now take it up on the controversial calendar.

ACTING PRESIDENT ROBACH: The Secretary will ring the bell.

THE SECRETARY: Calendar Number 2148, by the Senate Committee on Rules, Senate Print 6432, an act establishing the New York City Traffic Congestion Mitigation Commission.

ACTING PRESIDENT ROBACH: Senator Diaz.

SENATOR DIAZ: Thank you.

Mr. President, the bill is introduced by the Committee on Rules. Is any one of the sponsor -- who is the sponsor of the bill? The Committee on Rules. Who will answer my questions?

Mr. President, would the sponsor yield for a question?

ACTING PRESIDENT ROBACH: Senator

Padavan will be answering questions on the bill.

SENATOR DIAZ: Thank you.

Senator Padavan, this commission that is composed of 17 members that we're about to vote, are you aware of the statement made by Deputy Mayor Dan Doctoroff who says that no matter what, they already got the votes?

SENATOR PADAVAN: No, I'm not aware of any statement from Dr. Doctoroff.

I do know what's in the bill. If you want to ask me about that, I'd be happy to respond.

SENATOR DIAZ: So according to Dr. Doctoroff, they already have the votes. If the mayor has three votes which happens to be in favor of the plan, Christine Quinn of the City Council has three votes who happen to be in favor of the plan --

SENATOR PADAVAN: Is that a question?

SENATOR DIAZ: I'm going to get to my question if you give me an opportunity.

SENATOR PADAVAN: All right, go

ahead.

SENATOR DIAZ: Relax. Relax.

SENATOR PADAVAN: I'm very relaxed.

SENATOR DIAZ: No, you know, you --

SENATOR PADAVAN: I'm relaxed as can be.

ACTING PRESIDENT ROBACH: Senator Diaz, if you could direct your questions through the chair.

SENATOR DIAZ: Mr. President, okay. If the mayor of the City of New York has three votes on the commission who happens to be in favor of the plan, if Senator Bruno, leader of the Senate, has three votes who happens to be in favor of the plan, and if the Governor has three votes who happens to be in favor of the plan, and Christine Quinn, the City Council president of the City of New York, has three votes who happens to be in favor of the vote, would the sponsor please answer me how -- if there will be any chance of whatever the commission decides could -- who is going to -- how are we going to have

votes enough to vote against the commission findings if they already have the votes?

SENATOR PADAVAN: All right, Senator. First, your supposition that all these 17 members as you tick them off -- and you're right in terms of the configuration of the commission -- would be in favor of any given plan I think is somewhat argumentative in terms of our knowing. We don't know.

However, there are a number of timelines here. First, we don't know what the plan is that the commission is going to consider or what it might come up with. That's open-ended in terms of what they decide as a group would be the best approach to dealing with the myriad issues of congestion in the City of New York.

Now, after they do that, come up with a plan -- and that must be done by January 31st of 2008 -- the City Council must vote as a body and provide a home rule message. So there's your first vote of 15 members of that body deciding as to whether or not whatever this plan may be is desirable to the City of New York.

Should they come up with a vote in favor of it, it would then come to us. And then by March 31st of 2008 this body and the Assembly would have to approve it as well.

So there are two legislative bodies who would have to vote in the affirmative, two separate occasions before anything would become a reality.

I might also add, parenthetically, that if the money that is presumed to be available from the federal government is not forthcoming at any time during that process, then the entire matter becomes moot. It evaporates.

Does that answer your question?

SENATOR DIAZ: Mr. President, will the sponsor yield for another question.

ACTING PRESIDENT ROBACH: Senator Padavan, will you continue to yield?

SENATOR PADAVAN: Yes.

SENATOR DIAZ: Senator Padavan, according to the bill, the mayor authorized to start putting cameras, cameras in the city, in the area, spending millions of dollars installing cameras without the commission yet

having to say yes or no, whatever.

So -- so -- wait. So is the mayor going to -- if this bill authorizes the mayor to go ahead and start implementing installing cameras and spend millions and millions of dollars, what will -- what would stop -- how is the mayor going to spend so much money if he's not sure that the commission going to approve it?

SENATOR PADAVAN: Well, first place, Senator, the City of New York is installing cameras and has been for quite a while. We have red-light cameras, we have traffic-monitoring cameras, we have security cameras -- let me finish. I heard your question.

Now, before the city would be allowed to spend money in any major way on any additional program of camera installation, the City Council would have to approve that in the budget of the City of New York.

However, the bill specifically says that no actions can be taken by the city, imposing fees or anything else, until such time as that process that I explained earlier

is completed.

SENATOR DIAZ: So, Mr. President, will the sponsor yield for another question?

ACTING PRESIDENT ROBACH: Senator Padavan, will you continue to yield?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT ROBACH: Continue.

SENATOR DIAZ: Let me refer myself to the pricing, to the congestion pricing. The mayor was charging $8. Now we don't know how much we're going to charge. But the money that's supposed to come from Washington is based on congestion pricing.

SENATOR PADAVAN: The decision-making process in Washington obviously is not something that we can categorize in any definitive way. The action of this legislative body, approved by the governor -- which I presume would happen -- would go to Washington.

Whatever this bill provides for, and basically it's a study commission, that's basically what this is, may or may not meet the requirements of the federal agencies,

federal DOT in terms of their allocating funds to the City of New York.

As you know, as I understand it, there are nine cities that are in competition for these funds. That decision will be entirely up to them. Which is why this bill says very specifically if no money is forthcoming from the federal government, then the bill evaporates, nothing happens. It's all moot.

SENATOR DIAZ: On the bill, Mr. President.

ACTING PRESIDENT ROBACH: On the bill.

SENATOR DIAZ: Two weeks ago we came here, we were supposed to vote on the mayor's congestion pricing plan. That didn't happen. And I opposed it at that time saying that every time that need money, they always use the pain and suffering of blacks and Hispanic to get what they need. Once they get what they need, the black and Hispanic community never sees anything.

It happens in education. Every time that they need money for education, they

picture the black and Hispanic children and they say we have to remedy, we have to take care of education for black and Hispanics. They get the money, our community never sees, never sees the money. Our schools continue to be the worst ones, our education continues to be a shame, and teachers have to put money out of their pocket to buy material for the students.

When it comes to health, they use the pain and suffering of the Hispanic community, of the black and Hispanic community to get what they need. Once they got what they need, we never see it. Our hospitals and our services are the first one that gets cut.

So they're always using -- I don't even know why it is that our community's doing so bad when so many people are defending our community. I don't know why we're doing so bad because we have so many people that defend us. Oh, we got to do for the poor. Oh, we got to do for the black. Oh, we have to do for the Hispanic. And we -- and every day we are doing worse and worse.

Now, now, the savior -- no, the

saviors of our community, now they want to implement a plan where they going to take care of the people in the South Bronx that are dying from asthma and that are having the worst respiratory illness in the nation.

So now, everybody, they want to protect us. So how they going to do it by protecting us? They going to stop people from going to Manhattan, 86th Street, where the mayor, the billionaire mayor of the City of New York and all the rich people live. So they're going to take care of that area by taking care of that area and getting a nice good area for people that already have the best transportation system in the state and the richest people in the state.

By doing that they think, they think that the asthma rate in the Bronx in Queens and in Brooklyn will drop. They think, they hope, they believe that by doing that and taking care of the rich people in Manhattan, ho, ho, they are doing us a favor.

Please, be serious about it. Stop using us, stop using us, our suffering, our pain for your own benefit. No one can assure

us that this plan will in fact decrease the asthma rate in the Bronx. No one could assure -- and now they're forming a commission, they're forming a commission with 17 votes, 17 votes, 17 members -- three by the governor, three by the mayor, three by Christine Quinn, the City Council president, and three by Joseph Bruno. Three, three, three, three. Three times four is what, 12? Twelve out of 17 is a majority.

So they don't need anything else. They just need Christine Quinn, the mayor, Bruno, and the governor to appoint people that will vote for whatever plan the mayor submits. Whatever plan the mayor submits.

And then after we go with this mockery of appointing a commission that we already know how they're going to vote -- it's a mockery. It's a farce. It's a shame. It's a slap in our faces. After we go and appoint a commission that everybody know how they're going to vote, they're going to send us what the commission votes and then the press will make fun with us: How dare you vote against something that a commission decided? How dare

you vote against something that a commission already went through a study and said okay?

Please, ladies and gentlemen. Mr. President, ladies and gentlemen, this black guy with kinky hair from Puerto Rico representing the South Bronx, people with asthma, I'm voting no. And I'm asking my fellow members to vote no and to stop this mockery, this shameful thing.

Nobody cares about Hispanics, nobody cares about blacks except us. It has been proven, no matter what we do, no matter what you say, you always make fun of us. As a matter of fact, in our chamber somebody said before, somebody said before: I will be pleased if all of you don't ever come to Manhattan.

This is a shame. This is a mockery. Don't use us, don't use our children saying that you're going to protect us. Please. I'm voting no, and I hope you vote no on this commission, on this mockery.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Senator Adams, did you want to speak?

SENATOR ADAMS: Just briefly.

I think that we saw the highest level of hypocrisy from the New York State media this week. New York State media has complained about the three men in a room concept.

I found out that a deal was cut from a cab driver. I wasn't up here when this deal was made. I wasn't part of the discussion. The New York State media commended the process that was used, the same process that they have criticized for the last 30 years of how bad three men in a room running our state government.

We weren't part of the sit-down. If I'm correct, you were all back in your district like I was when three individuals made the decision that this was going to move ahead. Yet the Daily News, the Post and everybody that criticized us and called us dysfunctional commended the process that was used.

So you saw the highest level of hypocrisy from the editorial pages that criticized the same process that was used. So

what they're saying to us, the three men in a room concept is great as long as they get what they want and not our constituents receive what they want. That's the hypocrisy that we saw.

But let me conclude with this congestion taxing. I could comfortably vote for this bill if we were not allowing the mayor to put the cameras in place.

And for someone to insult us to believe, after putting a thousand cameras around the city, that all of a sudden if this commission -- and we can ignore the commission because Doctoroff is right, they already control the votes -- that it's going to come back to the Senate.

And as I learned today -- because I'm still a rookie, Diaz -- that you can hide it into a budget bill. And even my Long Island comrades that don't want to go for this, we can find ourselves restricted and confined to vote as a block on a budget bill and still sneak it through.

Because something is strange about that March 31st date. I can't figure it out

yet, but something is telling me that there's something strange about that March 31st date.

I've never seen more three card monte shysters in my life. This is the slickest willy I've ever seen in my life. Slicksters calling themselves representatives of the people.

This bill is wrong. If we want a commission, let the commission vote, then allow the mayor to make the decision if he's going to install cameras throughout this state. Votes should not be dependent.

Let me conclude with this, what I find so fascinating. The leaders of campaign reform, that those of us are getting these nickel and dimes, are complaining, yet they write $100,000 checks to a party and get their accountant to write another $100,000 check. But they want campaign reform.

See, campaign reform means we can't go to the little guy to get our change, that they can control the process of who's going to make the contribution to push through their agenda. That's campaign reform. Multimillionaires that can finance and run

their own race and push through their agendas. After we decided not to bring it on the floor, they can come back to Albany and maybe write a bigger check and push it through.

That's the campaign reform they're looking for, prevent us -- no, not campaign public financing where we don't have to go around sitting on the phones nine hours a day begging for money. No, they don't want that. They want to cut off our right to get contributions while they can be the only one that can contribute and then control the agenda that's being sent out.

This is a wrong decision. It's a wrong decision. We didn't have a participation in it. And there's no way I can vote for this sham of a bill that permits the mayor to install cameras prior to we, as the elective body, making that decision.

I join you, Diaz, in voting no.

ACTING PRESIDENT ROBACH: Are there any other Senators wishing to be heard on the bill?

Debate is closed.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

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

SENATOR CONNOR: Thank you, Mr. President.

When we were here, what was it, a week and a half or two weeks ago, I was determined at the time to vote against the proposal that the mayor had made because there were so many unanswered questions that affected my constituents and also affected my sense that it wasn't a good plan.

For example, why should someone from New Jersey get to go to Midtown Manhattan and if they take the Outer Bridge crossing and the Verrazano they get a credit for the tolls and they go in for free? How does that make our air cleaner? We don't even get the revenue. It goes to the Port Authority or the Triborough Authority.

So I approach this bill, though, differently. This allows us all to have a say through the commission and to get all those questions answered and to continue the discussion as to how to mitigate traffic. It doesn't ordain congestion pricing. It's a study and a plan and proposal for how to mitigate traffic.

And I think I was offended by the way the mayor put forth his proposal. I had weeks and weeks and weeks of TV ads and mail coming at me and never had a bill in front of us until a week and a half before session ended. And I heard Dan Doctoroff say we have a majority of the votes on this commission.

Well, if that's how they're thinking, if they think this commission can just use their votes to ram through something like they proposed last time, then they don't understand government and politics.

Under this bill the minority leader, Senator Malcolm Smith, has one member on the commission. My advice to the mayor's people: Listen to that member. If you need our votes here at the end of the day, listen

to that member.

And if they think they can just outvote Speaker Silver's members on the commission because they have more numbers, then they don't understand government.

This commission is a place where the interested parties who were not given a seat at the table before will have a seat at the table, whether they have one member on the commission or three or three, whatever.

The City Council will have to approve this, something that hasn't happened yet, and it will come back to the Legislature.

And so I'm comfortable voting for this now because of that. Hopefully there will be a real mitigation plan. But it's simplistic to say, oh, we'll just use our weight and vote it through the commission. They'll never, ever get it through the City Council or the Legislature if that's the way they approach this whole problem.

So therefore, Mr. President, I'm voting aye.

ACTING PRESIDENT ROBACH: Thank you, Senator Connor.

Senator Perkins, to explain his vote.

SENATOR PERKINS: Thank you, Mr. President.

I'm going to vote aye. But I can appreciate the concerns of my colleagues that smell a rat, because there is a rat involved in this process. And we've had the unfortunate experience of being in the room with that individual and having had that individual make disparaging remarks publicly about this conference and about this process the last time around.

And I can appreciate the offense of --

ACTING PRESIDENT ROBACH: Excuse me, Senator.

Can we just have a little order out of respect for our colleague.

SENATOR PERKINS: And I can appreciate being offended by Dan Doctoroff asserting, with the greatest of arrogance, that they control the vote, that this is an impotent legislative body, that this is an impotent process, that it's just a window

dressing that ultimately will come out with a predetermined conclusion, a predetermined law, a predetermined plan that they have determined.

Dan Doctoroff said the same thing about the West Side Stadium. And I think Shelly Silver proved him to be a liar at that time.

And I think in fact this process that we're going through is a very, very important process. And it's a very, very important time for us as legislators to be going through that process because we do have a crisis. We do have an emergency. We do have a congestion problem in Manhattan that affects all of us, in the outer boroughs and outside of the city as well.

This is a serious problem. And much of the complaints, by the way, related to that congestion is not simply coming from the people that live in the borough of Manhattan but actually from the people who unfortunately have to suffer through traveling by vehicle, by cars into Manhattan and therefore have to be subject to that kind of congestion.

And then, of course, more importantly, we have the crisis, the health crisis, the environmental crisis that all of this congestion is creating in Manhattan that also affects our communities outside of Manhattan, especially including in the Bronx and including in the other boroughs.

So we cannot, because of the rats that are possibly involved in this process, ignore the imperative public policy initiative that we have to pursue in terms of addressing the emergency congestion and the emergency environmental issues that this commission is designed to address -- designed to address it, as I understand it, taking into consideration a lot of the concerns that members of this body and members of the Assembly and members of the community, whether it be the Harlem community or the other communities, have expressed as we were wrestling with this before.

This is what this commission is designed to try to accommodate. Whether or not it will be a hundred percent successful in that regard we won't know until we get into

the water with it and begin to look at it. But clearly it was a commission responsive to the outrage, to the concerns that were brought up from before.

This is not a plan. This is not a congestion price pricing plan. It's a congestion mitigation commission.

Now, there are those I know who are great believers in the words of people like Doctoroff and who shudder every time they make a pronouncement. I think we need to recognize that a lot of what they say is exaggerated arrogance that has time and time again been proven to be wrong.

So I think it's important that we support this. I think it's important that we engage our communities in the process. I think there are aspects of this bill that safeguard the bulldozing of this process by the mayor and Doctoroff.

I think our friends in the City Council, our friends who are legislators in the other body, share the same fears and concerns that we have about a congestion plan as it was put before us and are going to be a

part of a commission, not a plan, a commission to create a plan that is going to be responsive to the needs of our constituents.

And so I think it's very, very important that we embrace this opportunity to solve some of these emergency situations created by the congestion that also have severe environmental consequences for our constituents.

Thank you.

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

SENATOR ADAMS: I agree with my colleague; we all want to do more to clean up our environment.

And I would feel extremely comfortable voting for this bill if we didn't show a lack of financial prudence by allowing the mayor to install cameras -- up to a thousand cameras, possibly, millions of dollars -- we're allowing him to install cameras using taxpayers' money that can go into the bus services and the MTA and or forms of transportation.

He's able to install these cameras

that will serve no other purpose but if we pass a congestion pricing plan. It doesn't catch red-light speeders, it doesn't catch criminals, it only will be used for congestion pricing.

And as a person that came from a law enforcement background, understanding how these cameras are used, we are allowing him to put cameras in place with taxpayers' money prior to stating that the plan will go ahead. That shows a lack of integrity to the process when we permit this to happen, that the mayor can install cameras throughout the city prior to we saying that this is the plan we want to go with.

And that is the sole reason I'm voting no. I understand the commission. It's an important commission. I support the commission. It will give us an opportunity to look at congestion, not congestion pricing. Everything should be on the table to alleviate traffic in the entire borough. Just as people get caught on 7th Avenue in Manhattan, people are caught on Long Island Expressway, they're caught on the Gowanus Expressway, they're

caught on Staten Island.

Our whole city needs to find a way how to ease congestion, not merely congestion pricing. And the cameras is an indication that we're set in approval, and that is to say why I'm voting no.

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

SENATOR PADAVAN: Very briefly, Mr. President.

In explaining my vote I'd like to reiterate that there's absolutely nothing, nothing in this bill that encourages, authorizes, funds, does nothing in terms of the installation of cameras in the City of New York.

Cameras are used today already to control traffic by virtue of highlighting areas that have gridlock, adjusting light timing and so on. But this bill provides nothing in the way of what was already said twice in terms of a pricing plan and cameras to facilitate it.

Nothing in this bill that creates this commission mandates that that should

occur, for the record.

I vote aye.

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

SENATOR SABINI: Thank you, Mr. President.

The prior speaker is right. There's nothing in this bill that goes ahead with any cameras. The city is doing it anyway, without us. They've already ordered them through EDC, which doesn't require any City Council approval or any approval by us because it's not a mayoral agency. You can ask them. They'll tell you.

Now, if I thought this commission was actually going to come up with something that was implementable, I think it would be a great thing. I was the only New York legislator at the conference that the money that the federal government is providing for traffic mitigation around the country was announced at. I went down there in February for the conference, representing some of us in the Legislature.

And the problem here is that the

application for the federal money is in already, and it has congestion pricing in it. So this commission can discuss lots of things, but at the end of the day you're going to be told, as sure as I'm standing here, that if the federal government is approving the money -- and that's not for sure yet either -- that we have to do it in the framework of the application. The application talks about congestion pricing. And that may not be a bad thing.

But I think what this commission is is just sort of a fig leaf to get us to the next step to hope that the federal government doesn't reject the application to show that we're still sort of interested. Because we all heard about a deadline a couple of weeks ago, and we didn't meet it. I guess the deadline wasn't such a deadline. It wasn't a drop-dead date. Otherwise, we wouldn't be here.

So I'm convinced that this is just a way to get to the final means of having a congestion pricing plan -- which, again, may not be such a bad thing. But I think we're

kidding ourselves if we believe anything else will come of this. We can talk about it, we can be Pollyannish about it. But if you really think that we're going to come back and the federal government's going to say, We're going to give you $500 million if you pass the congestion pricing plan that's in your application, if you think that's not what the commission is going to approve, I've got a bridge that you'll pay $8 to go over to sell you.

Because that bridge is free right now. It was free the day Chester Arthur walked across it, and it should continue to be free for the residents of the City of New York. Or should not be subsidized by people from outside the city who currently have their tolls deducted, under this plan, from the congestion price.

That's one of my big problems with this whole thing, is people who take limited access highways into Manhattan from New Jersey, from Long Island, from Westchester will have their toll credited to this price, and yet people in the inner neighborhoods of

the outer boroughs, like I represent, who have taken the free bridges since the beginning of time, will have to pay 100 percent of this fee if it goes into effect.

So I'm a little suspicious that what we're doing here today just keeps the ball rolling for this concept. It's a concept that may or may not be a bad one, but I think it's a little disingenuous for us to be continuing this discussion in this manner by saying it's an open commission with lots of ideas.

You know, I believe the deputy mayor when he says if we get a commission we're going to get commission pricing. I'll take him at his word. That's why I'm voting no.

Thank you.

ACTING PRESIDENT ROBACH: Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President. I love you so much.

You know, I heard my colleague Bill Perkins say that he smells a rat. But he voted for it. When I smell a rat, you cannot

allow the rat to create more rats. You've got to cut it, kill it before it procreates more rats.

So I'm smelling a rat, and I'm doing this because this rat that I'm smelling is going to tax the middle class. It's going to tax the residents in my district that want to go to drive into Manhattan. And I oppose taxing. The people have been taxed too much. I oppose taxing.

And no matter what you say, this commission -- because the federal government money is based on congestion pricing. If there is no congestion pricing, there is no money. So no matter how you put it, there's going to be congestion pricing and people are going to be taxed.

And the people from the Bronx, the people from my district are going to have to pay. And we know, nobody's assured us that the asthma rate in the Bronx will decrease. Nobody assured me that the people from Westchester County won't come to the Bronx, park in the Bronx, leave their car there and take the subway to Manhattan.

So because of that, because of that big stinking smell of a rat, I'm voting no, no, no, no.

Thank you.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 2148, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 9362 and substitute it for the identical Senate Bill Number 6432, Third Reading Calendar 2148.

ACTING PRESIDENT ROBACH: Assembly bill substitution ordered.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 2148 are Senators Adams, Diaz, Dilan, Flanagan, Fuschillo, Hannon, Huntley, C. Johnson, Klein, LaValle, Maltese, Marcellino, Morahan, Parker, Sabini, Savino, Skelos, Stavisky and Stewart-Cousins.

Absent from voting: Senator C. Kruger.

Ayes, 39. Nays, 19.

ACTING PRESIDENT ROBACH: The bill is passed.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT ROBACH: Senator Skelos.

SENATOR SKELOS: Mr. President, is there any further business at the desk?

ACTING PRESIDENT ROBACH: There is none.

SENATOR SKELOS: Mr. President, Senator Bruno, in consultation with the Minority Leader, hands up committee changes and asks that they be filed in the Journal.

ACTING PRESIDENT ROBACH: So ordered.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT ROBACH: Senator Skelos.

SENATOR SKELOS: There being no further business to come before the Senate, I move we stand adjourned until the call of the Majority Leader, intervening days being legislative days.

ACTING PRESIDENT ROBACH: On motion, the Senate stands adjourned until the

call of the Majority Leader, intervening days being legislative days.

(Whereupon, at 4:17 p.m., the Senate adjourned.)