NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 24, 2008

10:12 a.m.

REGULAR SESSION

SENATOR JOSEPH A. GRIFFO, Acting 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 all present to please rise and join with 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 we all bow our heads in a moment of silent prayer.

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

ACTING PRESIDENT GRIFFO: The reading of the Journal.

THE SECRETARY: In Senate, Monday, June 23, Senate met pursuant to adjournment. The Journal of Sunday, June 22, 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.

The chair hands down a message from the Assembly, and the Secretary will read.

THE SECRETARY: The Assembly returns Senate Bill Number 5425B, Assembly Reprint Number 30000, with a message that it has concurred in the passage of the same.

Senator Padavan moved that the Senate concur in said amendments.

ACTING PRESIDENT GRIFFO: Without objection, the amendments are concurred, and the bill is before the house.

The Secretary will read.

THE SECRETARY: Calendar Number 1715, by Senator Padavan, Senate Print 5425B, Assembly Reprint 30000, 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, 46.

ACTING PRESIDENT GRIFFO: The

bill is passed.

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, if we could adopt the Resolution Calendar at this time.

ACTING PRESIDENT GRIFFO: 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 Skelos.

SENATOR SKELOS: There will be an immediate meeting of the Rules Committee in Room 124 of the Capitol.

ACTING PRESIDENT GRIFFO: There

will be an immediate meeting of the Rules Committee in Room 124 of the Capitol.

SENATOR SKELOS: And if we could stand at ease.

ACTING PRESIDENT GRIFFO: The Senate stands at ease.

(Whereupon, the Senate stood at ease at 10:16 a.m.)

(Whereupon, the Senate reconvened at 10:34 a.m.)

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator Skelos.

SENATOR SKELOS: If we could return to reports of standing committees for the report of the Rules Committee.

ACTING PRESIDENT GRIFFO: Reports of standing committees.

The Secretary will read.

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

Senate Print 2007, by Senator Volker, an act to amend the Public Service Law;

2277, by Senator Klein, an act to amend the Penal Law;

3208A, by Senator LaValle, an act to amend the General Municipal Law;

3528A, by Senator Padavan, an act to amend the Public Health Law;

4579A, by Senator Maltese, an act to amend the Vehicle and Traffic Law;

4813, by Senator Nozzolio, an act to amend the Energy Law;

4956A, by Senator Volker, an act to amend the Executive Law;

5562B, by Senator Volker, an act to amend the Education Law;

6055A, by Senator Marcellino, an act to amend the Environmental Conservation Law;

6101B, by Senator Griffo, an act to amend the Alcoholic Beverage Control Law;

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

6210A, by Senator Hannon, an act to amend the Public Health Law;

6260, by Senator Libous, an act to amend the Executive Law;

6668A, by Senator DeFrancisco, an act to amend the Environmental Conservation Law;

6682A, by Senator Young, an act to amend the Environmental Conservation Law;

6754B, by Senator Lanza, an act to amend the Judiciary Law;

6780B, by Senator Robach, an act to amend the Civil Service Law;

7112A, by Senator Valesky, an act to amend the Environmental Conservation Law;

7306, by Senator Morahan, an act to amend the Public Health Law;

7454, by Senator Volker, an act to amend the Environmental Conservation Law;

7455A, by Senator Flanagan, an act to amend the Public Authorities Law;

7460, by Senator Nozzolio, an act to amend the Executive Law;

7561A, by Senator Seward, an act to amend the Insurance Law;

7600, by Senator Bonacic, an act to amend the Executive Law;

7665, by Senator Young, an act to authorize;

7760, by Senator Farley, an act to amend the Education Law;

7908C, by Senator Young, an act to amend the Agriculture and Markets Law;

7936A, by Senator Padavan, an act to amend the Education Law;

8014, by Senator Lanza, an act to amend the Administrative Code of the City of New York;

8125D, by Senator LaValle, an act to amend Chapter 61 of the Laws of 2006;

8199A, by the Senate Committee on Rules, an act to amend the General Municipal Law;

8251, by Senator Marcellino, an act to amend the Environmental Conservation Law;

8269A, by Senator Hannon, an act to legalize, validate, ratify and confirm;

8285A, by Senator O. Johnson, an act to amend the State Finance Law;

8383, by Senator Little, an act to amend the General Municipal Law;

8429, by Senator Morahan, an act to amend the Retirement and Social Security Law;

8502, by Senator LaValle, an act

authorizing;

8512, by Senator Larkin, an act to authorize;

8532, by Senator Bruno, an act to amend the Environmental Conservation Law;

8548, by Senator Lanza, an act to amend the Real Property Tax Law;

8551A, by the Senate Committee on Rules, an act to amend the Mental Hygiene Law;

8591, by Senator LaValle, an act to amend Chapter 112 of the Laws of 2007;

8593B, by the Senate Committee on Rules, an act to amend the Insurance Law;

8612, by Senator Marcellino, an act to amend the Environmental Conservation Law;

8615, by Senator Saland, an act to amend the Penal Law;

8634, by Senator Libous, an act to amend the Environmental Conservation Law;

8658A, by Senator Little, Concurrent Resolution of the Senate and Assembly;

8661, by Senator DeFrancisco, an act to amend the Civil Practice Law and Rules;

8665, by Senator Winner, an act to

amend the Family Court Act and others.

8666, by Senator Winner, an act in relation to capital improvement projects;

8669, by Senator Farley, an act to amend the Civil Service Law;

8671, by Senator Golden, an act to amend the Education Law.

8675, by Senator Saland, an act to create;

8678, by Senator Libous, an act to amend the Vehicle and Traffic Law;

8689, by the Senate Committee on Rules, an act to amend Chapter 53 of the Laws of 2008;

8709, by the Senate Committee on Rules, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law and others;

8710, by Senator Morahan, an act to amend the Mental Hygiene Law;

And Senate Print 5254, by Senator Diaz, an act to amend the Elder Law.

All bills ordered direct to third reading.

ACTING PRESIDENT GRIFFO: Senator Skelos.

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

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

(Response of "Aye.)

ACTING PRESIDENT GRIFFO: Opposed, nay.

(No response.)

ACTING PRESIDENT GRIFFO: The Rules Committee report is accepted.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could take up Senate Supplemental Calendar 64A, noncontroversial.

ACTING PRESIDENT GRIFFO: The Secretary will read Senate Supplemental Calendar 64A.

THE SECRETARY: In relation to Calendar Number 2109, Senator Volker moves to discharge, from the Committee on Energy and Telecommunications, Assembly Bill Number 606 and substitute it for the identical Senate Bill Number 2007, Third Reading Calendar 2109.

ACTING PRESIDENT GRIFFO:

Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2109, by Member of the Assembly Cahill, Assembly Print Number 606, an act to amend the Public Service 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2110, by Senator Klein, Senate Print 2277, 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2111, by Senator LaValle, Senate Print 3208A, 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, 60. Nays, 1. Senator Perkins recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2112, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 7402B and substitute it for the identical Senate Bill Number 3528A, Third Reading Calendar 2112.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2112, by Member of the Assembly Rosenthal, Assembly Print Number 7402B, an act to amend the Public Health Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect six months after it shall have become a law.

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 2113, by Senator Maltese, Senate Print 4579A, 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2114, by Senator Nozzolio, Senate Print 4813, an act to amend the Energy 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 2115, by Senator Volker, Senate Print 4956A, 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, 59. Nays, 2. Senators DeFrancisco and Saland recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2116, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 7934B and substitute it for the identical Senate Bill Number 5562B, Third Reading Calendar 2116.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2116, by Member of the Assembly Hoyt, Assembly Print Number 7934B, 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2117, Senator Marcellino moves to discharge, from the Committee on Rules, Assembly Bill Number 9019A and substitute it for the identical Senate Bill Number 6055A, Third Reading Calendar 2117.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2117, by Member of the Assembly Sweeney, Assembly Print Number 9019A, 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, 60. Nays, 1. Senator Little recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2118, Senator Griffo moves to discharge, from the Committee on Rules, Assembly Bill Number 9055B and substitute it for the identical Senate Bill Number 6101B, Third Reading Calendar 2118.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2118, by Member of the Assembly Destito, Assembly Print Number 9055B, 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2119, by the Senate Committee on Rules, Senate Print 6172A, an act in relation to authorizing the City of Elmira, County of Chemung.

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: In relation to Calendar Number 2120, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 8730C and substitute it for the identical Senate Bill Number 6210A,

Third Reading Calendar 2120.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2120, by --

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 2121, by Senator Libous, Senate Print 6260, an act to amend the Executive Law and the Workers' Compensation Law.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: In relation to Calendar Number 2122, Senator DeFrancisco moves to discharge, from the Committee on Rules, Assembly Bill Number 9667A and substitute it for the identical Senate Bill Number 6668A, Third Reading Calendar 2122.

ACTING PRESIDENT GRIFFO:

Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2122, by Member of the Assembly Magnarelli, Assembly Print Number 9667A, 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2123, by Senator Young, Senate Print 6682A, an act to amend the Environmental Conservation Law.

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: Those recorded in the negative on Calendar Number 2123 are Senators Duane, Perkins and Serrano.

Ayes, 58. Nays, 3.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2124, by Senator Lanza, Senate Print 6754B, an act to amend the Judiciary 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: Calendar Number 2125, by Senator Robach, Senate Print 6780B, an act to amend the Civil Service 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.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2126, Senator Valesky moves to discharge, from the Committee on Rules, Assembly Bill Number 10163A and substitute it for the identical Senate Bill Number 7112A, Third Reading Calendar 2126.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2126, by Member of the Assembly Magee, Assembly Print Number 10163A, 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: Those recorded in the negative on Calendar Number 2126 are Senators Duane, Perkins and Serrano.

Ayes, 58. Nays, 3.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2127, Senator Morahan moves to discharge, from the Committee on Health, Assembly Bill Number 9915A and substitute it for the identical Senate Bill Number 7306, Third Reading Calendar 2127.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2127, by Member of the Assembly Jaffee, Assembly Print Number 9915A, an act to amend the Public Health Law and 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 2128, by Senator Volker, Senate Print 7454, an act to amend the Environmental Conservation 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2129, by Senator Flanagan, Senate Print 7455A, an act to amend the Public Authorities 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: Calendar Number 2130, by Senator Alesi, Senate Print 7560A, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 3. 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

2131, by Senator Seward, Senate Print 7561A, an act to amend the Insurance Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 8. 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 2132, by Senator Bonacic, Senate Print 7600, 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 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 2133, by Senator Young, Senate Print 7665, an act to authorize the Town of Portville.

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

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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2134, Senator Farley moves to discharge, from the Committee on Rules, Assembly Bill Number 11398 and substitute it for the identical Senate Bill Number 7760, Third Reading Calendar 2134.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

2134, by Member of the Assembly McEneny, Assembly Print Number 11398, 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 call.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2135, by Senator Young, Senate Print 7908C, an act to amend the Agriculture and Markets 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: In relation to Calendar Number 2136, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 10985A and substitute it for the identical Senate Bill Number 7936A, Third Reading Calendar 2136.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2136, by Member of the Assembly Canestrari, Assembly Print Number 10985A, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

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 2137, Senator Lanza moves to discharge, from the Committee on Rules, Assembly Bill Number 10107 and substitute it for the identical Senate Bill Number 8014, Third Reading Calendar 2137.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2137, by Member of the Assembly Abbate, Assembly Print Number 10107, an act to amend the Administrative Code of the City of New York.

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 2138, Senator LaValle moves to

discharge, from the Committee on Rules, Assembly Bill Number 11665B and substitute it for the identical Senate Bill Number 8125D, Third Reading Calendar 2138.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2138, by the Assembly Committee on Rules, Assembly Print Number 11665B, an act to amend Chapter 61 of the Laws of 2006.

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 2139, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 11110A, and substitute it

for the identical Senate Bill Number 8199A, Third Reading Calendar 2139.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2139, by Member of the Assembly Abbate, Assembly Print Number 11110A, 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 2140, by Senator Marcellino, Senate Print 8251, an act to amend the Environmental Conservation 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2141, by Senator Hannon, Senate Print 8269A, an act to legalize, validate, ratify and confirm certain 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2142, Senator O. Johnson moves to discharge, from the Committee on Rules,

Assembly Bill Number 11137A and substitute it for the identical Senate Bill Number 8285A, Third Reading Calendar 2142.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2142, by --

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 2143, by Senator Little --

SENATOR LITTLE: Lay it aside for the day.

SENATOR LIBOUS: Lay it aside for the day.

ACTING PRESIDENT GRIFFO: Lay it aside for the day.

THE SECRETARY: Calendar Number 2144, by Senator Morahan, Senate Print 8429, 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: Calendar Number 2145, by Senator LaValle, Senate Print 8502, an act authorizing the Town of East Hampton, in the County of Suffolk.

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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number

2146, by Senator Larkin, Senate Print 8512, an act to authorize Francis Dart, a retired member of the New York State and Local Police and Fire Retirement System.

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

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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2147, by Senator Bruno, Senate Print 8532, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 9. This act shall take effect upon receipt by the Commissioner of Environmental Conservation.

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 2148, Senator Lanza moves to discharge, from the Committee on Rules, Assembly Bill Number 11621 and substitute it for the identical Senate Bill Number 8548, Third Reading Calendar 2148.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2148, by the Assembly Committee on Rules, Assembly Print Number 11621, 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2149, by the Senate Committee on Rules, Senate Print Number 8551A, an act to amend the Mental Hygiene 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 2150, by Senator LaValle, Senate Print 8591, an act to amend Chapter 112 of the Laws of 2007 authorizing the Commissioner of Environmental Conservation.

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 Chapter 112 of the Laws of 2007.

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 2151, by the Senate Committee on Rules, Senate Print Number 8593B, an act to amend the Insurance Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 21. This act shall take effect on the 180th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, this bill has been a long time in coming. There

were various stakeholders that had interest in how this bill was crafted for viatical settlements. And I just -- I had a bill originally. Senator Seward had one as well. There were competing bills, there were new bills, and there were other bills.

I just want to thank Damon Stewart, who stuck with it all the way through this process and was able to get the parties together this year and pass a bill that is a good bill, that doesn't completely satisfy everyone, but does what has to be done in the regulation of this industry and allowing this type of vehicle to be used by our citizens.

Thank you.

ACTING PRESIDENT GRIFFO: Thank you, Senator DeFrancisco.

Senator Seward.

SENATOR SEWARD: Yes, Mr. President, I'm very pleased to stand in support of this legislation, which at long last, as Senator DeFrancisco mentioned, at long last does bring some regulation to the life settlements industry in New York State.

And while life settlements are an

important option for consumers who may not need their life insurance policies anymore, it is very important -- particularly for senior citizens, who are often those who settle policies -- very important that we enact these consumer protections.

This legislation deals with the licensing of life settlement brokers, privacy protections, specifically prohibits manufactured policies and stranger-owned life insurance. It includes fraud prevention, a whole host of consumer protections, and at the same time is fair to both the life insurance companies, many of whom are domiciled here in New York State, and the life settlement brokers and companies.

So I'm very pleased that at long last we've come to a conclusion on this legislation. I appreciate Senator DeFrancisco's interest over the years; I know Senator Breslin has been involved.

We went through a process at NCOIL, the National Conference of Insurance Legislators. This bill is basically the NCOIL model tailored to New York law.

I want to join Senator DeFrancisco in complimenting Damon Stewart and my staff for working so hard on this legislation.

Mr. President, I vote aye.

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

Announce the results.

THE SECRETARY: Ayes, 61. Nays, 0.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2152, Senator Marcellino moves to discharge, from the Committee on Rules, Assembly Bill Number 7335A and substitute it for the identical Senate Bill Number 8612, Third Reading Calendar 2152.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2152, by Member of the Assembly Hoyt, Assembly Print Number 7335A, 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 180th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

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

SENATOR MONTGOMERY: Yes, Mr. President, I rise to thank Senator Marcellino.

I think this is a very good bill. It's certainly applicable to many of our areas, including municipalities of over a million.

I think that he is absolutely correct in his directive to really encourage smart growth principles that include accounting for and minimizing direct and indirect public costs of new developments, and also ensuring that in cases where we have development proceeding, that there is involvement by the local communities and municipalities so that we can enforce, in fact, the smart growth principles to which I

think we all aspire.

So I thank Senator Marcellino. This is a very good bill. And I am voting yes.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 61. Nays, 0.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2153, Senator Saland moves to discharge, from the Committee on Rules, Assembly Bill Number 5188A and substitute it for the identical Senate Bill Number 8615, Third Reading Calendar 2153.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2153, by Member of the Assembly Bradley, Assembly Print Number 5188A, 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 180th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Adams.

SENATOR ADAMS: Thank you, Mr. President.

I just wanted to rise to just commend Senator Saland on this bill. I think we need to remain vigilant, and any time we investigate reports of child abuse -- and I think all of our agencies throughout this state should play an active role to make sure those cases are investigated to their fullest.

And at the same time, our level of vigilance should remain for those who make false reports. When an agency has to come into a family and conduct an investigation, it can tear a family apart when a child has to be removed from the household. This should not be used as a tool of vengeance or a tool of

going after a particular spouse or a loved one.

And so I believe that we failed in the past to address this issue, and this bill is closing that loophole to send a very loud and clear message that we will not use government to make false accusations.

I am voting in the affirmative on this bill.

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

Announce the results.

THE SECRETARY: Ayes, 61. Nays, 0.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2154, Senator Libous moves to discharge, from the Committee on Rules, Assembly Bill Number 10952B and substitute it for the identical Senate Bill Number 8634, Third Reading Calendar 2154.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2154, by Member of the Assembly Lupardo, Assembly Print Number 10952B, 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2155, by Senator Little, Senate Print 8658A, Concurrent Resolution of the Senate and Assembly proposing an amendment to Section 1 of Article 14 of the Constitution.

ACTING PRESIDENT GRIFFO: The Secretary will call the roll on the resolution.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

This resolution represents the first passage of a constitutional amendment which will resolve a 100-year-old land dispute with contested property in the Adirondack Park. That property is known as Township 40, located in the Town of Long Lake, in Hamilton County, and it is a property where the State of New York and private individuals have claimed ownership to this roughly 1200 acres of land.

This resolution is the result of three years of work, and work between the Assembly staff, the Governor's staff, and certainly my staff. And it is being witnessed today by a woman who brought this to our attention three or four years ago, Carolyn Gerdin, who is in the balcony and has spearheaded this proposal.

This is very important. The Town of Long Lake will be purchasing a similar tract of land to replace this land in the Forest Preserve, and there are many residents who will finally have a resolution and clear

title to their land within the Adirondack Park.

So I thank everyone for their support of this resolution, and I thank Carolyn for her efforts in this. Thank you.

ACTING PRESIDENT GRIFFO: Announce the results.

THE SECRETARY: Ayes, 61. Nays, 0.

ACTING PRESIDENT GRIFFO: The resolution is adopted.

THE SECRETARY: In relation to Calendar Number 2156, Senator DeFrancisco moves to discharge, from the Committee on Rules, Assembly Bill Number 11715 and substitute it for the identical Senate Bill Number 8661, Third Reading Calendar 2156.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2156, by the Assembly Committee on Rules Assembly Print Number 11715, an act to amend the Civil Practice Law and Rules and the Judiciary Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

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 2157, by Senator Winner, Senate Print 8665, an act to amend the Family Court Act and others.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 16. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Winner.

SENATOR WINNER: Thank you, Mr. President.

This bill is a significant step

forward for the State of New York. It represents an agreement with the Assembly and the Governor's office to expand the opportunities and the availabilities of civil orders of protection in Family Court for persons who had heretofore been unable to afford themselves of that protection.

This should go a long way to improving the protection of individuals who are subject to incidents of domestic violence.

And I'm pleased that this measure is finally receiving passage here in this house. This has been a lot of work for a long time, and a lot of people deserve a great deal of credit for moving this matter forward.

And we're hopeful that this matter will protect a large number of individuals who have otherwise not been able to avail themselves of the services of the Family Court. And so, Mr. President, I enthusiastically vote in the affirmative.

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

Senator Hassell-Thompson, to explain her vote.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President.

I wish to congratulate Senator Winner on his bringing this bill to the floor. Historically, for the last 20 years, it has been very difficult to get this bill moved.

I know that Assemblywoman Weinstein is celebrating today, because she has been very steadfast in her desire to ensure that we bring justice. It's a domestic violence issue for which she has labored long.

So you are to be congratulated, Senator Winner, for working out whatever the difficulties were and bringing this bill to the floor today, and I affirmatively will be voting with you and hope that all of my colleagues will see fit to do as well.

Thank you.

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

Senator Duane, to explain his vote.

SENATOR DUANE: Thank you, Mr. President.

I too want to congratulate and

thank the sponsor of this legislation. It's just a terrific bill and one whose time has definitely and absolutely come. It's a great bill.

And thank you very much. I'll be voting in the affirmative.

ACTING PRESIDENT GRIFFO: Senator Duane will 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 2158, by Senator Winner, Senate Print 8666, an act in relation to capital improvement projects.

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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2159, by Senator Farley, Senate Print 8669, an act to amend the Civil Service Law and the Public Authorities 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: Calendar Number 2160, by Senator Golden, Senate Print 8671, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 3. This act shall --

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 2161, by Senator Saland, Senate Print 8675, an act to create a temporary state commission.

ACTING PRESIDENT GRIFFO: May we have order, please, in the chamber.

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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2162, by Senator Libous, Senate Print 8678, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

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 2163, by the Senate Committee on Rules, Senate Print 8689, an act to amend Chapter 53 of the Laws of 2008, enacting the Education, Labor and Family Assistance Budget.

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 2166, Senator Diaz moves to discharge, from the Committee on Rules, Assembly Print Number 1170 and substitute it for the identical Senate Bill Number 5254, Third Reading Calendar 2166.

ACTING PRESIDENT GRIFFO: Substitution so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2166, by Member of the Assembly Gunther, Assembly Print Number 1170, an act to amend the Elder Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator LaValle, that completes the noncontroversial reading of Senate Supplemental Calendar 64A.

SENATOR LaVALLE: Mr. President, with the consent of the Minority, I'd like to go to Calendar Number 2120 and take it up, noncontroversial.

ACTING PRESIDENT GRIFFO: The

Secretary will read.

THE SECRETARY: Calendar Number 2120, substituted earlier today by Member of the Assembly Schimel, Assembly Print Number 8730C, 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Libous.

SENATOR LIBOUS: Could we go to the controversial reading of the calendar, please.

ACTING PRESIDENT GRIFFO: We will now proceed to the controversial calendar. The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 2121, by Senator Libous, Senate Print 6260, an

act to amend the Executive Law and the Workers' Compensation Law.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT GRIFFO: Explanation, Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

This bill is basically a technical amendment dealing with the black car operators. And what it says is while they're not on a job, they cannot file a workers' comp claim. And that's pretty much it.

ACTING PRESIDENT GRIFFO: Thank you, Senator Libous.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. If the sponsor would yield for a few brief questions.

SENATOR LIBOUS: I will.

ACTING PRESIDENT GRIFFO: Senator Libous yields.

SENATOR SCHNEIDERMAN: Thank you.

Through you, Mr. President, this bill, which you describe as a technical

correction, is in fact an effort to clarify the law and overturn the Third Department's decision in Aminov v. New York Black Car Operators Injury Compensation Fund; is that correct?

SENATOR LIBOUS: Yes.

SENATOR SCHNEIDERMAN: Thank you. Thank the sponsor for his answer.

On the bill.

ACTING PRESIDENT GRIFFO: On the bill, Senator Schneiderman.

SENATOR SCHNEIDERMAN: I think that this is a bill that requires a little more work before we can pass it.

The law in New York State currently requires that a black car driver has to be on duty if they are to collect from the Black Car Operators Injury Compensation Fund. We've set up this fund to deal with the fact that there was not a lot of coverage for this very rapidly growing area of employment.

The Aminov case, which this bill seeks to reverse, was based on the fact that there was a black car operator who logged in, was on duty, available for assignments, was

driving into the city so that he could take an assignment, had not yet received a call for a specific assignment, and his car was slammed into.

The owner said: Oh, well, because he wasn't actually picking someone up or discharging them, he shouldn't be eligible for workers' compensation.

That was overturned, that assertion was rejected by the courts. And in fact, the Third Department in the Aminov case explicitly stated that the position of the owner and the position that would be established in law if we vote for Senator Libous's bill is that if a claimant has not received a specific assignment from the dispatcher, he is not in fact performing covered services.

Now, the problem with this is -- and I understand the concern that you want to make sure that black car drivers are not out freelancing or taking their friends to lunch. But if a black car driver is waiting for a call or in between pickups, filling up his car with gas or otherwise engaged in the performance of his duties, you can't deprive

that person of the ability to collect from a workers' compensation fund.

This bill, which would in fact reverse the Aminov case, which is very clear and well-thought-out law, states that a dispatch, which is the key term, only means that you're in the course of picking up, transporting, or discharging a passenger or package.

Now, that means that anything in between, particularly the people who -- you know, we have a lot of black car drivers who live in my district and work in my district -- if you're waiting for a call and someone plows into you and cuts your head off, you're not eligible. You know, I mean, this is really, I think, something that has to be reworked.

It does provide that the board of directors of the fund can establish other regulations. But I don't think we can pass a law that would immediately deprive thousands of New Yorkers of the ability to seek compensation when they're injured on the job.

There is no question that someone who has dropped off a passenger and is

awaiting a call, is logged in, is in the performance of their duties. This would take away the rights of those people to compensation.

I'd suggest to the sponsor, who I know worked with great care on this, that we -- let's just let this bill go, let's rework it, let's do something that actually narrows the definition to make it clear that someone has to be on duty in the course of accepting assignments or eligible for assignments from the base -- not freelancing, not cover people who are off on a frolic or detour. The law is very well established in this area.

But let's not do something that unintentionally harms innocent people performing their work. A lot of hardworking New Yorkers drive in terrible traffic every day to support their families. Let's not hurt those working New Yorkers.

I would urge the sponsor to lay the bill aside, but I would also urge anyone who cares about working families in New York, who cares about basic economic and social justice,

to vote against this bill.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: 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 7. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Savino, to explain her vote.

SENATOR SAVINO: Thank you, Mr. President.

In spite of what I think Senator Libous's attempt was to pass a good bill, I'm going to vote against this bill. I'm going to echo the comments of Senator Schneiderman and, finally, say that while this bill may appear only to apply to a select --

ACTING PRESIDENT GRIFFO: May we have order, please.

Senator Savino.

SENATOR SAVINO: While this bill may appear only to apply to a select group of workers in a select industry, it opens the door for the possibility that we can begin to look at workers' compensation coverage in a very different way, beginning to narrow it down to coverage for workers who only engage in a specific task at a specific time, as opposed to being ready and available to work from the minute they clock in or sign in or call in or whatever the requirement is.

So we need to be very careful about this. I'm going to vote against this bill, because I do believe it is a slippery slope as to redefining workers' compensation coverage for employees.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 2121 are Senators Adams, Connor, Diaz, Dilan, Duane, Gonzalez, Hassell-Thompson, Huntley, Klein, L. Krueger, C. Kruger, Montgomery, Oppenheimer, Padavan, Parker, Perkins, Savino,

Schneiderman, Serrano, Stachowski and Stewart-Cousins. Also Senator Breslin.

Absent from voting on Calendar Number 2121: Senators Sampson and Thompson.

Ayes, 38. Nays, 22.

ACTING PRESIDENT GRIFFO: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 2142, substituted earlier today by Member of the Assembly Farrell, Assembly Print Number 11137A, an act to amend the State Finance Law.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT GRIFFO: Senator Duane requests an explanation, Senator Johnson.

Again, I'm going to ask for order in the house so that the Senators may be heard. Thank you.

Senator Johnson.

SENATOR OWEN JOHNSON: Well, this is a bill recommended by the State Comptroller, and it brings generally accepted government accounting standards in to apply to

most of the regulations we have here. The Government Accounting Standards Board is a more modern way of accounting for your finances.

As you know, the few changes in here will not have any consequence to the actual working of the funds, it just changes the names on many of the accounts and things of that nature.

So it's pretty simple. And anybody have any questions?

ACTING PRESIDENT GRIFFO: Senator Stachowski.

SENATOR STACHOWSKI: On the bill.

ACTING PRESIDENT GRIFFO: Senator Stachowski, on the bill.

SENATOR STACHOWSKI: Thank you for the explanation, Senator.

I believe this is a great bill that finally brings the state in line with the new accounting procedures that were developed in Washington to recognize that retirement and benefits have to be accounted for in your every-year budget.

So this bill brings New York State

into line with those accounting principles and makes some changes that the Comptroller suggests and also eliminates some things that the Comptroller currently does where, because of the other changes, they'll no longer be necessary.

So this bill was very important. We have to come in line with this. And it's a good step forward and brings us into the place where we should be as far as general accounting principles go.

Thank you. I vote aye.

ACTING PRESIDENT GRIFFO: 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 2. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61. Nays, 0.

Absent from voting: Senator

Sampson.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Thompson.

SENATOR THOMPSON: Yes, Mr. President. If I were here, I would have voted against Senate Bill 2121.

And if the record could reflect that, I would greatly appreciate it.

ACTING PRESIDENT GRIFFO: The record shall so reflect, Senator Thompson.

The Secretary will read.

THE SECRETARY: Calendar Number 2160, by Senator Golden, Senate Print 8671, an act to amend the Education Law.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT GRIFFO: An explanation is requested by Senator Duane, Senator Golden.

Can I have order, please.

SENATOR GOLDEN: Thank you, Mr. President.

This is a pupil safety bill that's been worked out with the Assembly and with the

Senate to provide public safety for children between K and sixth grade to allow for transportation after 5 p.m., with the parents being reimbursed for that instead of having buses on the road and bringing buses back and forth for those kids.

It was done for two reasons, cost and safety.

ACTING PRESIDENT GRIFFO: Thank you, Senator Golden.

Senator Oppenheimer.

SENATOR OPPENHEIMER: It just seems to me that --

ACTING PRESIDENT GRIFFO: Senator Oppenheimer, do you wish to ask a question or speak on the bill?

SENATOR OPPENHEIMER: I guess speak on the bill.

ACTING PRESIDENT GRIFFO: Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: It just seems at this time, when we are being pressed for money, to be giving money to parents who are picking up their kids from school just seems a little bizarre to me.

I don't know where we have, in our country, ever paid for parents to come and pick up their children. Maybe they would pay someone to keep their children, but it just -- it just strikes me as being totally unnecessary, particularly when we're trying to push public transportation where four children or 40 children can go on a bus and save us a considerable amount of bad air and save us from additional costs. If you run that bus whether you have four or 40 kids on it, it's the same cost to the transporter.

And also, I mean, how could this possibly be monitored? I'm not even going to question how it could be monitored, because it can't be monitored.

I mean, you could have four kids and four parents, and they could arrange -- or five parents, and they could arrange to have a different mother pick up on Monday and another one on Tuesday and another one on Wednesday, pick up the five kids, and yet all five of these parents would be eligible to get money from the -- not just from the city, but of course we pay 57 percent of transportation

costs, we, the State of New York.

So I think this is not a good bill, and -- I mean, for example, here's another thought. If a mother is leaving her job and on the way home passes the school at 5 o'clock, then she would be qualified to be paid money.

And it doesn't say how the money is paid. In other words, if the parent says, you know, my gasoline costs X and another parent says my gasoline costs Y -- I mean, it's just, to me, a very bizarre bill, and I would hope that everybody would vote against it.

I'll be voting no.

ACTING PRESIDENT GRIFFO: Senator Stavisky.

SENATOR STAVISKY: Yes, Mr. President, I have voted against it in the past.

In addition to what Senator Oppenheimer said about increasing the pollution, the gas consumption, et cetera, and whether that bus makes a run and picks up one student, it is no longer cost-effective.

What bothers me most about this

bill is the fact that you're taking scarce education dollars from the classroom. As the chancellor is cutting aid for the schoolchildren in New York City, as less money is coming into the classroom, you're going to have less available for programs that educate the children. And it seems to me that that's where it all happens, in the classroom.

And to divert money from the classroom I think is a very, very dangerous thing to do. And I am very troubled by the cuts in the New York City education budget. This is another one. And I urge that we oppose this bill.

Thank you.

ACTING PRESIDENT GRIFFO: Senator Huntley.

SENATOR HUNTLEY: Thank you, Mr. President.

When I review this bill, it reminds me somewhat of the Mayor's proposal last year where he was paying parents to take their youngsters for dental care, to the doctor, to the zoo.

I think parents have a

responsibility, and the responsibility is to take care of their children. And I think as long as the Department of Ed attempts to make life easier for parents, then naturally they don't do their job.

I think that if we have money, it should be in the classroom. We always talk about the education, but yet now we want to pay parents to be drivers. It's the most ridiculous bill I've ever seen.

Thank you.

ACTING PRESIDENT GRIFFO: Senator Sabini.

SENATOR SABINI: Thank you, Mr. President.

In 2006 I voted against this bill, but since then, with the advent of the Contract for Excellence, we now have schools throughout the City of New York that are providing extra hours, dozens of them. So I have no idea how much this would cost now, because I think many of those schools would trip into being eligible for the services rendered under this bill, and I think it has very murky fiscal implications.

So I'll be voting in the negative.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR LIZ KRUEGER: Will the sponsor please rise -- excuse me, would the sponsor please yield to a question. I guess rising is part of the deal.

(Laughter.)

ACTING PRESIDENT GRIFFO: I thought you had developed some new powers.

(Laughter.)

ACTING PRESIDENT GRIFFO: Senator Golden yields, Senator Krueger.

SENATOR GOLDEN: I do indeed. Yes, Mr. President.

SENATOR LIZ KRUEGER: Thank you. Thank you for yielding and rising, Senator Golden.

When I read this bill, it's not clear to me what form of transportation we would be reimbursing. Would you explain what you thought the transportation reimbursement process would be?

ACTING PRESIDENT GRIFFO: Senator Golden.

SENATOR GOLDEN: Mr. President, whatever the set price is by the city would be designated for each parent that would desire to opt out of the school transportation. There's no additional dollars, no money taken away from the classroom, no cost to the City of New York. The City of New York would already pay for the transportation of that child.

That child, the parent of that child has a right to opt out under this bill, and the parents would be given the money to transport their child to and from the schools and the school districts that they attend.

ACTING PRESIDENT GRIFFO: Senator Krueger.

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

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

SENATOR GOLDEN: I do, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR LIZ KRUEGER: So the assumption is that the City of New York would make a calculation: I have 40 children on a bus, the bus costs me X amount per trip, one-fortieth of that will now be provided to the parents? Is that my understanding of what you just said?

SENATOR GOLDEN: I don't know what the model would be, Mr. President. But it would be based on a model, yes.

ACTING PRESIDENT GRIFFO: Senator Krueger.

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

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

SENATOR GOLDEN: I do, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR LIZ KRUEGER: If one child got off the bus and the bus was now taking 39 children instead of 40, is it your understanding that the city would pay a lower

contract cost for that bus trip?

ACTING PRESIDENT GRIFFO: Senator Golden.

SENATOR GOLDEN: That's when the parent, Mr. President, has the right to opt out.

And yes, it doesn't change the state aid, doesn't change dollars, doesn't change cost.

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

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

SENATOR GOLDEN: I do indeed.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR LIZ KRUEGER: So if I opted out, as a parent, under this bill and I took my child on the subway back and forth, I would get the same reimbursement as if I hired a black car -- one with workers' compensation protections, or not, as the case may be -- to take me to pick up my child and return them?

SENATOR GOLDEN: The answer is

yes. They would opt to take their child to and from school any way they choose to do that.

Many of these Schools for Excellence are in different parts of the city. They are not on given routes, train or bus routes. And this again, no cost to the city or the state, no cost to the transportation.

It would allow those parents to opt out and take their children to and from those locations as best they see fit. After 5 p.m., as a matter of fact.

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

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

SENATOR GOLDEN: Yes, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

So just to clarify, you'd have to opt out for the bringing of your child to school and the taking them back.

SENATOR GOLDEN: That's correct, Mr. President.

SENATOR LIZ KRUEGER: And there would be one set amount, there would not be a differing payment for me versus Senator Sabini versus Senator Huntley?

SENATOR GOLDEN: That is correct, Mr. President.

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

ACTING PRESIDENT GRIFFO: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: I appreciate the sponsor's answers. I in fact don't really read them that way in the bill.

So I'm concerned about the way the bill was written, because I don't think it is clear from the legislation that that was what the intent of the sponsor was.

But I will accept, of course, at face value that's what he intends the legislation to do. But I have to say in this case, I don't think in this case the bill was well-written for him.

I have to disagree about the cost

issue for the city. The city gets a formula reimbursement for a share of bus transportation of children to and from school. It is a formula from the state. But I do not accept that if there are one or two or three fewer children on the bus because their parents have opted out, that we're actually decreasing our costs for bus transportation to and from school.

To be honest, I can be torn about this bill, because representing Manhattan, our constant frustration is that it seems that the Department of Education really wants to get out of the busing-children-to-school business completely, which is an enormous frustration. I have parents with children in pre-K and kindergarten who, even though they appear to live in a bus zone, are being told there are no buses for them.

So I empathize and even share, perhaps, the frustration of the sponsor. But because of the way the bill is written and the fact that we don't get to decrease the cost of the contract for the bus service because there are fewer children on that bus, I do believe

it would be an increased cost on the city school system.

I do think that we are in serious financial trouble this year with our City of New York schools -- at least that's what the chancellor keeps telling us, as they propose cutting funding out of our schools.

And so even though I empathize with the frustration for many parents not having an easy scenario even trying to get their children on the existing school buses, I don't think this, as it is written, gets us where we want to go.

And I do feel it is a new unfunded mandate on the city, and so I will vote no.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: 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 3. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 2160 are Senators Adams, Aubertine, Connor, Diaz, Dilan, Duane, Gonzalez, Hassell-Thompson, Huntley, L. Krueger, C. Kruger, Montgomery, Onorato, Oppenheimer, Perkins, Sabini, Saland, Schneiderman, Stavisky, Stewart-Cousins, Thompson and Valesky. Also Senator Serrano.

Absent from voting: Senator Sampson.

Ayes, 38. Nays, 23.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Nozzolio, that completes the controversial reading of Senate Supplemental Calendar 64A.

SENATOR NOZZOLIO: Mr. President, may we please turn to Calendar Number 2164, noncontroversial.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 2164, by the Committee on Rules, Senate Print Number 8709, an act to amend the Racing,

Pari-Mutuel Wagering and Breeding Law, the Real Property Tax Law and the Tax Law.

ACTING PRESIDENT GRIFFO: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, is there a message at the desk?

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

SENATOR KLEIN: Lay it aside.

ACTING PRESIDENT GRIFFO: We're going to accept the message first.

SENATOR NOZZOLIO: Move to accept the message, Mr. President.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed, nay.

(No response.)

ACTING PRESIDENT GRIFFO: The message is accepted, and the bill is laid aside.

SENATOR NOZZOLIO: Mr. President, please take up Calendar Number 2165.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 2165, by Senator Morahan, Senate Print 8710, an act to amend the Mental Hygiene Law and the Education Law.

ACTING PRESIDENT GRIFFO: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, I believe there's a message of necessity at the desk.

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

SENATOR NOZZOLIO: Motion to accept the message.

ACTING PRESIDENT GRIFFO: All in favor of accepting the message of necessity indicate by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed, nay.

(No response.)

ACTING PRESIDENT GRIFFO: The message is accepted.

The Secretary will read the last

section.

THE SECRETARY: Section 4. This act shall take effect on the 30th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, returning to the controversial calendar, please call up Calendar Number 2164.

ACTING PRESIDENT GRIFFO: The Secretary will ring the bell.

The Secretary will read Calendar Number 2164.

THE SECRETARY: Calendar Number 2164, by the Senate Committee on Rules, Senate Print 8709, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law and others.

SENATOR CRAIG JOHNSON: Explanation.

ACTING PRESIDENT GRIFFO: Who

called for the explanation?

Senator Larkin, Senator Johnson requests an explanation.

SENATOR LARKIN: Senator Johnson, this bill makes some changes to Chapter 18 of this year.

A couple of things that it does specifically, and you remember from the hearing that we had down in Belmont. This clarifies the effective date, an issue that you worried about. So it says that they can't go past that 25 year until they come back to the Legislature. They can't just get it from Racing and Wagering, they can't get it an executive approval. They must come back to us.

It also clarifies the vendor fee at Aqueduct to make sure that NYRA will receive its racing support payments out of the vendors' fees. This is a constitutional concern, since ours requires that all net proceeds go to support education. Therefore, after the vendor's fee and the costs of administration are paid, then the balance must go to education.

The bill as written seems to indicate NYRA's support payments should be paid separately.

Now, it also contains an appropriation to allow the state to pay the property taxes. This was something we actually fought for in the legislation. And if you recall, when we were down at Elmont, one of the issues was how will we get paid for it. That's what we've covered in here.

And what we're doing now is we want to ensure that the state would pay so that localities would get their money on time as adjusted. In the past, NYRA, as we all know, has not been a good payer of these taxes. As my good friend Senator Hannon said that day, "Why don't we do something to ensure that they'll do it?" Well, we are now.

And we must also understand that right now NYRA, in their local area down there, is $15 million behind. This bill doesn't have a provision for the Belmont advisory board. You talked to me the other day about it, and we took that out, that 15 and all of that. We put that for another day.

It's still something we think is necessary, but we'll address it at a later date.

This is a three-way agreement, and I believe it's time that we move this along so we can start getting going.

ACTING PRESIDENT GRIFFO: Senator Johnson.

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

Will Senator Larkin yield for a couple of questions to clarify some things further.

ACTING PRESIDENT GRIFFO: Senator Larkin, do you yield for a couple of questions?

SENATOR LARKIN: Yes.

ACTING PRESIDENT GRIFFO: Senator Johnson.

SENATOR CRAIG JOHNSON: Thank you. Thank you, Senator Larkin, for your leadership on this issue as well as the explanation that you gave.

I just have a couple of further clarification questions, if you don't mind.

SENATOR LARKIN: Sure.

SENATOR CRAIG JOHNSON: Senator Larkin, it is my understanding that the bill as drafted now includes $12 million for the payment of property taxes that are due and owing. Is that correct?

SENATOR LARKIN: (Nodding.)

SENATOR CRAIG JOHNSON: I take it that's a yes; you were nodding. Okay.

Will the sponsor continue to yield?

SENATOR LARKIN: Yes.

ACTING PRESIDENT GRIFFO: Senator Larkin yields.

SENATOR CRAIG JOHNSON: Thank you, Senator.

The one question I have, in looking at the bill, is while the bill provides a lump sum, can you provide me, please, with a breakdown as to how the $12 million will be paid out?

As you recall, in Elmont when we had that hearing -- I thank you for hosting that hearing -- there are a number of localities that are due and owing taxes: Nassau County, the Town of Hempstead, the Village of Floral Park, the various school

districts. I'm sure a number of the special districts are owing.

What I'm trying to get an understanding of is, how is that $12 million going to be apportioned under this bill?

SENATOR LARKIN: I don't have it here with me, but I'll have it delivered to you this afternoon.

Like we discussed before, it's very specific. As you remember when Senator Skelos, yourself, and Senator Hannon were there, the discussion was how much will they get. And we all agreed that we would make it specific. And we'll get you that this afternoon.

SENATOR CRAIG JOHNSON: Terrific. Thank you very much.

Will Senator Larkin continue to yield, please.

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

SENATOR LARKIN: Yes.

ACTING PRESIDENT GRIFFO: Senator Johnson.

SENATOR CRAIG JOHNSON: Thank

you.

And in addition to that information, can I also be provided, please, with not just the amounts but also the years? Because I believe they're owed more than one year.

SENATOR LARKIN: There is a show of how much is owed and how much years. That will all be in the same package for this afternoon.

SENATOR CRAIG JOHNSON: Excellent. Thank you.

Just a couple more questions. Will the sponsor continue to yield?

SENATOR LARKIN: Yes.

ACTING PRESIDENT GRIFFO: A couple more questions?

Senator Johnson.

SENATOR CRAIG JOHNSON: One of my concerns, and Senator Larkin and I talked about this, is the lack of a Belmont local advisory board that was contained in the original NYRA legislation. It's one of the reasons why I opposed it, among a host of other reasons.

The bill that we voted on yesterday, the Senate bill -- I believe it was 8698 -- had some language in there for a Belmont advisory board. Today it's been removed. Can you tell me why it's been taken out of the legislation?

SENATOR LARKIN: In order to try to get all of this three-way agreement, we had to make some concessions. And the thought was, let's leave this for a later date.

As you remember, what we were talking about then is we all wanted to be off the same sheet of music. Well, the only way to get it off the same sheet of music from the other house was to get Belmont out of there.

SENATOR CRAIG JOHNSON: Will the sponsor continue to yield, please.

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

SENATOR LARKIN: Yes.

SENATOR CRAIG JOHNSON: Thank you for your answers, Senator Larkin.

Senator Larkin, are you aware of my bill, Senate Number S6977A, which is a bill that specifically provides for the appointment

of a local advisory board for Belmont?

ACTING PRESIDENT GRIFFO: Senator Larkin.

SENATOR LARKIN: I didn't know of the specifics, but I have seen that. We went through that.

But two things. And I don't mean to be rude, but I'm just saying to you is that when we talked about it, when we first talked about the hearing down there, everybody said let's come away with something. So what we passed yesterday was what I thought was appropriate.

This here gets rid of all of the obvious things that aren't going to happen. The only way we could get the three-way agreement and move this forward -- get the payments out there, show how much was owed, how we will pay it, and what we will do in the future.

What we will do on the advisory board, I commit to you that we will do something. But we couldn't get that in here with this.

So should we go home with nothing?

I thought we should go home with paying the fees and taxes that are owed to the municipalities as a high priority.

SENATOR CRAIG JOHNSON: Will the Senator continue to yield.

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

SENATOR LARKIN: One more question.

ACTING PRESIDENT GRIFFO: Senator Johnson.

SENATOR CRAIG JOHNSON: One more question. I'll make it a doozy. I'll ask a question on the bill --

ACTING PRESIDENT GRIFFO: You did indicate, Senator Craig Johnson, only a couple of questions.

SENATOR CRAIG JOHNSON: He's told me -- and I thank you for the answers.

Senator Larkin, one of the concerns that the residents of Elmont and Floral Park had is -- and you acknowledged it, and you were in Elmont, in the area -- NYRA has not been a very good neighbor. They don't clean up very well, they don't really take care of

their properties, they don't do anything of that nature, and it really brings down the communities surrounding it.

Under the bill, there is a provision that provides for 4 percent of the total revenue that's wagered out, after the payout -- I'm sorry, Senator, I'll refer you to it. It's on page 10. If you have a copy of it in front of you, it's page 10 on the bill, paragraph 3, lines 12 through 17. That's the specific reference.

I'm trying to get an understanding for legislative history purposes.

SENATOR LARKIN: You're talking about the total revenue on that 4 percent?

SENATOR CRAIG JOHNSON: That's correct. My question is this, though. And you see it.

Four percent of the total revenue wagered after payout for prizes to be deposited into an account of the franchised corporation "to be used for capital expenditures in maintaining and upgrading of Aqueduct racetrack, Belmont Park racetrack and Saratoga race course."

My question is, will that upgrading and maintaining not only be the actual racetrack --

SENATOR LARKIN: The entire area.

SENATOR CRAIG JOHNSON: It would be the entire area?

SENATOR LARKIN: That's what we talked about before. This is what you asked about the day you were there.

Our intent that day that we toured that place was to do the entire area. Whether NYRA listens to us is a horse of a different color.

(Laughter; groans.)

SENATOR LARKIN: Oh, that was terrible.

ACTING PRESIDENT GRIFFO: Senator Johnson, on the bill.

SENATOR CRAIG JOHNSON: On the bill.

Thank you, Senator Larkin, very much for answering those questions. I wish I could ask you a few more, but I understand you wanted to limit it. And I thank you for providing those answers. It does clarify a

few things.

On the bill. Obviously, I would have loved to see Senate 8698 be the bill that was the agreed bill between the Senate and the Assembly, because it contains language for a local advisory board in Belmont. This is a big issue for the residents of Elmont and Floral Park. There currently is no local advisory board for those residents to address the issues at the Belmont racetrack.

Obviously, a great way to address that if we're not going to address it in the omnibus bill is to very easily bring it out of Rules today, my bill, Senate Bill Number S6977, a simple, stand-alone piece of legislation that would create a local advisory board for the Belmont communities.

It has an Assembly sponsor, Assemblywoman Michelle Schimel. It has support in the Assembly.

We could pass it here today and accomplish what we wanted to set out and what we talked about to the Elmont community at that hearing: payment of the taxes and a local advisory board. It will be two bills,

not necessarily one, but this way everything is accomplished.

I would hope that as we wind down our Senate session, we take Senate Bill S6977 up and get that passed. But right before us is the bill we have before us, 8709.

And while I find it difficult and upsetting that it's clear to me that the Assembly has issues with the local advisory board in that piece, I thank Senator Larkin. Because it does show a commitment on paying the property taxes that are due and owing. It will help Nassau County. It will help the Town of Hempstead. It will help the Village of Floral Park. It will help the residents of Elmont. It will help the school districts and the special districts to finally get something back that they are due and owing.

So I will be voting in favor of the bill. I urge all my colleagues to vote in favor of it. But hopefully before the end of session we can also take up Senate Bill Number 6977, my bill for a local advisory board for Belmont Park, and pass that as well.

Thank you very much.

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

Senator Hannon.

SENATOR HANNON: Thank you, Mr. President.

It is painfully obvious to anybody who read reports of the Belmont Stakes how ill-prepared, ill-equipped and ill-managed NYRA has been in running Belmont.

When we passed the original legislation to, quote, bail them out back earlier this session, I was on my feet saying that this is an area close to the center of the New York City metropolitan area that has been left fallow, that the best use is the ignominious renting of the parking lot to automobile dealers to store their cars, instead of being a premier destination spot which could boost New York State racing and boost our having a great tourist attraction.

I would suggest to the people that are running NYRA, I would suggest to the executive branch that they take heed of the gross failures occurred during the Belmont Stakes and work to improve this site, work to

develop this site and make it something that New Yorkers could be proud of.

This legislation does advance many of the goals, but it does not go as far as we want and it does not change the mind of the people who run NYRA to making this what we need.

Thank you.

ACTING PRESIDENT GRIFFO: Thank you, Senator Hannon.

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

I appreciate the discussion. I appreciate my colleague Senator Craig Johnson's analysis of what else we should be doing.

I'll vote for the bill, based on Senator Johnson's recommendation, but I need to stand up to point out yet again that in New York State we keep bailing out our gambling. We bail out our racetracks over and over again, we bail out gambling activities, we reduce the income coming into our school education funds by increasing the take held by the operators of VLT.

You can be agnostic about gambling as a legislator based on your belief that you're actually going to gain revenue for the State of New York.

And frankly, for the six years I've been here, the only thing we ever do around gambling in this state is bail them out and give them more of our money that should be going to schools. So I am continuously frustrated, regardless of the subissue within gambling, that we continue to apparently not know how to make money in gambling. And I thought that was the assignment if government was going to be participating in that business.

So I suppose I share my frustration with you all that if we're going to be in the business of gambling, then let's at least make some money for the people of New York State instead of continually having to pass bills to move more money out to the gambling entities.

Thank you, Mr. President.

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

The debate is closed. The

Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 17. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 2164 are Senators Diaz, Padavan and Rath.

Absent from voting: Senator Sampson.

Ayes, 58. Nays, 3.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Libous, that now completes the controversial reading of Senate Supplemental Calendar 64A.

SENATOR LIBOUS: Mr. President, may we now take up the noncontroversial active list that is before us, starting with Calendar Number 63, Senate Print Number 6457A, by Senator Farley.

ACTING PRESIDENT GRIFFO: The Secretary will read the active list calendar

for June 24th, starting with Print Number 6457A, by Senator Farley.

THE SECRETARY: Calendar Number 63, by Senator Farley, Senate Print 6457A, an act establishing a task force.

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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 134, by Senator Alesi, Senate Print 6634C, 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 189, Senator DeFrancisco moves to discharge, from the Committee on Judiciary, Assembly Bill Number 8858A and substitute it for the identical Senate Bill Number 5966A, Third Reading Calendar 189.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 189, by Member of the Assembly Weinstein, Assembly Print Number 8858A, an act to amend the Estates, Powers and Trusts 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 267, by Senator Lanza, Senate Print 3443, an act to amend the New York City Health and Hospitals 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.)

ACTING PRESIDENT GRIFFO: Senator Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you.

So this bill would require that the Health and Hospitals Corporation of New York City spend at least 10 percent of its operating budget per year and its capital budget per year in each of the five boroughs.

The dilemma, of course, is perhaps the population doesn't distribute that way. Perhaps the capital needs in one borough in one particular year are dramatic and the capital needs in another borough that year are

nonexistent. It can happen.

So while I appreciate Senator Lanza's concern -- I believe that Staten Island has concerns about its healthcare facilities, and I respect that -- I don't think we want to mandate percentage formulas within the HHC system in the City of New York, one city with one planning process for its healthcare needs.

So I'll be voting no.

Thank you, Mr. President.

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

Senator Savino, to explain her vote.

SENATOR SAVINO: Thank you, Mr. President.

It's rare that I disagree with one of my colleagues, Senator Krueger, but on this one I have to respectfully disagree.

First, I want to thank Senator Lanza for bringing this bill, and our colleague in the Assembly, Michael Cusick. You know we live in Staten Island, even though I represent Brooklyn as well.

Staten Island has a lot of nicknames. We affectionately refer to it as "Staten Italy," because of its huge number of Italian-Americans. It's sometimes referred to as "Diet Brooklyn," because of its huge number of former Brooklynites who have moved to Staten Island.

But the one nickname that stands out more than any other is the "Forgotten Borough." We are forgotten by the City of New York in many issues. We are forgotten by the MTA on just about all of them. But there is no city agency that ignores us more and with greater frequency than the Health and Hospitals Corporation.

And they're allowed to do that because they have no brick-and-mortar hospital in the County of Richmond. There is no physical public hospital to serve what is the fastest growing borough right now in the City of New York, with a population of close to a half a million people.

Ten years ago we had five not-for-profit and voluntary hospitals; we are now down to two. One of them is on life

support itself. And as a result of the fact that we do not have a brick-and-mortar facility on the island, we get no funding from the HHC.

We do not have a rape crisis center like the other public hospitals provide in the other boroughs. We do not get to participate in the colonoscopy free screening that's provided by the HHC. We don't get any of the benefits that the HHC provides to the rest of the City of New York, partially funded out of the taxpayers' pockets of Staten Islanders, because we do not have a brick-and-mortar facility.

Now, I don't disagree with Senator Krueger's assertion that perhaps this is not the way you allocate capital resources. But this may be the only way we get the attention of the mayor of the City of New York and the Health and Hospitals Corporation and force them to allocate a percentage of their budget for the health and welfare of the citizens of Richmond County.

And they have never done it, and we're going to continue to fight for it every

step of the way, including possibly suing the City of New York and the HHC to do that.

So I'm going to vote for this bill, Senator Lanza, because it is a good bill. And 10 percent, in my opinion, may not be enough.

Thank you.

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

Senator Diaz, to explain his vote.

SENATOR DIAZ: Thank you, Mr. President.

I just would like to say that -- on the bill, I would like to say that I agree with Senator Krueger, even though I'm going to vote for the bill. But I agree with Senator Krueger in what she's saying. And I will vote for the bill because of the intention of the bill. And I'm going to explain myself.

You know, when we -- when we compare Staten Island and the Bronx, there's no comparison. When you compare any hospital, any hospital, any facility in Staten Island with Lincoln Hospital in Bronx County, there's no comparison. Lincoln Hospital is the most-used hospital in the nation. In the

nation. I mean, that is amazing.

And what Senator Krueger is saying, which makes a lot of sense, how do you distribute 10 percent to Staten Island and to the Bronx when the Bronx, with Lincoln Hospital, Bronx-Lebanon Hospital, Jacobi Hospital, all the hospitals have more need? More people living there, more people being attended, more need, more health needs than Staten Island. Three times more.

But, Senator Lanza, because of the intention of the bill to force the City of New York to spend money in healthcare directly, we in the Bronx would take -- even though not enough, not enough, 10 percent -- we will take whatever we can. Good intention. I'm voting yes for the bill.

Senator Krueger, Senator Krueger, Senator Krueger --

SENATOR LIZ KRUEGER: Yes, sir. Excuse me.

SENATOR DIAZ: -- what you say makes sense. Thank you for what you said, because you are looking out for the population, not by certain boroughs to be

preferable than others.

So, Mr. President and ladies and gentlemen, I'm voting yes on the bill. However, Senator Lanza, we need a lot more money in Lincoln Hospital, Jacobi Hospital, Bronx-Lebanon Hospital in Bronx County. But we're taking whatever we can get.

Thank you.

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

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: Calendar Number 277, 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 374, Senator Marcellino moves to discharge, from the Committee on Rules, Assembly Bill Number 2986 and substitute it for the identical Senate Bill Number 1558, Third Reading Calendar 374.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 374, by Member of the Assembly Weisenberg, Assembly Print Number 2986, 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 376, by Senator Lanza, Senate Print 5583, 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 777, by the Senate Committee on Rules, Senate Print Number 6329A, an act to authorize the Town of Malta to convey to Saratoga Water Services, Inc.

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

The Secretary will read 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 888, by Senator Griffo, Senate Print 7659A, an act to amend the Public Service 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: In relation to Calendar Number 1147, Senator Young moves to discharge, from the Committee on Consumer Protection, Assembly Bill Number 9559A and

substitute it for the identical Senate Bill Number 7853, Third Reading Calendar 1147.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1147, by Member of the Assembly Magee, Assembly Print Number 9559A, 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1246, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 10774 and substitute it for the identical Senate Bill Number 7916A, Third Reading Calendar 1246.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1246, by Member of the Assembly Gianaris, Assembly Print Number 10774, 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 1271, Senator C. Kruger moves to discharge, from the Committee on Rules, Assembly Bill Number 8358B and substitute it for the identical Senate Bill Number 4838B, Third Reading Calendar 1271.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1271, by Member of the Assembly Bradley, Assembly Print Number 8358B, an act to amend the Family Court Act and others.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 10. 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: In relation to Calendar Number 1276, Senator C. Kruger moves to discharge, from the Committee on Rules, Assembly Bill Number 10808A and substitute it for the identical Senate Bill Number 7447A, Third Reading Calendar 1276.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

1276, by Member of the Assembly Scarborough, Assembly Print Number 10808A, an act to amend the Family Court Act.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 7. 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 1295, by Senator Golden, Senate Print 154B, an act to amend the State Finance 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 1328, by Senator LaValle, Senate Print 7678, 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 1342, by Senator Winner, Senate Print 6262B, an act to amend the Alcoholic Beverage Control 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: In relation to Calendar Number 1387, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 8527A and substitute it for the identical Senate Bill Number 6203B, Third Reading Calendar 1387.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1387, by Member of the Assembly Weinstein, Assembly Print Number 8527A, an act to amend the Civil Practice Law and Rules.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you.

I just rise to thank Senator Volker for bringing this bill finally to the floor to be voted on today.

This is a bill that will prevent debtors from freezing the bank accounts of elderly poor people who may be surviving only on their Social Security check or their disability check and, because of some dispute that may or may not ever be resolvable, banks actually, under current law, freeze their accounts. They can't pay their rent, they can't buy food, they can't pay for their prescriptions.

This is a very important bill for many elderly poor New Yorkers. So I want to thank him very much for moving this bill. I'll vote yes.

ACTING PRESIDENT GRIFFO: Senator Krueger 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 1439, by Senator Marcellino, Senate Print 6944B, 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 4. This act shall take effect April 1, 2009.

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 1695, by Senator Leibell, Senate Print 6904, an act to amend the State Law.

ACTING PRESIDENT GRIFFO: Read the last section.

SENATOR MAZIARZ: Lay it aside temporarily, please.

ACTING PRESIDENT GRIFFO: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number

2001, by Senator Skelos, Senate Print 8477A, 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, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2011, Senator Robach moves to discharge, from the Committee on Rules, Assembly Bill Number 11628 and substitute it for the identical Senate Bill Number 8538, Third Reading Calendar 2011.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2011, by the Assembly Committee on Rules, Assembly Print Number 11628, an act validating certain acts done by the Rochester City School

District.

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: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2031, by Senator Griffo, Senate Print 8507A, an act to amend the Tax Law.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 2056, by Senator DeFrancisco, Senate Print 8509B, 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 Valesky, to explain his vote.

SENATOR VALESKY: Thank you, Mr. President.

I want to thank Senator DeFrancisco for his leadership on this issue. This is a very important piece of legislation that will provide the final piece of a puzzle that may very well revolutionize public education in the City of Syracuse School District.

We took some action during the budget, and assuming that the Assembly joins us in approving this bill today, this will provide additional tuition assistance to schoolchildren in the City of Syracuse public school district.

It will also have a tremendous economic development impact as well by encouraging young families to move back into the city of Syracuse to raise their families.

So, Senator DeFrancisco, thank you for your support of this bill. I encourage all my colleagues to support it as well.

I'll be voting in the affirmative. Thank you.

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

Announce the results.

THE SECRETARY: Ayes, 60. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2084, by the Senate Committee on Rules, Senate Print 8526B, an act to amend the New York State Urban Development Corporation Act.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 2098, by the Senate Committee on Rules, Senate Print --

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number

2100, by the Senate Committee on Rules --

SENATOR MAZIARZ: Just lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

Is that for the day? Senator Maziarz, can we have a clarification? Is Calendar 2100 to be laid aside for the day?

SENATOR MAZIARZ: No, temporarily.

ACTING PRESIDENT GRIFFO: Lay it aside temporarily.

Senator Maziarz, that now completes the noncontroversial reading of the active list before us.

SENATOR MAZIARZ: Mr. President, could we return to Calendar Number 1695, by Senator Leibell, and lay that aside for the day, please.

ACTING PRESIDENT GRIFFO: We will return to Calendar Number 1695, by Senator Leibell, and lay that aside for the day.

Senator Maziarz.

SENATOR MAZIARZ: Mr. President, can we now take up the controversial reading

of the calendar, please.

ACTING PRESIDENT GRIFFO: The Secretary will ring the bell.

ACTING PRESIDENT YOUNG: The Secretary shall read.

THE SECRETARY: Calendar Number 2031, by Senator Griffo, Senate Print 8507A, an act to amend the Tax Law.

ACTING PRESIDENT YOUNG: Senator Klein.

SENATOR KLEIN: Madam President, if the sponsor would yield for a couple of questions.

ACTING PRESIDENT YOUNG: Senator Griffo, will you yield?

SENATOR GRIFFO: I do.

ACTING PRESIDENT YOUNG: Senator Klein.

SENATOR KLEIN: Thank you, Madam President. Through you, Madam President.

Senator Griffo, do you have any statistics from the New York State Department of Taxation and Finance on how much the State of New York loses every year through bootlegging or selling untaxed cigarettes?

SENATOR GRIFFO: It is estimated -- Madam President, through you. Senator Klein, it is estimated almost about a billion dollars each year could be not collected as a result of bootlegging or evasion.

SENATOR KLEIN: Again, through you, Madam President, would the sponsor yield for a question.

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

SENATOR GRIFFO: I do, Madam President.

ACTING PRESIDENT YOUNG: Thank you.

Senator Klein.

SENATOR KLEIN: Senator Griffo, do you know how much of that lost tax revenue is due to cigarettes sold from Native American reservations, either through the Internet or directly from the reservation?

SENATOR GRIFFO: Senator Klein, I do not have a specific -- Madam President, through you. Senator Klein, I do not have a specific amount, but it has been estimated

upwards to about a half a billion dollars.

SENATOR KLEIN: Thank you.

Another question, Madam President. Would the sponsor yield?

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

SENATOR GRIFFO: I do, Madam President.

ACTING PRESIDENT YOUNG: Thank you.

Senator Klein.

SENATOR KLEIN: Senator Griffo, under your legislation you create a tax credit for those retail tobacco dealers located in close proximity to Native American reservations.

How much would the tax credit cost the taxpayers of New York State? In other words, what would be the budget amount?

SENATOR GRIFFO: Madam President, through you. Senator Klein, that is still being worked out at this point in time.

But the concept behind this, Senator Klein, was to serve -- this Legislature, both houses passed, in March of

2006, laws instructing the Executive to enforce the laws of the State of New York by collecting sales tax. Three Governors have chosen to ignore those laws that have existed.

So this is purposely presented as a penalty, not only to the state for its inaction for failure to fulfill the responsibilities incumbent with the executive office of the Governor in enforcing the law.

So while those numbers are being worked out, I thought it was important that we presented this forward, because we want to encourage that the law is obviously abided by and that the Governor in office, whoever it may be -- and at this time the current Governor -- really begin to take appropriate action. And if not, this would be a penalty for the State of New York.

So I recognize there would be a cost savings. But we were trying to come up with a new way without trying to face some constitutional crisis between the two branches, recognizing the separation of powers but also trying to emphasize the importance of this legislation and the fact that for three

Governors now, we have not seen any action.

So yes, there would be a cost, but that is the impetus for this, not only to offset the concerns expressed by the small business community, but I actually think we should even go farther and hold the communities harmless too that are also suffering because of this failure to collect the sales tax.

SENATOR KLEIN: Thank you, Senator Griffo.

Would the sponsor yield, Madam President, for one last question.

ACTING PRESIDENT YOUNG: Senator Griffo, do you yield for one last question?

SENATOR GRIFFO: I do yield, Madam President.

ACTING PRESIDENT YOUNG: Thank you.

Senator Klein.

SENATOR KLEIN: Through you, Madam President. I notice also there's a separate section -- one is businesses that are close proximity to Native American reservations. The other section deals with

tobacco dealers, retail tobacco dealers who are in close proximity to a border state.

If we're trying to deal with the lost revenue that's not collected from Native American reservations through the sale of bootleg cigarettes, why are we now including a section on border states?

SENATOR GRIFFO: Madam President, through you.

Senator Klein, we do have reservations that are in bordering states that are close enough to our border that have that type of an impact.

SENATOR KLEIN: Thank you very much, Senator Griffo.

Madam President, on the bill.

ACTING PRESIDENT YOUNG: Senator Klein, on the bill.

SENATOR KLEIN: I want to thank Senator Griffo for raising this issue.

But I think what we're doing in this legislation is making a bad situation, if at all possible, somewhat worse. What we're doing now is we're acknowledging that we can't collect cigarettes on Native American

reservations, even though there's many laws written that say we can do that, and now we're losing all that revenue for the State of New York for untaxed cigarettes, and now we're giving a tax credit to these aggrieved businesses.

I don't think this is the best way to deal with the problem. Although, again, I do recognize Senator Griffo is looking out for his localities, who are going to wake up one morning without a tax base.

This is an issue that I've had a hong history with in our State Legislature. As a matter of fact, one of the first bills that I passed in the Assembly was a bill that I did with Senator Libous when the problem was bootlegging of cigarettes that came from low-tax states. We dealt with that situation, but then the Native Americans got into the cigarette business and the issue has come about again.

I also wrote a law with Senator Chuck Fuschillo which bans the sale of cigarettes over the Internet and through mail order. Again, a very important issue, because

not only are we losing a tremendous amount of tax revenue, but young people time and time again are able to gain access to cheap cigarettes over the Internet without having to give IDs or any proof of age.

So this is an issue that has become very, very important for two reasons. First, the State of New York is losing millions and millions of dollars in uncollected revenue. But just as important, the way young people can buy cigarettes is through the Internet, through mail order. And the incentive to buy cigarettes at a cheaper price exists every day for them.

There are statistics that show every time we tax cigarettes, we do reduce the number of smokers. But I think when we look at those numbers, I think they're very difficult to calculate. Because what we're seeing is people who are buying cigarettes lawfully, and there maybe a drop-off, but I think indeed they're buying cigarettes over the Internet, they're buying cigarettes off the street from people who aren't collecting the tax.

Whether you like cigarette smoking or not, we can't ignore the fact that we generate a tremendous amount of revenue through cigarettes. And one of the ways we fund the HCRA fund in New York State -- which, as everyone knows, goes to healthcare and other important programs, the EPIC program, to just name a few -- is through cigarette taxes.

Also, our tobacco settlement money, which is again earmarked in New York State for healthcare causes, is based on legal cigarette sales. So every time a bootleg pack of cigarettes is sold, every time an untaxed carton that emanates from a Native American reservation is sold, that's less money that's calculated towards our tobacco settlement dollars.

So I think we really need to deal with this through legislation, if we can. But I'll be honest, I'm getting a little frustrated. I've passed two bills now in my tenure in the Legislature, and they haven't been enforced.

I think what we really need to do is work out an agreement with our Native

American neighbors where we do some type of 50/50 split where they collect the taxes, we take half. It's better than nothing. Or maybe we should actually have a health and education fund that the money is collected by Native Americans and is dedicated to a fund to make sure that the reservation uses it for education and healthcare.

But I think we shouldn't be the only state in the United States that has no tax agreement with our Native American neighbors. That's where we are right now. And I don't think, in this time of fiscal constraints, we can continue to ignore $500 million, $600 million in uncollected revenue.

And as I said earlier, I feel for the constituents that Mr. Griffo represents, as well as my colleague Senator Valesky. Because it's very, very difficult to compete when an item is being sold and they're excluding taxes.

And I will say, and I guess I don't want to give some of the tribes some ideas, but there's nothing preventing them from

actually selling refrigerators or fur coats or jewelry or anything else that has a very high luxury tax. And what's going to happen one day is we're going to wake up in a lot of these communities, and they're going to lose their tax base. And I think it's incumbent upon us to prevent that from happening.

So while I support the effort that's put forward in this bill, and I do vote yes, I think we should be really doing a lot more to finally hammer out an agreement with our Native American agreements.

I thank you, Madam President.

ACTING PRESIDENT YOUNG: Senator Valesky.

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

ACTING PRESIDENT YOUNG: Senator Valesky, on the bill.

SENATOR VALESKY: Thank you, Madam President.

I appreciate Senator Klein's efforts over the years -- particularly his leadership in the Assembly, before coming here -- on this issue.

I can relate and speak firsthand to the frustration that Senator Klein speaks about in regard to this issue. And I want to thank Senator Griffo for bringing this bill before us today.

The impact certainly on convenience stores in Central New York as a result of the lack of enforcement of sales tax collection has been significant over the years. It has been even greater since passage of the budget earlier this year with the $1.25 increase in the state excise tax on cigarettes.

This is the third consecutive administration in this state that has not followed through in enforcing the law. Senator Griffo mentioned earlier that we have passed legislation in this house and in the other house on more than one occasion, and in numerous budgets, to direct the Commissioner of Taxation and Finance to collect sales taxes. That has not happened, and I commend Senator Griffo for taking this approach.

I would note in the bill, however, that Senator Griffo's bill would expire upon the collection of the sales tax imposed under

Article 20 of the Tax Law. So when laws that are on the books are not being enforced, I think it's certainly appropriate for us as a Legislature to do everything we can to encourage the Executive, whomever that might be, to enforce the laws of this state.

So, Senator Griffo, thank you for bringing this piece of legislation before us. I encourage all of my colleagues to support the bill.

ACTING PRESIDENT YOUNG: Thank you, Senator Valesky.

Senator Nozzolio.

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

Madam President and my colleagues, Senator Griffo did not want to introduce this legislation. I speak for myself; I did not want to support this legislation.

But unfortunately, the New York State Tax Department, being the biggest tax scofflaw of all of New York State, requires us to take this drastic action.

Under three Governors, the New York State Tax Department has failed to comply with

a law that this house instructed them to comply with. This house voted to establish the level playing field when an Indian business, a Native American business, sells to a non-Native American customer, that is a transaction that this house and the other house, the Assembly, indicated should be the law of New York State.

Do you know of any other element of the New York State tax code that is ignored by the New York State Tax Department? I can think of no other.

We all know, and I'm sure we've heard from business after business that when non-Native American businesses, when they are in any way in arrears in their payments, what happens to them? Well, the New York State Tax Department is the first to show up, is the first to seize assets, is the first to take them to court, is the first to prosecute and is the first to convict.

But what happens when there are, as Senator Klein had indicated, literally thousands of transactions that are occurring each and every week that the New York State

Tax Department is required to collect taxation but refuses to do so?

The only thing worse than taxation is taxation that's administered unevenly, and that's what we have in this state. We have an uneven implementation of the New York State tax code by the New York State Tax Department. One set of rules for Native Americans who are selling to non-Native Americans. Even though the law requires there to be a set of rules for all business selling to non-Native Americans, the Tax Department continues to support duplicity.

Senator Griffo -- and I support his legislation -- has introduced this bill out of tremendous frustration. But his frustration and my frustration pales in comparison to the frustration of the everyday businessperson who is paying their taxes, who is complying with the law, who is trying to make ends meet, who is running a legitimate business but cannot compete toe to toe, head to head because there's a duplicity in the enforcement of our New York State tax code.

The frustration of that

businessperson -- the loss of revenue, the loss of employment, the loss of their business -- is extreme. That's why Senator Griffo developed this procedure, to try to level the playing field somewhat and somehow make up for the Tax Department's failure to follow the law.

Senator Griffo, you've done an excellent job in putting this bill before us. It's a measure that I believe everybody should support that cares about business in New York, that cares about the upstate economy, that cares about those businesses that do follow the law, that do pay taxes, that do obey the rules.

It is, at the very least, out of frustration because of the Tax Department's failure to comply with the law that this legislation becomes necessary.

And that, Madam President, is why I rise to support it.

ACTING PRESIDENT YOUNG: Thank you, Senator Nozzolio.

Any other Senator wishing to be heard?

Then the debate is closed. The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Senator Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

I will be voting against this bill, although I very much appreciate the frustration of my colleagues who represent areas where this problem is taking place.

I don't think the right way to address it is to essentially extend the same problem and create more inequality between businesses that happen to be close to a reservation as opposed to businesses that are a little further way. Obviously, the way to handle this is to collect the taxes.

I also have a very serious problem with the extension of this rule to businesses

just that are simply close to a border state. That creates tremendous inequality between equal businesses.

I think the principles that were stated before by my colleagues who are in support of this measure -- treat equal businesses equally -- are tremendously important. The first principle of tax policy is you treat equal transactions and equal individuals or businesses equally.

Unfortunately, the New York State tax code is riddled with exemptions and loopholes like this, which is why our corporate taxes have high marginal rates but generate very little income.

I would love to have a way to support the people in these jurisdictions that are suffering; I can't support this particular method. I'm voting no, Madam President. Thank you.

ACTING PRESIDENT YOUNG: Thank you, Senator Schneiderman.

Senator Savino, to explain her vote.

SENATOR SAVINO: Thank you,

Madam President.

I'm also voting against this bill, although I totally appreciate and understand the frustration of Senator Griffo and the other members of the Senate who represent areas that do have a large number of Native Americans selling cigarettes illegally. I am sympathetic.

However, for all of the reasons that Senator Klein laid out, the amount of revenue that is at stake, the amount of revenue that the New York State government loses every day because of these illegal sales, the amount of revenue that comes out of our HCRA fund, the amount of revenue that comes out of the tobacco settlement, the cost to New York State is incredible.

And what we have here right now is a situation where we are almost on the verge of aiding and abetting what is almost like an organized crime ring. Nowhere else would we apply this rule than to this particular group of people who are violating the law every day. Imagine if every one of us in this chamber decided that we were not going to pay our

taxes anymore, we were just going to stop.

Would any one of us be allowed to stop doing that? Would any group of retailers in the City of New York decide to just stop paying the sales tax that they are required to pay, or anywhere else in the State of New York? No.

Our failure to enforce the legislation that we passed is somewhat troubling, because we're allowing it to go on. I understand what we're trying to do; we're trying to provide relief directly to the unintended victims of our own failure. But what we should be doing is making sure that when we enact legislation and the Governor signs it into law, that the agency's required for implementing it actually does that.

I understand what you're doing, Senator Griffo, but unfortunately I cannot vote for this legislation.

ACTING PRESIDENT YOUNG: Senator Savino, how do you vote?

SENATOR SAVINO: No.

ACTING PRESIDENT YOUNG: Senator Savino votes no.

Senator Winner, to explain his vote.

SENATOR WINNER: Thank you, Madam President. I briefly want to explain my vote.

I want to thank Senator Griffo for bringing this measure before us, ostensibly out of frustration with the failure of the administration -- three administrations -- to enforce the law that we have out there to collect the sales tax that is costing our taxpayers significant revenues that could be used for other purposes.

I mean, one of the last excuses that they used, the Tax Department used, was that they were enjoined from enforcing the law. Well, you know why they were enjoined from enforcing the law? The law said that you had to promulgate regulations, and the law said that you had to print revenue stamps in order for the law to be implemented and put in place.

And they said, well, we've been enjoined because we did -- because -- and therefore we can't go forward. Well, the

reason they couldn't go forward is because they didn't promulgate the regulations and they didn't print the revenue stamps.

So what kind of circular nonsense and excuse-hiding-behind is that particular message to all the legitimate businesses that are out there?

This measure is born out of frustration. It's hopefully a message that will be sent to the administration and others that are responsible for the enforcement of a legitimate statute that we have on the books to collect these necessary revenues for our legitimate state purposes.

And additionally, I want to commend Senator Griffo for recognizing the inequities that we have also on the border businesses that are dealing with states that have lower excise taxes that are causing us significant anti-competitive retail pressures within our state.

So this measure is a great measure to send a message out there that we really mean business about making sure that these revenues are collected and that we know that

we need to protect the legitimate businesses in this state from unfair competitive pressures.

So I vote aye.

ACTING PRESIDENT YOUNG: Thank you, Senator Winner.

Senator Hassell-Thompson, to explain her vote.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

I'm very confused because I thought clearly that the agreements that were made on reservations could not be preempted by the State Legislature. And yet the language that is being used infers and implies that something illegal is happening on the reservations.

I will be voting no for this bill primarily because I continue to see it as an encroachment on and changing or attempting to change those agreements that have been made with our reservations.

I do not agree that the competition should not in fact be more fair in terms of surrounding communities, but I fail to see how

this in fact will make a justification for the balance that you say that you want to create.

I will not be voting for this bill. Thank you, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Hassell-Thompson. You will be recorded as a no.

Senator Parker, to explain your vote.

SENATOR PARKER: Madam President, to explain my vote.

First, let me congratulate Senator Griffo for bringing this issue to the floor. This is an issue, since I've been here, we've been trying to address in several different ways and we've gone unsuccessful without addressing it. So I stand in unity with Senator Griffo as he tries to address a wrong that needs to be dealt with.

However, I'm not clear that this bill is actually the way that we ought to go about it.

Frankly, my concern is really simple, is that we are looking at lowering the taxes on cigarettes after we have just raised

the taxes on cigarettes.

To tell you a quick story, there was a young man who was born in Harlem Hospital, grew up as an orphan, had an opportunity to get a good job and wound working for the Transit Authority. And having that full-time job at a living wage, with benefits, allowed him to marry his high school sweetheart and raise five children. You know, one of them actually became a State Senator.

And unfortunately, that man, after having this good life, died last year of a massive heart attack after suffering for six or seven years with emphysema, acute bronchitis, and other kind of ailments. And that man was my father.

I do not want to see people have to go through what my family has gone through after losing my father to smoking-related illness. We need to do everything that we can to in fact discourage people from smoking.

And if store owners and convenience store owners have to find other ways to produce revenues, then let's have that conversation, and I'm happy to figure out

other ways to do it.

But we no longer can in fact trade off economic development and jobs with the cost that it's costing us both in human lives and in the healthcare costs for smoking-related illnesses.

And so on one hand we're giving money and now we're giving away money, and on the other hand we're going to be spending money as we in fact encourage people to smoke all over the state.

Because of that, I have to vote no. And I'm hoping that we can work together, going forward, to figure out another way to address this important issue.

ACTING PRESIDENT YOUNG: Thank you, Senator Parker. You will be recorded in the negative.

Any other Senator wishing to be heard?

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 2031 are Senators Connor, Duane, Gonzalez, Hassell-Thompson, Huntley, Klein, Montgomery,

Morahan, Padavan, Parker, Perkins, Sabini, Savino, Schneiderman, Serrano and Stewart-Cousins. Also Senator Stavisky.

Absent from voting: Senator Sampson.

Ayes, 44. Nays, 17.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 2084, by the Senate Committee on Rules, Senate Print 8526B, an act to amend the New York State Urban Development Corporation Act.

SENATOR LIZ KRUEGER: Explanation.

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

SENATOR OWEN JOHNSON: Yes, this bill creates an innovative program at a statewide level to enable financing of large-scale economic development projects over $20 million. The Empire State Development Corporation will act as the primary vehicle for review and approval of key projects.

This benefits the state by reducing

and eliminating the need for grant programs to finance large-scale projects. And the way they do that is keep aside the payment in lieu of taxes and use those to pay the bonds on the money which is being provided. So we don't have to use state grants, we can use that money to float bonds and pay them off with the payments in lieu of taxes.

And it's a very clever idea. You can raise a lot of money that way and provide incentives for major projects.

ACTING PRESIDENT YOUNG: Thank you, Senator Johnson.

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President.

If the sponsor would please yield.

ACTING PRESIDENT YOUNG: Senator Johnson, do you yield?

SENATOR OWEN JOHNSON: Yes.

ACTING PRESIDENT YOUNG: The Senator yields.

SENATOR LIZ KRUEGER: Thank you.

So it's a PILOT program, payments in law of taxes, and it's a self-sufficiency

program, and it's got some very specific criteria. Is there a specific project in mind with this bill?

SENATOR OWEN JOHNSON: Not at the moment, no. Not at the moment.

SENATOR LIZ KRUEGER: Not at the moment. Thank you.

SENATOR OWEN JOHNSON: But we are looking to have large projects come along, and we don't have the state funds to provide it, and this is a way to create the money to build the projects.

ACTING PRESIDENT YOUNG: Thank you, Senator Johnson.

Senator Krueger.

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

ACTING PRESIDENT YOUNG: Senator Johnson, do you continue to yield?

SENATOR OWEN JOHNSON: Yes, I will.

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

I have to say, as I reviewed this

bill, one of my largest concerns was the absence of a local role in this.

As I read the bill, the applicant comes to the UDC for financing of this project, and then they can come to an agreement, the state agency and the project developer, wherein if they make an agreement to pay PILOTs to themselves instead of taxes for 40 years -- again, if I'm the developer in the deal and I make an agreement through this law where I will pay payments in lieu of taxes not to the state or the locality but in fact to myself for the project costs, then for 40 years I might not have to pay any actual taxes to the local government or the county or even the state.

And the way the bill is written, the locality only gets 45 days' notice to decide whether or not they want to object. And if they haven't objected, this deal can go through. And the school district, which also then is losing the taxes for up to 40 years, also has only 30 days to make a determination.

And so this kind of deal could go through in what I would call the blink of an

eye, from a local government perspective, where the provider --

ACTING PRESIDENT YOUNG: Senator Krueger, excuse me. Is there a question in there?

SENATOR LIZ KRUEGER: Yes, there is.

ACTING PRESIDENT YOUNG: Okay, thank you.

SENATOR LIZ KRUEGER: Again, I'm trying to explain my reading of the bill in my question to the Senator.

That the way the bill is written, the PILOT deal would go through, if the school district didn't say wait a second here within 30 days, if the local government didn't say wait a second here within 45 days -- and while the developer might have to pay a certain percentage formula, as laid out in the bill, to the host community and the school district and a one-time payment to ESDC, this could be an enormous project in somebody's back yard with very little opportunity for them to object. And before you know it, there's no taxes paid to them for 40 years.

So my question is, is that the sponsor's intention in this bill, to basically lock localities and school districts out of taxes for 40 years?

ACTING PRESIDENT YOUNG: Senator Johnson.

SENATOR OWEN JOHNSON: I understood you made a wonderful presentation. Was that a question or what?

SENATOR LIZ KRUEGER: Yes, it was a question, Senator Johnson. I could repeat it -- don't repeat it?

(Laughter.)

ACTING PRESIDENT YOUNG: Not necessary, Senator Krueger.

SENATOR OWEN JOHNSON: What is the question?

SENATOR LIZ KRUEGER: Does this bill lock local governments and school districts into 40 years where taxes cannot be collected because the PILOTs go to the sponsor, with the exception of the deal laid out here, of just 3 percent to the host community, 3 percent of the project costs to the school district, and if the locality and

the school district haven't acted within a 45-day window, the deal is done anyway?

SENATOR OWEN JOHNSON: Okay, very good.

Now, you know, this has got two purposes. One is to generate tax revenue. One is create jobs. One is create housing, affordable housing. So jobs, housing. I can't think of all the other -- if you read the bill, one or two good reasons to do this, to revive the community, raise the community standards with employment, with new projects, construction work.

You're right, 3 percent of the total project cost will go to the school district initially. Now, if the locality doesn't want this project, they can veto the project. They can say "We don't want it." But most people would like the jobs and the construction and the jobs which are generated from the project.

And a lot of income is created in that area, sales taxes are created. So don't think there's no benefit to the community; there is. The community will be revived, and

the revenue will flow from the other sources which I mentioned to you. So I think it's a very clever idea to finance things without the state going into debt to do it.

ACTING PRESIDENT YOUNG: Thank you, Senator Johnson.

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

Thank you, Madam President. On the bill.

ACTING PRESIDENT YOUNG: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Well, of course we all love the idea of economic development that creates jobs. And housing, as the Senator said. Although this bill isn't actually related to housing, this bill is related to some kind of manufacturing-category plant, as opposed to housing. And it does talk about creating jobs, although it can be relatively small numbers of jobs. But I appreciate that in certain communities small numbers of jobs are very important.

Again, my concern with this bill is imagine you're a local government. The ESDC

has gone into a deal with someone. You have a maximum of 45 days to have a community discussion: Do you want this here? What are you giving up in taxes if you accept the project?

Because if you accept the project, there are no taxes owed to you for 40 years, 4-0, except for what's written into this bill of 3 percent payable at closing of the financing to the host community. That's a one-time 3 percent project cost. Three percent of the project costs to be paid to the school district. And 3 percent to ESDC. Well, you understand why they might like it; they get 3 percent of the project costs.

But again, with what I would define in the real world as almost no time for notice, you're walking into potentially having this enormous new project in your community with no time to evaluate what are the pluses and minuses for you. What are the advantages and the disadvantages of this big new project in your community, in your town, in your county? What are the impacts on your transportation system, on your school system,

on your environmental costs?

What does it mean to have just 45 days -- and even in the bill it lays out they're supposed to put letters around telling people about the meeting to have a public hearing -- 45 days, maximum, to make a determination about whether you're accepting this project and, if this project is accepted, you're locked into a 40-year deal where the project gets to keep the tax revenue for themselves through the payments in lieu of taxes? And you might not have even had time to do an evaluation for yourself about the impact in your community.

So to be honest, this bill scares me. I represent a part of the City of New York. We're a big city, we're a sophisticated city with a very large local government and zoning experts and environmental experts and community boards. And I would tell you that a 45-day timeline is not nearly adequate for us in New York City to make these kinds of determinations.

So imagine if I'm a small town in upstate New York who doesn't have all of these

staff resources, and suddenly I get notice that if I don't say "no" within 45 days, that's it, the deal is going through, this is coming in.

So I have a real concern about this imposing on local communities, sort of forcing them into economic development projects that again on the surface might sound great, but without the time and resources to evaluate what this impact would be for themselves.

And so we love having economic development projects. We support using bonds and notes to support the kinds of projects that are going to create real jobs and be good partners with our communities.

I'm not saying that any individual project that might be considered under this bill might not be a good project. Again, I asked the sponsor; there's no specific project in mind. It talks about putting them in brownfields areas. We like that. We want to do more creation of brownfields resolution.

But again, I think this is an attempt by the state to run over local governments' and local communities' rights to

make their own determinations about whether large-scale projects are right for them or not and what the costs and impacts will be on their communities.

And again, having just 45 days maximum -- 30 days for your school district -- to determine whether you're giving up your tax base on that area for 40 years doesn't seem like a really great deal to me.

So with all due respect, I don't think this is the kind of legislation most communities in New York State really want to see passed, because it locks them out of the process. And we want more transparency and more community participation, not less.

So I'm recommending a no vote on this bill.

Thank you, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Krueger.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

Just an additional concern. When the federal dollars used to come to the

states, there was something called the A-95 review. And what the A-95 review called for was that at least 90 days would be put in place to allow all concerned citizens and organizations and municipalities to be able to review, comment and respond.

This also triggered -- if there were complaints, it stopped the clock in terms of the time that was necessary. And also there was a mechanism put in place when complaints were registered that those complaints would be reviewed by the feds.

I'd like to make a suggestion that this bill and others like it seem to require, is that we establish for our IDAs, for our ESDCs, for our UDCs -- for any of our acronyms -- that we have something relevant to the A-95 review that requires a timely allowance for municipalities to set forth those complaints and concerns. And it ought to also trigger that the state have a mechanism in place that allows for those complaints and concerns to be appropriately reviewed.

A-95s worked well because they

allowed community groups to take a look at any monies that were coming into their communities to be reviewed and to make their concerns known. And it also allowed for sufficient time for the proper oversight local committees to register appropriate complaints.

So I just have a concern that, number one, 45 days certainly does not seem to be sufficient. But every bill that we pass seems to have their own numbers, and there's no statewide requirement that we really take a look at and review and allow our local communities to have the review process that we need in place.

So I will be voting -- you know, I don't want to stop this progress, but I want us to continue to review what it is we do and have some systematic way in which our agencies will function and that there will be an oversight review to follow up on complaints and concerns that are in fact registered by local communities.

I hear upstate and downstate communities talking about this, but nobody wants to bite the bullet and say we need to

have a review process that is consistent in the State of New York.

Thank you, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Hassell-Thompson.

Senator Perkins.

SENATOR PERKINS: Thank you very much, Madam President.

Through you, Madam President, may I ask the sponsor a question or two.

ACTING PRESIDENT YOUNG: Senator Johnson, will you yield for a question?

SENATOR OWEN JOHNSON: Yes, I will.

SENATOR PERKINS: Thank you very much.

I obviously appreciate the thrust of this legislation in terms of what it is trying to accomplish. But I have a concern about how this is going to be funded.

I understand that Empire State Development Corporation will be going into the bond market to raise the money. Am I correct?

SENATOR OWEN JOHNSON: That's correct.

SENATOR PERKINS: Do you have any idea of what the limits to the amount of money that the corporation will be allowed to raise?

SENATOR OWEN JOHNSON: Well, what we're talking about here is a project at least $20 million.

SENATOR PERKINS: At least $20 million?

SENATOR OWEN JOHNSON: Of course, we're depending upon the PILOT payments to make the bond payments. So you understand it has to be something that will be handled with the amount of PILOTs that are available.

SENATOR PERKINS: Could you repeat what you -- I didn't hear.

ACTING PRESIDENT YOUNG: Thank you, Senator Johnson.

Senator Perkins.

SENATOR PERKINS: I couldn't hear his explanation, so I just asked him if he could repeat it maybe a little louder.

SENATOR OWEN JOHNSON: I have to talk into the machine, not you. Okay?

ACTING PRESIDENT YOUNG: Thank you, Senator Johnson.

SENATOR OWEN JOHNSON: The answer is whatever amount of bonds we float have to be handled by the PILOT payments which are available.

SENATOR PERKINS: So in effect -- Madam President, may I continue to ask a question.

ACTING PRESIDENT YOUNG: Senator Johnson, do you yield?

SENATOR OWEN JOHNSON: Yes.

ACTING PRESIDENT YOUNG: Senator Johnson yields, Senator Perkins.

SENATOR PERKINS: Thank you so much.

I'm concerned about the possibility of an unlimited amount of debt that will be incurred. Presumably not state debt, as the legislation suggests, but nevertheless debt that is not able to be checked.

ACTING PRESIDENT YOUNG: Thank you, Senator Perkins.

Senator Johnson.

SENATOR OWEN JOHNSON: I don't think there will be an unlimited amount of money for anything.

But I'll tell you something about this project. This is same procedure which is used to build -- and I don't want to shock anybody from New York City, but the Mets and Yankees stadiums used exactly the same procedure to finance their project. Just as a starter.

And, number two, there are a lot of areas in this state which have degraded housing, absent -- empty commercial buildings and so on. And this is designed to help to build up those areas or restore those areas which need restoration desperately.

And I might say, someone mentioned about 50 factory jobs. You could have up to 200, 300 jobs in finance or insurance and so on.

So I think this is a really good idea to create jobs and restore communities, and you don't have to worry about the payment because it's going to be covered by the PILOTs.

ACTING PRESIDENT YOUNG: Thank you, Senator Johnson.

Senator Perkins.

SENATOR PERKINS: Through you, will the sponsor yield again for another question.

ACTING PRESIDENT YOUNG: Senator Johnson, will you yield?

SENATOR OWEN JOHNSON: Yes.

ACTING PRESIDENT YOUNG: Thank you, Senator Johnson.

Senator Perkins.

SENATOR PERKINS: Again, I don't think I have any debate with you with regard to how commendable the objectives are and how much of a need there may be for some way to address those economic development needs, whether they be upstate or any other part of the state.

My concern is that this process of going to the bond without necessarily making it accountable to -- as part of the state debt seems to be a gimmick that puts us in debt without necessarily recognizing that we're actually incurring debt, because we're using the mechanism of the Empire State Development Corporation.

ACTING PRESIDENT YOUNG: Senator

Johnson.

SENATOR OWEN JOHNSON: This is not part of a state debt. This is a debt incurred by the developer, really, and he's going to be paying it off through the years.

SENATOR PERKINS: Through you, Madam President, will the sponsor yield for one more question.

ACTING PRESIDENT YOUNG: Thank you, Senator Perkins.

Senator Johnson, will you yield for one more question?

SENATOR OWEN JOHNSON: Will you repeat the question, please?

SENATOR PERKINS: My question is, the projects, when they are going through PILOTs, pay off the debt.

SENATOR OWEN JOHNSON: Right.

SENATOR PERKINS: What happens when the projects fail?

SENATOR OWEN JOHNSON: When it fails?

SENATOR PERKINS: When the projects fail, how does the debt get paid?

SENATOR OWEN JOHNSON: Well, it's

not state debt, it's UDC debt. And in fact the debt is probably backed up by the contractor, who's got his own financing, ultimately, to finish the job.

SENATOR PERKINS: What did he say? I can't hear him.

ACTING PRESIDENT YOUNG: Senator Johnson, if you could speak into the microphone.

SENATOR OWEN JOHNSON: You know -- yeah, I have to do that -- there was a song, years ago, like this [singing]: "Accentuate the positive, eliminate the negative." And all the other stuff.

That's what we have to do. You're concentrating on the negative when you should be looking at the positive, affirmative, beneficial results of this project.

And it's not -- the state is not going into debt. It's a very clever way to finance this and get more jobs and more things. And maybe we can get more companies in this state. We desperately need more jobs, especially upstate, and this will do it.

Now, did anybody worry about

financing for the Mets and the Yankees? Did they say "That's a terrible thing," the city, "don't do that, don't do that?" They didn't say that. They went ahead and did the projects. And we've got to go ahead and make this a success.

ACTING PRESIDENT YOUNG: Thank you, Senator Johnson.

Senator Perkins.

SENATOR PERKINS: On the bill.

ACTING PRESIDENT YOUNG: Senator Perkins, on the bill.

SENATOR PERKINS: I appreciate that you sang to me today, but it doesn't convince me that this is the most accountable, responsible way for us to do that which we all think is very important to do in terms of economic development.

It seems to me that we've had a history of gimmickry in financing projects through this process, relying on some moral obligation that this debt will be backed, or relying on PILOTs even though we've had instances in which projects have failed.

Now with respect with respect to

the stadiums that you spoke of, those are not the best examples for those of us from New York, especially since they have failed and have had to be re -- continually come back for more and more money.

So I would hope that the positive that you intend on experiencing with these projects does not repeat what has happened with the Yankees and the Mets. Because if that is going to be the models that you're using, then we're in trouble. And we'll be singing the blues next time that we get together.

So I again want to underscore my support of the vision that you have in mind, but I'm not quite sure that this approach is the approach that is as transparent and as accountable as we would need to assure the public.

So I'm going to not be able to support this legislation, because I think that we can do better. And I would like to see us move in a way that is more transparent, is more accountable, and that can therefore better service the people of the state in

terms of its economic development needs.

Thank you.

ACTING PRESIDENT YOUNG: Thank you, Senator Perkins.

Any other Senator wishing to be heard?

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. I would just like to ask the sponsor a question for clarification on this, on this bill.

ACTING PRESIDENT YOUNG: Senator Johnson, do you yield?

SENATOR OWEN JOHNSON: Yes, Madam President.

ACTING PRESIDENT YOUNG: The Senator yields.

SENATOR MONTGOMERY: Thank you. Through you, Madam President.

I note that this legislation provides for UDC to be the lead agency. And UDC, as lead agency, then controls all of the decision-making as it relates to these megaprojects, I'm assuming. Is that correct?

SENATOR OWEN JOHNSON: Yes,

that's true.

SENATOR MONTGOMERY: Okay. So, Madam President, if the sponsor would continue to yield for another question.

ACTING PRESIDENT YOUNG: Senator Johnson, do you yield?

SENATOR OWEN JOHNSON: Yes.

ACTING PRESIDENT YOUNG: The Senator yields, Senator Montgomery.

SENATOR MONTGOMERY: Thank you. Through you, Madam President.

Now, we just passed a bill which would put into law for the State of New York a set of smart growth principles. And assuming that the Governor will sign this legislation -- it's Senator Marcellino's bill that we did today -- that would establish that no project under UDC or any of the other agencies that would be similarly providing financing for these megaprojects would be allowed to go forward except under these principles.

So my question to you is, how do we reconcile this, which seems to be me to be -- just looking at this bill, which provides that

UDC takes the lead, and they have very different procedures than localities. Yet Senator Marcellino's bill requires that localities are involved and that there are certain principles that every development must adhere to.

How would we reconcile that vis-a-vis your legislation, which does not take into consideration these principles? UDC does not take into consideration any principles of the local involvement.

SENATOR OWEN JOHNSON: Is that a question?

SENATOR MONTGOMERY: I want to know how would you reconcile this. Because your bill provides that UDC takes the lead. As lead agency, we operate under their guidelines. They have not yet adopted these principles. And how would we reconcile that difference?

ACTING PRESIDENT YOUNG: Senator Johnson.

SENATOR OWEN JOHNSON: Yes. Senator, "smart growth" is a catchy phrase. I've heard it many times. And what they like

to do is jam everybody into small areas so they don't have to use cars, they can ride buses or trains. But some areas of our state don't have buses and trains, but they're areas which need to be redeveloped.

And certainly you can't just say "if you can't do by smart growth principles, you can't do it." That's not a law anyhow; that's a proposed law.

And so I'd say that the people developing there certainly know that people have to have access to the place and have access for employees to come to work. It's got to be in an area where essentially smart growth exists without anybody telling them it exists.

So I think there's no problem with this, really.

ACTING PRESIDENT YOUNG: Thank you, Senator Johnson.

Senator Montgomery.

SENATOR MONTGOMERY: Thank you, Senator.

Madam President, on the bill.

ACTING PRESIDENT YOUNG: Senator

Montgomery, on the bill.

SENATOR MONTGOMERY: Yes, I want to correct Senator Johnson on one thing that he said, and that is that smart growth is only a concept, it's a proposal.

But what we have in front of us is a bill that we just passed, and I think we voted unanimously to adopt these smart principles. And it is my understanding that the bill has already passed the Assembly.

So if that is the case, then we have in place for the State of New York, for these developments, any development -- it doesn't say that some developments in some regions, some areas, not in the urban centers, not in the suburban centers. It says that New York State now has a set of smart growth principles.

Which include, include that there are certain principles in every development that must be considered. And some of those are, i.e., whether or not this development meets local criteria for what communities view as important issues to them. It is in the law. It's very specific. And it doesn't

exclude anyone.

So if we are saying now that UDC will take the lead -- and UDC, my experience has been, on one hand, they can be very positive. On the other hand, if UDC decides that it will not abide by local laws and zoning codes and considerations of local communities, but rather it supports the development as presented by the developer no matter what impact it's going to have on the future of that community, then we clearly have a problem.

And so I'm going to vote no on this, because it's not clear to me that Senator Marcellino's legislation, the smart growth principles -- which I certainly support. I think that we should have this bill, this law should be in place for our communities across this state. And I'm not convinced that UDC considers itself under this regulation.

I want to see it as part of this bill if it's going to pass at all. And certainly if UDC does not decide to adopt the principles of smart growth as it relates to

any development that would come under this law, then we are in trouble.

So, Madam President, I'm going to oppose this legislation because I have seen personally, firsthand, the destructive aspect of when ESDC, which operates over UDC, does not adhere to local considerations in megadevelopments. And so we have essentially, in the case that I'm familiar with, where ESDC is clearly siding with the developer against the community that the development is proposed to be in.

So, Madam President, I vote no.

ACTING PRESIDENT YOUNG: Thank you, Senator Montgomery.

Any other Senator wishing to be heard?

Senator Johnson, on the bill.

SENATOR OWEN JOHNSON: I just want to clarify something.

The local government has much to say about what is built where in their community. You know that; right? The local governments have planning boards, zoning boards, they have a lot to say about where and

when you can build something. You know that, Senator?

SENATOR MONTGOMERY: Madam President, am I asked to yield?

ACTING PRESIDENT YOUNG: Senator Johnson, are you asking Senator Montgomery to yield?

SENATOR OWEN JOHNSON: Yes, I'd just like to ask her a question.

ACTING PRESIDENT YOUNG: Senator Montgomery, do you yield?

SENATOR MONTGOMERY: Yes.

SENATOR OWEN JOHNSON: I said the local government has a lot of say about what is built where in their community, and that planning boards and zoning boards exist. And I didn't know if you were aware of that.

ACTING PRESIDENT YOUNG: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President.

My answer is very, very simply, clearly, in the case that I referred to for a development in my district where UDC is the lead agency governing all aspects of the

development, none of the local zoning laws or the local government has had anything to say about what happens with that development.

Unlike when there is a development where local laws govern what happens. There are procedures that that development goes through in terms of public approval that does not happen under the -- when UDC takes the lead. Or it may or may not happen. Sometimes it does, but in this case it doesn't.

And that's why I'm objecting to this program.

ACTING PRESIDENT YOUNG: Senator Johnson.

SENATOR OWEN JOHNSON: I don't want to make any further comments. I think we have to end this discussion. But privately, I'm going to talk with some of the members who don't understand how it's going to work. But let me terminate my discussion right now.

ACTING PRESIDENT YOUNG: Thank you, Senator Johnson.

Any other Senator wishing to be heard?

Then the debate is closed. The

Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 2084 are Senators Adams, Connor, Dilan, Gonzalez, Hassell-Thompson, Huntley, L. Krueger, Montgomery, Parker, Perkins, Sabini, Sampson, Schneiderman, DeFrancisco, Saland.

Ayes, 47. Nays, 15.

ACTING PRESIDENT YOUNG: The bill is passed.

Senator Perkins, why do you rise?

SENATOR PERKINS: I'd like to explain my vote.

ACTING PRESIDENT YOUNG: Senator Perkins, the roll call is withdrawn. Without objection, you may explain your vote.

SENATOR PERKINS: Thank you so much for your cooperation.

I just want to reiterate my

concerns about this type of legislation that seems to perpetuate a practice of increasing state debt without trying to recognize it.

You know, we have debt that's on the books and then we have debt that's off the books. And then we hear from the public about the fact that we're not being transparent and that this off-the-books debt is not being accountable.

So I'm not suggesting any back-room deals or anything that seedy per se, but I do think that we can do this better.

And I do think that when we use these approaches to do very commendable and laudable economic development, especially in the upstate area -- because, you know, we are all for one New York. Be that as it may, we need to do it right.

And the way that we're doing it with legislation like this, going into the bond market, using PILOTs without necessarily recognizing any state responsibility, is not right.

This is real debt that we as a body, as a Legislature, have to recognize and

cannot continually just call it debt that is not accountable in terms of the state. So I just wanted to reemphasize that I'm against this for that reason.

ACTING PRESIDENT YOUNG: Thank you, Senator Perkins. You will be recorded in the negative.

Announce the results.

THE SECRETARY: Ayes, 47. Nays, 15.

ACTING PRESIDENT YOUNG: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 2098, by the Senate Committee on Rules, Senate Print 8680, an act to amend the Urban Development Corporation Act.

SENATOR LIZ KRUEGER: Explanation.

ACTING PRESIDENT YOUNG: Senator Johnson, an explanation has been requested.

SENATOR OWEN JOHNSON: This is the Empire Revolving Loan Fund. It provides short-term financing to qualified significant economic development projects in the state.

It's a bridge loan. It could be up to six years. This is to get a developer started, extending money on a revolving bridge loan. The bridge loan will have to be paid off eventually with bonds which the developer floats at his own expense, which he makes the payments on.

And I think it's just helping a project along to get started. But it's not permanent financing. Again, it will be financed privately by the developer.

ACTING PRESIDENT YOUNG: Thank you, Senator Johnson.

Senator Krueger.

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

ACTING PRESIDENT YOUNG: Senator Johnson, will you yield?

SENATOR OWEN JOHNSON: Yes, Madam President.

ACTING PRESIDENT YOUNG: Senator Krueger, Senator Johnson yields.

SENATOR LIZ KRUEGER: Thank you.

Senator, this bill seems to relate

to the last bill we had, in that the description of the projects who would be eligible seems to be approximately identical.

Is this bill intended to be a partner bill with the last bill, that you would get the approval with the PILOTs and then you would come to the state for a revolving bridge loan?

SENATOR OWEN JOHNSON: This has nothing to do with PILOTs, though.

ACTING PRESIDENT YOUNG: Senator Krueger.

SENATOR LIZ KRUEGER: Madam President, if I could clarify my question.

Is this intended to be a new UDC program that would be a partnership with your last UDC bill?

SENATOR OWEN JOHNSON: Yes, it would. Yes, Senator, you're right.

SENATOR LIZ KRUEGER: Thank you.

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

ACTING PRESIDENT YOUNG: Senator Johnson, will you yield?

SENATOR OWEN JOHNSON: Yes.

ACTING PRESIDENT YOUNG: The Senator yields.

SENATOR LIZ KRUEGER: Thank you.

So in this bill it requires the UDC or the ESDC to approve or disapprove an eligible project no later than 30 days from when the sponsor has applied and handed over a thousand dollars.

What happens if they can't approve or disapprove within 30 days?

SENATOR OWEN JOHNSON: I guess it doesn't go ahead. I don't know; you tell me.

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

ACTING PRESIDENT YOUNG: Senator Johnson, do you yield?

SENATOR OWEN JOHNSON: Yes.

ACTING PRESIDENT YOUNG: The Senator yields.

SENATOR LIZ KRUEGER: Thank you.

I read the bill carefully, and I can't find any reference to how large these loans might be expected to be. Is there any estimated size, either the smallest-size loan

or the largest-size loan?

SENATOR OWEN JOHNSON: You know, the Empire State Development Corporation does large loans and smaller loans and so on. Maybe it would be several loans in a district. I can't tell you the exact numbers.

But this is not government debt, remember that. This is just a bridge loan, and the eventual bonds will be floated by the developer or the contractor, whatever.

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

ACTING PRESIDENT YOUNG: Senator Johnson, do you yield?

SENATOR OWEN JOHNSON: Yes.

ACTING PRESIDENT YOUNG: The Senator yields.

SENATOR LIZ KRUEGER: Thank you.

So my previous question was that there's no dollar amount of how large these loans might be and therefore how much bonding we'd be asking UDC to do.

I also can't find in the bill a reference to how long this loan would be for.

Usually the term "bridge loan" is a short-term loan to bridge a gap in other financing.

I can find in the bill you could have three one-year extensions of the loan, but I can't find an original length of the loan requirement in the bill.

SENATOR OWEN JOHNSON: The maximum period is three years. But it's annual. It can be renewed annually for a couple of years.

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

ACTING PRESIDENT YOUNG: Senator Johnson, do you yield?

SENATOR OWEN JOHNSON: Yes, Madam President.

ACTING PRESIDENT YOUNG: The Senator yields.

SENATOR LIZ KRUEGER: Thank you.

I'm not sure I heard the answer, but let me just repeat. In the bill, actually on page 4, line 45, it has a reference -- starting on line 45, paragraph B of Section 7, it talks about allowing three one-year

sentences. But I don't see anything in the bill showing me the length of the original bridge loan that you could then have three one-year extensions on.

So again, my question is, how long can the original loan be for prior to asking for extensions?

SENATOR OWEN JOHNSON: On page 41, Senator, it says three years. The term of any loan should not exceed three years.

SENATOR LIZ KRUEGER: Okay. Thank you.

On the bill, Madam President.

ACTING PRESIDENT YOUNG: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

I want to thank the sponsor for his answers. And I have to think of a new song for us to sing about accentuating the positive.

Again, to start where my colleague Senator Perkins left off on the last bill, it is real money. It is the state taking on this debt through additional bonds that if, in fact, the sponsor failed to be able to repay

the loan, we would have to, as the State of New York, through ESDC somehow.

And I am also concerned, as Senator Perkins was raising before, about the amount of off-the-books debt we continue to build up.

I'm also -- again, on the last connected bill, I was concerned about the locality had so little time to make an evaluation for themselves. On this bill I'm concerned the ESDC has so little time to make a determination.

Again, as the sponsor answered, these could be enormously large loan requests, for small ones, on simple proposals or on enormously complex proposals. But under this bill, the only fee paid to the ESDC/UDC is a thousand dollars, and they're opposed to make a determination within 30 days. I have not seen the UDC/ESDC make too many decisions about economic development projects within a 30-day period.

And while we might be frustrated that sometimes everything in government takes too long, I'm very concerned we're limiting them to 30 days to do full evaluation and

good-faith investigation to which whether this is a specific project we should be bonding out money and giving loans for.

I'm also very concerned that it ties into these hypothetical projects and we don't know what they are. But if you look at the bill we just dealt with -- and I voted against -- S8526B, there's reference in that bill language connecting it to this bill. In the final, actually, section of that bill and the final section of this bill, 8680. These clearly are intended to work together. They are legislated as being part of the same chapter and reference each other.

All the reasons I gave before about the prior bill not passing a smell test, I'm sorry, I also don't think we've thought this one through well enough.

I certainly understand the need for bridge loans in some circumstances for economic development. My understanding is we have some of these programs in place already, and this might be duplicative of other ESDC options.

But again, in theory, no specific

project, and yet these two bills play together. And yet there are so many specifics in it, it does seem that somebody must have a specific project in mind, even though I'm not privy to that information.

I'm very hesitant for us to continue to walk down the road of making global decisions for localities on, quote, unquote, projects we don't talk about, under shorter and shorter timelines. If you were concerned about the first bill, as so many of my colleagues were, I would recommend being equally concerned about this parallel and interrelated bill.

So I'm sorry, I will have to urge my colleagues again, vote no on this legislation.

Thank you.

ACTING PRESIDENT YOUNG: Thank you, Senator Krueger.

Any other Senator wishing to be heard?

Senator Perkins.

SENATOR PERKINS: Thank you, Madam President.

Through you, will the sponsor yield for a question.

ACTING PRESIDENT YOUNG: Senator Johnson, will you yield?

SENATOR OWEN JOHNSON: Yes, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Johnson.

Senator Perkins.

SENATOR PERKINS: Thank you so much. I just want to ask a few quick questions.

How is this funded? Senator, how is this funded?

SENATOR OWEN JOHNSON: This is going to be financed through UDC, but the company, of course, is responsible for the debt.

SENATOR PERKINS: So through you, Madam President, would the sponsor yield for a question of clarification.

ACTING PRESIDENT YOUNG: Senator Johnson --

SENATOR OWEN JOHNSON: Yes, Madam President.

ACTING PRESIDENT YOUNG: Okay, thank you.

SENATOR PERKINS: So this will be funded through bonds? Is it expressed as that? Because I don't see that in the legislation.

SENATOR OWEN JOHNSON: Yes, through bonds. But again, this is temporary financing. You understand that; right?

SENATOR PERKINS: Again, through you, Madam President.

ACTING PRESIDENT YOUNG: Senator Johnson, do you yield?

SENATOR OWEN JOHNSON: Yes, Madam President.

ACTING PRESIDENT YOUNG: Senator Johnson yields.

SENATOR PERKINS: So how much bond money are we going to be seeking?

SENATOR OWEN JOHNSON: Whatever is justifiable will be advanced, and no more than that.

SENATOR PERKINS: I'm sorry?

SENATOR OWEN JOHNSON: The amount of bonds will be issued depending upon the

amount requested as temporary financing.

SENATOR PERKINS: Again, through you, Madam President, may I ask another question?

ACTING PRESIDENT YOUNG: Senator Johnson, do you yield?

SENATOR OWEN JOHNSON: Yes, Madam President.

ACTING PRESIDENT YOUNG: The Senator yields.

SENATOR PERKINS: So do we have an idea of the projects, the number of projects, the minimum amount per project that will be a part of this bill?

SENATOR OWEN JOHNSON: As Senator Krueger said, this is related to the other bill. Each project is supposed to be at least $20 million. It's supposed to be something good in the community.

SENATOR PERKINS: Through you, may I continue to get some clarification?

ACTING PRESIDENT YOUNG: Senator, do you yield?

SENATOR OWEN JOHNSON: Yes, Madam President.

ACTING PRESIDENT YOUNG: The Senator yields.

SENATOR PERKINS: Now, you're suggesting that this bill -- the answer to the questions in this bill are in the other bill, not in this bill?

SENATOR OWEN JOHNSON: Not exactly. But they are related in terms of -- the other one was a permanent loan. This is really temporary financing which ultimately will be paid by the developer.

SENATOR PERKINS: Thank you.

On the bill.

ACTING PRESIDENT YOUNG: Senator Perkins, on the bill.

SENATOR PERKINS: I'm going to be brief, because the concerns I have already discussed with regard to the other bill are even more emphasized with respect to this bill. Because this bill seems to reference answers to another bill, and it doesn't quite even make reference to the other bill for the answers to the questions that jump out of this bill.

So again, you know, this -- the

goal and objective of these bills is so important and is so commendable as it relates to the economic development and well-being of the state that I'm sorry that these bills fall so far short of the wonderful goals and objectives that are trying to be achieved. Because they're just not answering the appropriate questions that we have to take back to our communities and that the state is asking when we get involved in these types of projects.

So again, I'm going to have to not vote for this bill.

ACTING PRESIDENT YOUNG: Thank you, Senator Perkins.

Any other Senator wishing to be heard?

Then the debate is closed. The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT YOUNG: Senator Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

Sometimes we criticize bills because they're not carefully enough drafted. Sometimes bills appear, if I may, to be too carefully drafted.

We talked earlier today about the need to treat like businesses alike and like transactions alike. To the extent that this bill and the bill that we debated before it appear to be tailored to a particular deal or a particular business, we are committing the most serious cardinal form of the sin of treating like transactions unlike.

And I would urge my colleagues to think very carefully about the effect of these three bills and whether or not we are sending a message that certain businesses are eligible for benefits from the state government that others are not eligible for.

I vote no, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Schneiderman.

Excuse me. Could we have some order in the chamber, please. Thank you.

Senator Schneiderman, you will be recorded in the negative.

THE SECRETARY: Those recorded in the negative on Calendar Number 2098 are Senators Connor, DeFrancisco, Dilan, Gonzalez, Hassell-Thompson, Huntley, L. Krueger, Montgomery, Onorato, Parker, Perkins, Robach, Sabini, Saland and Schneiderman.

Ayes, 47. Nays, 15.

ACTING PRESIDENT YOUNG: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 2100, by the Senate Committee on Rules, Senate Print --

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

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

That concludes the reading of the active list, Senator Robach.

SENATOR ROBACH: Yes, Madam President. Could we now take up the

supplemental active list, please.

ACTING PRESIDENT YOUNG: Thank you, Senator Robach.

The Secretary will read.

THE SECRETARY: In relation to Calendar Number 739, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 10680B and substitute it for the identical Senate Bill Number 3643B, Third Reading Calendar 739.

ACTING PRESIDENT YOUNG: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 739, by Member of the Assembly Destito, Assembly Print Number 10680B, an act to amend the Executive Law.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT YOUNG: The bill is passed.

The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1927, Senator Trunzo moves to discharge, from the Committee on Rules, Assembly Bill Number 10386A and substitute it for the identical Senate Bill Number 7217A, Third Reading Calendar 1927.

ACTING PRESIDENT YOUNG: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1927, by Member of the Assembly Fitzpatrick, Assembly Print Number 10386A, an act authorizing the Town of Islip.

ACTING PRESIDENT YOUNG: 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 YOUNG: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT YOUNG: The bill is passed.

That completes the reading of the supplemental calendar, Senator Robach.

SENATOR ROBACH: Yes, Madam President.

There will be an immediate meeting of the Rules Committee in the Majority Conference Room, and the Senate will temporarily stand at ease.

ACTING PRESIDENT YOUNG: There is an immediate meeting of the Rules Committee in the Majority Conference Room.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 2:15 p.m.)

ACTING PRESIDENT SEWARD: Senator Klein.

SENATOR KLEIN: Thank you, Mr. President.

I'd like to announce a brief Democratic conference in the Senate Democratic Conference Room, immediately.

ACTING PRESIDENT SEWARD: There will be an immediate brief Minority conference

in the Minority Conference Room.

And the Senate continues to stand at ease.

(Whereupon, the Senate reconvened at 3:10 p.m.)

ACTING PRESIDENT GRIFFO: The Senate will please come to order.

Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

May we take up the noncontroversial reading of Supplemental Calendar Number 64B.

ACTING PRESIDENT GRIFFO: The Secretary will read Supplemental Calendar 64B, noncontroversial.

SENATOR LITTLE: I'm sorry, Mr. President, but we need to return to reports of standing committees first.

ACTING PRESIDENT GRIFFO: We will now return to reports of standing committees for a report of the Rules Committee.

The Secretary will read.

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

Senate Print 2495, by Senator Sampson, an act to amend the Penal Law;

3143B, by Senator Golden, an act to amend the Insurance Law;

6026C, by Senator Golden, an act to amend the Education Law;

7152A, by Senator Golden, an act to amend the Real Property Tax Law;

8298A, by Senator Hannon, an act to amend the Public Health Law and others;

8354B, by Senator Seward, an act to amend the Insurance Law;

8624, by Senator Seward, an act to amend the Insurance Law;

8625, by Senator Diaz, an act relating to increasing availability;

8630, by Senator LaValle, an act to amend the Real Property Law;

8631, by the Senate Committee on Rules, an act to amend the Civil Practice Law and Rules;

8641, by Senator Saland, an act to amend the Public Health Law;

8673, by Senator Fuschillo, an act to amend the Education Law;

8682B, by the Senate Committee on Rules, an act to amend the General Municipal Law;

8696, by Senator Skelos, an act to amend the Real Property Tax Law;

8706, by Senator Skelos, an act to amend the Mental Hygiene Law;

8708, by the Senate Committee on Rules, an act to amend the Workers' Compensation Law;

8711, by the Senate Committee on Rules, an act in relation to implementing;

8714, by Senator Nozzolio, an act to amend the Criminal Procedure Law;

8715, by the Senate Committee on Rules, an act to amend the Executive Law;

Assembly Print 10997A, by Member of the Assembly Bing, an act to amend the Private Housing Finance Law;

Assembly Print 11451, by the Assembly Committee on Rules, an act to amend the Private Housing Finance Law;

Senate Print 2446A, by Senator Diaz, an act in relation to authorizing;

Senate Print 2393A, by Senator

Leibell, an act to amend the Labor Law;

Senate Print 7272, by Senator Lanza, an act to amend Chapter 677 of the Laws of 1977;

And Senate Print Number 8713, by Senator O. Johnson, an act to amend the Civil Practice Law and Rules.

All bills ordered direct to third reading.

ACTING PRESIDENT GRIFFO: Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

I move to accept the report of the Rules Committee.

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, nay.

(No response.)

ACTING PRESIDENT GRIFFO: The report of the Rules Committee is accepted.

Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

I believe there is another report from the Rules Committee at the desk.

ACTING PRESIDENT GRIFFO: There is indeed.

The Secretary will read.

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

Senate Print 8717, by Senator Marcellino, an act to amend the Tax Law.

ACTING PRESIDENT GRIFFO: Senator Little.

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

ACTING PRESIDENT GRIFFO: The motion is to accept the report of the Rules Committee. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed, nay.

(No response.)

ACTING PRESIDENT GRIFFO: The

supplemental report is accepted.

Senator Little.

SENATOR LITTLE: Thank you.

Mr. President, may we now go to the noncontroversial reading of Supplemental Calendar Number 64B.

ACTING PRESIDENT GRIFFO: The Secretary will conduct the reading of Senate Supplemental Calendar 64B.

THE SECRETARY: Calendar Number 2167, by Senator Sampson, Senate Print 2495, 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, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2168, Senator Golden moves to

discharge, from the Committee on Rules, Assembly Bill Number 6423B and substitute it for the identical Senate Bill Number 3143B, Third Reading Calendar 2168.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2168, by Member of the Assembly Carrozza, Assembly Print Number 6423B, an act to amend the Insurance Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

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 2169, by Senator Golden, Senate Print 6026C, an act to amend the Education Law.

SENATOR LaVALLE: Lay it aside,

please.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: In relation to Calendar Number 2170, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 10273A and substitute it for the identical Senate Bill Number 7152A, Third Reading Calendar 2170.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2170, by Member of the Assembly Lopez, Assembly Print Number 10273A, 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, 62.

ACTING PRESIDENT GRIFFO: The

bill is passed.

THE SECRETARY: Calendar Number 2171, by Senator Hannon, Senate Print 8298A, an act to amend the Public Health Law and others.

ACTING PRESIDENT GRIFFO: Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

Is there a message of necessity at the desk?

ACTING PRESIDENT GRIFFO: There is a message of necessity at the desk.

SENATOR LITTLE: Thank you. I move we accept the message of necessity.

ACTING PRESIDENT GRIFFO: All in favor of accepting the message of necessity indicate by saying aye.

(Response of "Aye.)

ACTING PRESIDENT GRIFFO: Opposed, nay.

(No response.)

ACTING PRESIDENT GRIFFO: The message is accepted.

The Secretary will read the last

section.

THE SECRETARY: Section 27. This act shall take effect on the 90th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Hannon.

SENATOR HANNON: Mr. President, at the stage of the legislative procedure I just want to note that this is the infection control professional disciplinary bill that we have working on for many months, in reaction to different situations that have arisen over the past few years in this state.

I think what this bill will do, it will restore trust to the patient-physician relationship, improve infection control practices, give new duties to the Department of Health to make sure that the people who are practicing medicine in this state are duly qualified and have not been involved in misconduct.

Thank you very much, Mr. President. I vote yes.

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

Announce the results.

THE SECRETARY: Ayes, 62. Nays, 0.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2172, by Senator Seward, Senate Print 8354B, an act to amend the Insurance Law.

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 2173, by Senator Seward, Senate Print 8624, an act to amend the Insurance Law.

ACTING PRESIDENT GRIFFO: Read the last section.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: In relation to Calendar Number 2174, Senator Diaz moves to discharge, from the Committee on Rules,

Assembly Bill Number 11578 and substitute it for the identical bill, Senate Print Number 8625, Third Reading Calendar 2174.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2174, by the Assembly Committee on Rules, Assembly Print Number 11578, an act relating to increasing availability.

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 2175, by Senator LaValle, Senate Print 8630, an act to amend the Real Property 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, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2176 --

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

ACTING PRESIDENT GRIFFO: Lay it aside for the day.

THE SECRETARY: Calendar Number 2177, by Senator Saland, Senate Print 8641, an act to amend the Public Health Law and the Real Property 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, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2178, by Senator Fuschillo, Senate Print 8673, an act to amend the Education Law and the Public Health Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 8. This act shall take effect on the 90th 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 2180, by Senator Skelos, Senate Print 8696, 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 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 2181, by Senator Skelos, Senate Print 8706, an act to amend the Mental Hygiene Law and the Judiciary Law.

ACTING PRESIDENT GRIFFO: Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

Is there a message of necessity at the desk?

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

SENATOR LITTLE: Thank you. I move to accept the message of necessity.

ACTING PRESIDENT GRIFFO: All in favor of accepting the message of necessity indicate by saying aye.

(Response of "Aye.)

ACTING PRESIDENT GRIFFO: Opposed, nay.

(No response.)

ACTING PRESIDENT GRIFFO: The message is accepted.

The Secretary will read the last section.

THE SECRETARY: Section 8. This act shall take effect November 1, 2008.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. To explain my vote.

I'm glad we're passing this bill. This will get New York State in line with other progressive jurisdictions that are providing information on mental health to the FBI for its national instant criminal background check system so that we can prevent people who have mental disabilities from purchasing firearms.

This is exactly the issue that came up in the context of the Virginia Tech shooting.

I note, while I'm glad Senator Skelos has put this bill in and that we've passed it and it will become law, that this is the only portion of Governor Paterson's program bill on firearm safety that has passed this year. And I hope that in the years to come we are going to take steps to make sure that the people who sell firearms have background checks, that we ensure safe storage of firearms, that we have a better system for tracking firearms used in crimes, and other things that have been discussed.

This is one piece, and it's a good step. I look forward to us implementing more of the Governor's agenda in the future.

Thank you. I vote yes.

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

Announce the results.

THE SECRETARY: Ayes, 62. Nays, 0.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number

2182, by the Senate Committee on Rules, Senate Print 8708, an act to amend the Workers' Compensation Law.

ACTING PRESIDENT GRIFFO: Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

Is there a message of necessity at the desk?

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

SENATOR LITTLE: Thank you. I move to accept the message of necessity.

ACTING PRESIDENT GRIFFO: All in favor of accepting the message of necessity indicate by saying aye.

(Response of "Aye.)

ACTING PRESIDENT GRIFFO: Opposed, nay.

(No response.)

ACTING PRESIDENT GRIFFO: The message is accepted.

The Secretary will read the last section.

THE SECRETARY: Section 16. This

act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2183, by the Senate Committee on Rules, Senate Print 8711, an act in relation to implementing terms.

ACTING PRESIDENT GRIFFO: Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

Is there a message of necessity at the desk?

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

SENATOR LITTLE: Thank you. I move that we accept the message of necessity.

ACTING PRESIDENT GRIFFO: All in favor of accepting the message of necessity

indicate by saying aye.

(Response of "Aye.)

ACTING PRESIDENT GRIFFO: Opposed, nay.

(No response.)

ACTING PRESIDENT GRIFFO: The message is accepted.

The Secretary will 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.)

ACTING PRESIDENT GRIFFO: Senator Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Mr. President, because I have a pecuniary interest in this calendar, I respectfully request to be excused from voting on this matter.

ACTING PRESIDENT GRIFFO: Without objection, Senator L. Krueger will be listed as an abstention.

SENATOR LIZ KRUEGER: Thank you.

ACTING PRESIDENT GRIFFO: Thank

you, Senator.

The Secretary will announce the results.

THE SECRETARY: Ayes, 61. Nays, 0.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2184, by Senator Nozzolio, Senate Print 8714, an act to amend the Criminal Procedure Law and others.

ACTING PRESIDENT GRIFFO: Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

Is there a message of necessity at the desk?

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

SENATOR LITTLE: Thank you. I move that we accept the message of necessity.

ACTING PRESIDENT GRIFFO: All in favor of accepting the message of necessity indicate by saying aye.

(Response of "Aye.)

ACTING PRESIDENT GRIFFO: Opposed, nay.

(No response.)

ACTING PRESIDENT GRIFFO: The message is accepted.

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.)

SENATOR KLEIN: Lay it aside, please.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 2185, by the Senate Committee on Rules, Senate Print 8715, an act to amend the Executive Law, the Workers' Compensation Law and the Insurance Law.

ACTING PRESIDENT GRIFFO: Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

Is there a message of necessity at the desk?

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

SENATOR LITTLE: Thank you. I move that we accept the message of necessity.

ACTING PRESIDENT GRIFFO: All in favor of accepting the message of necessity indicate by saying aye.

(Response of "Aye.)

ACTING PRESIDENT GRIFFO: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT GRIFFO: The message is accepted.

The Secretary will 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.)

ACTING PRESIDENT GRIFFO: Senator Sabini.

SENATOR SABINI: Mr. President,

briefly on the bill.

This is a --

ACTING PRESIDENT GRIFFO: It's an explanation of a vote, Senator Sabini.

SENATOR SABINI: Explanation, I'm sorry. Explanation of my vote on the bill, Mr. President.

This is a bill that will go a long way to allow the protection of both livery car drivers and the owners of those businesses, all of whom have been accumulating fines because of the quirkiness of the Workers' Compensation Law. The drivers are independent contractors, or so often viewed as; the base station employees are regular salaried employees.

The Governor's office and my office and others have been working together to try to achieve this solution.

The only problem I have with the bill that I do want to get on the record is that in Section 8 of the bill there is a rebuttal of presumption of all the drivers having the same salaries.

This is a very transient kind of

job where some people working part-time, some people work two jobs. And I guess for the sake of putting the bill together to get passage today, we achieved this sort of inartistic solution.

But as was said earlier, the perfect shouldn't be the enemy of the good. I think that on the whole this will help the industry -- the drivers, the owners, and the base station employees.

So I'll be voting aye.

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

Senator Diaz, to explain his vote.

SENATOR DIAZ: Thank you, Mr. President. I just would like to express my support to this bill. This is a bill that they've been dealing with in the Assembly for a long time. And Assemblyman Adriano Espaillat in the Assembly has introduced this bill, and here Senator Maltese has introduced this bill.

And I would like to commend Senator Maltese for this bill. This is a bill that is long overdue. And this is something that will

help livery taxi drivers in the City of New York. And for Hispanic, black, and all kind of people that drive livery taxis in New York, this is something that is helpful.

And again, I'm supporting the bill. I'm proud of you, Senator Maltese. And thank you for introducing this bill.

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

Senator Maltese, to explain his vote.

SENATOR MALTESE: Yes, Mr. President. I rise to explain that this creates a fund where a fund was very much needed to give workmen's compensation benefits to independent livery drivers.

This is an area that many people have been working on for many, many years. I want to commend, of course, Assemblyman Diaz and Assemblyman Espaillat in the Assembly.

This is a bill that was much needed to provide benefits for those drivers who are on the scene, and in a way on the firing line, in many of the areas not adequately served by this type of transportation. It would provide

benefits in areas that up until now have been areas of contention. And this now clarifies the situation.

And as I say, it is, I believe, a three-way agreement and another piece of legislation where we can commend not only our Majority Leader and of course the Governor, but Speaker Silver and those that have worked so hard to effectuate this legislation.

Mr. President, I vote aye.

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

Announce the results.

THE SECRETARY: Ayes, 62. Nays, 0.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2186, by Member of the Assembly Bing, Assembly Print Number 10997A, an act to amend the Private Housing 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, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2187, by the Assembly Committee on Rules, Assembly Print Number 11451, an act to amend the Private Housing 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, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2188, Senator Diaz moves to discharge, from the Committee on Rules, Assembly Bill Number 31A and substitute it for the identical Senate Bill Number 2446A, Third

Reading Calendar 2188.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2188, by Member of the Assembly Clark, Assembly Print Number 31A, an act in relation to authorizing the Department of Transportation.

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 2189, by Senator Leibell, Senate Print 2393A, an act to amend the Labor 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, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2190, Senator Lanza moves to discharge, from the Committee on Rules, Assembly Bill Number 10030 and substitute it for the identical Senate Bill Number 7272, Third Reading Calendar 2190.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2190, by Member of the Assembly Abbate, Assembly Print Number 10030, an act to amend Chapter 677 of the Laws of 1977 amending the Civil Service Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 30th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Savino, to explain her vote.

SENATOR SAVINO: Yes, thank you.

I want to rise to thank Senator Lanza for finally accomplishing something that has been long overdue for a very long time, the permanent agency shop.

It is something that I lobbied on for about 10 years as a member and a representative of AFSCME. Certainly it's been lobbied on by many, many people for a very long time.

It's the end of a 36-year experiment. And in some respects, it's not just a victory for the working people of New York and their employee organizations, but one can almost construe this as campaign finance reform. Because we used to refer to the agency shop bill as "the gift that kept giving." So now my friends, who are of course so happy about the passage of this bill, can concentrate on other, as important, pieces of

legislation.

So thank you, Senator Lanza, for giving me the opportunity to finally say we got the permanent agency shop bill done.

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

(Laughter.)

SENATOR SAVINO: I vote aye.

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

Announce the results.

THE SECRETARY: Ayes, 62. Nays, 0.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Little, that completes the noncontroversial reading of Supplemental Calendar 64B.

SENATOR LITTLE: Thank you, Mr. President.

May we take up the controversial reading of Calendar 64B.

ACTING PRESIDENT GRIFFO: We will take up the controversial reading of Calendar 64B. The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 2169, by Senator Golden, Senate Print 6026C, an act to amend the Education Law.

SENATOR LaVALLE: Mr. President.

ACTING PRESIDENT GRIFFO: Senator LaValle.

SENATOR LaVALLE: On the bill.

ACTING PRESIDENT GRIFFO: Senator LaValle, on the bill.

SENATOR LaVALLE: Mr. President, this legislation Senator Golden has introduced -- and I'll talk about the purpose for this bill -- as everyone can see is a C version. And he has more than bent backwards to get my input, input from some of the committee members.

This bill was not a bill that appeared on a Higher Education Committee agenda. And had it, I think we would have had a longer dialogue and probably would have gotten the bill correct.

The deans of the dental schools in New York State have had an ongoing dialogue that because dental practices have been or are

so lucrative, their contention is that they are having a difficult time attracting faculty.

And we could make an argument that maybe that is not the case and that they need to do some things to beef up their recruitment, offer the kinds of incentives that we need to have top-quality faculty teaching in our dental schools. And I know Senator Golden has made an effort to try and assure that that is the case.

We are at the end of the session, and language has been added to try and ensure -- and I can't honestly say to this body that we have achieved academic equivalency for an individual who is or has been licensed in a foreign jurisdiction and whether they are and have met that equivalency. We have made an attempt to do so, but I cannot say with absolute certainty that that is the case.

What is very upsetting -- and I think if we had time, we probably could have worked through an amendment to strengthen pieces of this bill. Because the most

important thing to all of us is that a student in our state is receiving the best possible education. And there's language on page 2 of this bill that I don't think goes far enough in achieving that goal.

It says "within the last five years, have two years of satisfactory practice as a dentist or have satisfactorily completed an advanced education program in general dentistry or a dental specialty, provided such program is accredited by an organization accepted by the department as a reliable authority for the purposes of accrediting such programs."

Have two years, have two years of experience. I'll tell you, unless I'm misreading this or -- I'm a little tired, it's the end of session and I'm grouchy or whatever, but I think two years has really reduced the bar.

There's another provision here that Senator Golden put in which I think is great, and I mean that. No current faculty member shall be displaced by the holder of a restricted dental faculty license. And I

think that's something in discussions that we had.

After looking at the whole issue of people who are double dipping, getting a waiver, a 211 waiver for those administrative positions in education, you know, we found that the commissioner was granting 211 waivers like you give out jelly beans.

So the question is, what kind of due diligence does a dean of a school of dental medicine have to go through to say, you know, I've looked high and wide to get someone to teach orthodonture medicine, dental medicine. Can't find one, but I have someone who we would like to recruit. And they come from a foreign jurisdiction, but we believe they're just terrific.

So it's like we've gone halfway and not the whole way. Could we do better in providing greater protections for the students of this state? Yes. Is this detrimental to them? No, not necessarily. It depends that our committee has always sought the highest standards, the highest protections for the education programs that are being delivered,

whether it be independent colleges, State University, City University or our professional schools.

I thank Senator Golden for his diligence in making amendments, making changes to bring this bill before us for consideration, for a vote. And I don't know, quite honestly, how I'm going to vote when the roll is called. But I felt I wanted, as chairman -- because we didn't have an opportunity as a committee to fully discuss this bill.

We unfortunately did not hold a hearing, nor do we hold hearings on every single bill. I know I hear the Minority all the time: Ah, we didn't hold a hearing. Well, we don't hold hearings. But certainly in some bills the hearing process or an open process does make the product, in the end, you know, a better piece of legislation.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Stachowski.

SENATOR STACHOWSKI: Yes, Mr. President. I find it troubling that the

chairman of the Higher Ed Committee gets up and, though this bill is on the calendar, says that their committee didn't take it up, they had no hearings.

We're now going to have people that practiced dentistry possibly for two years teaching future dentists.

I just had a tour of the University of Buffalo Dental School, and their only complaint is it's not about faculty members, it's about facilities. And they're trying to fix them up so that they can continue to be one of the better dental schools, and with a very experienced faculty and proud of it.

And I can't imagine them trying to reach out for people that have practiced dentistry for two years to make their dental school advance in academic achievement.

You know, years ago when Georgetown, one of the top dental schools in the country, didn't think they were getting candidates that were strong enough, they closed their dental school. They weren't concerned about the fact that they had a great faculty and a great program, they were

concerned that the quality of their applicants had been deteriorating, for whatever reason, so they closed their dental school rather than let it go down in any way.

So for us to be moving a bill that's going to just stick people in to fill faculty positions without much experience to teach people that -- I don't know, I consider dentistry and all the specialties that are combined with it to be very important. I would hate to think that we're going to be putting people out based on the teaching of maybe somebody that isn't very experienced themselves, so how do they competently teach students that are just entering that profession?

I am kind of baffled by this whole thing. I probably wouldn't have taken such notice had not Senator LaValle got up and pointed out all the things he pointed out.

I think it should be a warning shot to all of us that something of this importance, anytime it's got something to do with your medical health -- and as you know, maybe dentistry isn't life-threatening, but it

is very important and can lead to a lot of other problems if it's not done correctly.

I don't know why we're doing this bill. I think that we should take the warning that Senator LaValle gave us that maybe we should have hearings on this and go through this thoroughly before we change the way we're hiring dental faculty to the detriment, possibly, of all our students that are paying top dollar even in public schools, the public universities, to be educated, and they don't know that they have somebody that maybe practiced dentistry for two years.

I really, really have a problem with this bill, and I'm glad that Senator LaValle brought all these things up to our attention. And I would suggest that everybody takes a real hard look at this bill. And I don't know if that's the way we want to go with any dental schools that would have to hire their faculty based on this limited license.

My suggestion is that we don't vote this bill and we either take it off the floor or vote it down.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Golden.

SENATOR GOLDEN: Thank you, Mr. President.

I rise to answer some of the questions on the bill. Specifically to the University of Buffalo, they have requested that this be done.

New York's academic dental centers are at a competitive disadvantage with other dental schools across the country which currently are able to attract dentists with outstanding credentials because other states allow them to practice clinically while serving as faculty. New York State is driving away the best and the most qualified.

We are only two of 48 states that do not do this. There are 32 positions that have been unable to be filled here in the State of New York for the past three years. All of the dental hospitals have come together and have asked for this to happen. We negotiated this with Regents, the State Ed Department, the dental schools, the Assembly,

with the leader, with this bill for over a year that we've had this bill.

There are 46 people that this bill would allow employment for. They would only be able to practice at the hospital. The two years that has been spoken of, two years within the last five years, that is standard here in the State of New York for dentistry. It's also standard across the country.

So I would work with my colleague Senator LaValle on a chapter amendment, if that would be acceptable to him, to be able to enhance this bill so that we could even make it a stronger and a better bill and be able to hold on to those positions in our dentistry schools and to be able to attract the best and the brightest into that industry.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Stavisky.

SENATOR STAVISKY: Thank you.

If the sponsor would yield, I have a couple of questions. Some questions.

ACTING PRESIDENT GRIFFO: Will the sponsor yield?

SENATOR GOLDEN: Yes, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Golden yields.

SENATOR STAVISKY: I noticed that this bill was introduced on June 4th of 2007. I don't recall it being on the Higher Ed calendar. That question has partially been answered. Perhaps you can give us a more complete explanation of why I never saw it on the calendar.

ACTING PRESIDENT GRIFFO: Senator Golden.

SENATOR GOLDEN: We were working with State Ed, with the Assembly and the Senate, to come to agreement on a bill that would work for the hospitals and for the State of New York.

Working with Senator LaValle, we put a two-year sunset into the bill so that we could sunset this bill if in fact there had to be even stronger recommendations made, we could do that in two years' time.

But I'm willing to do a chapter immediately, since we have control of the bill

in this house, to be able to make this bill a stronger bill.

SENATOR STAVISKY: If the Senator would continue to yield.

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

SENATOR GOLDEN: Yes, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Stavisky.

SENATOR STAVISKY: Have any professional or consumer organizations offered memoranda in support or in opposition? Because I have not seen any.

SENATOR GOLDEN: Mr. President -- through you, Mr. President, the five New York State Academic Dental Centers, which include the University of Rochester, Eastman Dental; Columbia; New York University; the State University at Buffalo and at Stony Brook.

SENATOR STAVISKY: So, Mr. President, if the Senator would continue to yield.

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

SENATOR GOLDEN: These are the deans of the colleges that are asking and promoting these individuals.

So we would say here that the deans, SED, the Regents would allow an inferior dentist to work in their schools? I don't think so. I think this is a well-thought-out bill to help our universities.

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

SENATOR GOLDEN: Yes, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Stavisky.

SENATOR STAVISKY: Yes, I have a couple more questions I would appreciate.

I gather the problem is the lack of faculty to teach the students. Where do you expect to find those faculty members?

SENATOR GOLDEN: Through our own schools. Mr. President, through our schools here in the State of New York, from people from across our nation coming to this great state and from people across this world coming

in and joining into the field of dentistry here in the State of New York.

SENATOR STAVISKY: If the Senator would continue to yield --

SENATOR GOLDEN: As long as they are qualified, of course, Mr. President.

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

SENATOR GOLDEN: I do indeed, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Stavisky.

SENATOR STAVISKY: I see the bill also provides not only citizens but also aliens.

Do you expect an outreach to graduates of foreign dental institutions?

SENATOR GOLDEN: Mr. President, I would imagine that there isn't a dental school in the world that doesn't know about the great facilities here in the great State of New York and would love to be able to have the opportunity to come here, teach, and to be able to practice dentistry at one of our lovely institutions, Mr. President.

SENATOR STAVISKY: Thank you.

On the bill.

ACTING PRESIDENT GRIFFO: Senator Stavisky, on the bill.

SENATOR STAVISKY: I thank Senator Golden for his concern for the dental health of our constituents.

At the same time, I see great parallels here between the nursing shortage and the dental shortage. It's a shortage not necessarily of practitioners but of people to teach dentistry, people who have experience.

And I have misgivings about this bill. I really want to listen to what everyone else has said. Senator Golden has been very helpful. But I can't understand why the last day of session this bill is suddenly emerging. It's like a toothache that just sort of erupted. Perhaps that's a bad example.

I am concerned that we may not be attracting the best and the brightest through this method with the two-year requirement that Senator LaValle spoke about. I find that troubling.

And my instinct is to vote no on this bill or to listen to what my colleagues have to say. But I understand that the dentists are going to be serving as full-time faculty of one of the five academic institutions, and they're going to have to devote four days a week to teaching, to caring for the patients, et cetera.

And I will listen to what the Senator has said. I have not read the memorandum; it was just provided to me. And I find that aspect very troubling, the fact that we haven't seen this bill until 4 o'clock on the day we're due to adjourn.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you. If the sponsor would yield.

SENATOR GOLDEN: Yes, Madam President -- Mr. President.

ACTING PRESIDENT GRIFFO: Senator Golden yields.

SENATOR LIZ KRUEGER: Thank you.

Senator Golden, it talks about

their teaching at dental clinics and dental schools but also practicing dentistry in the clinics.

Could you clarify for me, who would be the patients that these people who don't have regular dental licenses would be practicing on?

SENATOR GOLDEN: That's correct. Mr. President, there are numbers of people that come to the dentistry hospitals that don't have dentists. A lot of them are poor and unable to pay and afford the dentistry, and these dentistry schools work in those communities and bringing those people into those hospitals.

SENATOR LIZ KRUEGER: Thank you.

Mr. President, on the bill.

ACTING PRESIDENT GRIFFO: Senator Krueger on the bill.

SENATOR LIZ KRUEGER: My colleague Senator Stavisky just pointed out we're getting this at 4 o'clock on the last day. And that certainly ought to be a red flag for us for any bills.

But more importantly I think was

listening to Senator LaValle, who's been such an activist chair of the Higher Ed Committee, and I serve on that committee. And he has been, as he said himself, very proud of making sure that here in New York State we hold ourselves to our highest standards for our licensed professions, including our healthcare professionals.

And really, when we're talking about healthcare and dentistry as a subuniverse of healthcare, we'd better hold ourselves to the highest standards, as we know.

So I have to say if it was just that they would be teaching in some kind of classroom setting, even though they only had two years of dental experience themselves, I might have been a little more comfortable supporting the bill, because I do believe that people can be great teachers even if they aren't expert clinicians.

On the other hand, when I hear that they will be actually providing dental care to the people who come to the dental clinics at our dental schools -- and I know for a fact,

as I think we all do, that it's the poorest New Yorkers who are more likely not to have private dentists and more likely to show up at the dental clinics at the dental schools -- it troubles me quite a bit that we seem to be willing to set up a double standard: You don't have to be qualified to be a real dentist in New York State to treat people in these clinics.

The last thing on earth I want to do is move legislation that creates a two-tier system of who provides healthcare in New York based on your income, and if you are low-income then you can get the people to serve you or to provide care for you that other New Yorkers wouldn't go to or even technically be allowed to go to under the dental licensing.

So while I am empathetic to a shortage of clinicians at our dental schools, there's got to be another model for solving that other than allowing people who we wouldn't give a regular dental license to to treat us to be the ones who are treating the people who have no choice but to go to

clinics. And so I'll be voting no.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Sabini.

SENATOR SABINI: Mr. President, on the bill.

ACTING PRESIDENT GRIFFO: Senator Sabini, on the bill.

SENATOR SABINI: Well, this bill, as Senator LaValle points out, has at least one good aspect to it, which is that it allows us to tap into the talent of those who are licensed in other countries who have practiced their craft and gone to university elsewhere to practice here, as long as they meet all the requirements that licensure in New York would require.

Senator Morahan and I and Senator Schneiderman have been working on an issue that would tap into our immigrant community in an even bigger way. Our state has thousands of people who are professionals who have come to our shores, and yet we can't tap into their talents or, frankly, tax their higher income because they're restricted from getting the

licenses to practice their craft.

The bill that Senator Morahan and I and Senator Schneiderman have crafted includes obstetrics, court stenographers -- why you have to be a citizen to be a court stenographer I'll never know -- engineers, pharmacists, veterinarians, midwives, anesthesiologists.

We're in need of professionals. We want people to have good incomes. This has been a number-one priority of the New York Immigration Coalition this year. And yet we have failed to pass that bill. So that aspect of this bill is good.

But I am troubled by many of the questions that Chairman LaValle has raised and Senator Stavisky, our ranker, has raised about this two-year line. To me, it raises some issues as to whether or not we would want those people training people who we would then certify to be dentists in the future.

So that I think there's good and bad here. I think that the idea that we would tap into our new immigrants, who have the bona fides to be a dentist, I think that's great

and we should be doing more of it. But I am troubled about the two-year thing.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Craig Johnson.

SENATOR CRAIG JOHNSON: Thank you, Mr. President.

Will the sponsor yield for a couple of questions?

ACTING PRESIDENT GRIFFO: Senator Golden, will you yield?

SENATOR GOLDEN: Yes.

ACTING PRESIDENT GRIFFO: The Senator will yield.

SENATOR CRAIG JOHNSON: Thank you. Thank you, Senator Golden. Just a couple of questions.

Senator Golden, in your bill can you perhaps explain what "good moral character" would be? The bill provides that to qualify for a restricted dental faculty license, among other things the applicant has to possess good moral character. I'd like to get an understanding of what that would be.

SENATOR GOLDEN: Mr. President,

that's current practice on every professional test that we have here in the State of New York.

SENATOR CRAIG JOHNSON: Mr. President, will the sponsor continue to yield?

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

SENATOR GOLDEN: One more question, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Johnson.

SENATOR CRAIG JOHNSON: Mr. President, with respect to providing the dental services, does that also include periodontal work or oral surgery? Or would this be simply limited to general dentistry practitioners?

SENATOR GOLDEN: Mr. President, I do believe that everybody here knows that these are qualified dentists that have gone through six years of dentistry school before they do their two years of practice. So they would be -- out of the last five years.

So the answer is yes, they would be doing that.

ACTING PRESIDENT GRIFFO: Thank you, Senator Golden.

Senator Johnson, on the bill?

SENATOR CRAIG JOHNSON: On the bill, Mr. President.

I wish Senator Golden would have --

SENATOR GOLDEN: If they were qualified surgeons to do that.

SENATOR CRAIG JOHNSON: I'm sorry?

SENATOR GOLDEN: If they were qualified surgeons to do that, yes.

SENATOR CRAIG JOHNSON: Well, Senator Golden, would you please yield for another question? Because you raised --

SENATOR GOLDEN: I gave you the answers.

SENATOR CRAIG JOHNSON: So will the Senator yield for another question?

SENATOR GOLDEN: One more question, sir.

ACTING PRESIDENT GRIFFO: Senator Johnson, he yields.

SENATOR CRAIG JOHNSON: So is there a similar requirement -- if the dentist

is authorized in his home country or some other state to do surgery and then comes over here to practice dentistry, would this then cover him or her to do actual oral surgery? Or would they be required to get a similar license? You know, because it's surgery, it's medicine practice, not dentistry.

SENATOR GOLDEN: This is a restricted license that's issued by SED, worked out with SED and the Regents.

So we would say that SED, the Regents, the deans of the faculty and dean presidents would allow an incompetent individual to perform surgery? I don't think so.

I think they're very studied on this. They need these positions. The universities have requested these positions. This is a bill that's been agreed upon in the Assembly and in SED and with the deans of all these universities.

Thank you, Mr. President.

SENATOR CRAIG JOHNSON: Thank you, Senator Golden.

On the bill.

ACTING PRESIDENT GRIFFO: Senator Johnson, on the bill.

SENATOR CRAIG JOHNSON: Thank you, Mr. President.

Thank you, Senator Golden.

I have to admit -- and I first want to thank Senator LaValle for raising a number of issues.

And this has been a very informative debate, one, for a bill that I think deserves more debate and questions to be answered. I think the last set of questions raises more questions. Because the bill talks about dentistry, and what we understand going to the dentist is -- you know, maybe a teeth cleaning, maybe checking for cavities.

But now, when it comes to surgery and periodontal work, which requires putting a patient possibly under and having them go to sleep under anesthesia, all of a sudden I wonder whether or not this bill covers that or not. I appreciate the answers from Senator Golden; I'm just unclear from the bill itself whether or not this is covered.

So I'm going to see if we have any

more debate on this issue, maybe some other information, before I can consider my vote.

But I thank you, Senator Golden, for your answers.

Thank you very much, Mr. President.

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

Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President.

I just rise to thank Senator Golden. I heard him saying something when he was asked if these restricted dental faculty licenses will be issued to people from other countries, and he responded that, as long as they're qualified, from any part of the world.

We all know, Mr. President, that universities, the universities go all over the country, all over the world to find faculty. And they are very -- there are professional, very qualified people -- from China, from India, from Hispanic countries, Spain, Puerto Rico, Santo Domingo, Europe -- people that they have hired to come to the state to teach.

What Senator Golden in this bill is asking for is those people that are qualified to be issued a restricted dental faculty license. The department might issue a restricted dental faculty license to a full-time faculty member employed at an approved New York State school of dentistry.

I think that this is a wonderful bill. It goes along with what this state and this nation is all about: Open doors, help other people. And I ask my colleagues -- I congratulate Senator Golden for this bill. And it is nothing new.

Universities again, I'm going to say, universities and schools, the Department of Education of the State of New York, they go out of the country to hire some people sometimes. So they are qualified immigrants, qualified people that come, that are invited from different institutions to come to the state, to the nation to teach.

And this bill not only covers the people, the American citizens, it also covers people that are invited from other universities to come and teach and be a part

of the faculty of that university.

I approve this bill. I think that this is a good bill. I support this bill. And I congratulate Senator Golden for this magnificent piece of legislation.

Thank you.

ACTING PRESIDENT GRIFFO: 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 2. This act shall take effect February 1, 2009.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

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

SENATOR ROBACH: Yes, Mr. President. I just want to rise to not only cast my vote in the affirmative -- this has been a great debate, but I think that clearly -- I'm just going to read a little dictate.

My colleague Senator Golden talked

about the need for these institutions to have this. The U of R Dental Center is one of the best. It not only treats a lot of people, young and old, that wouldn't have access to dental service; it does the academic piece; it actually has a dentalmobile that goes around to access this.

And they have a great director, Cyril Meyerowitz, who in his words -- one of the experts in the state, maybe in the country -- says: "New York State Academic Dental Centers face numerous faculty vacancies due to retiring faculty and difficulties in recruiting new faculty for a number of reasons. These faculty vacancies can have dire impacts on both the clinical capacity and education of future oral healthcare providers.

"New York Academic Dental Centers are at a competitive disadvantage with other dental schools across the country because we are unable to attract dentists with outstanding credentials because other states allow them to practice clinically while serving as faculty. New York State is driving away the best, most-qualified candidates."

This bill will rectify that. It's very much needed. I'm happy to cast my vote in the affirmative, Mr. President.

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

Senator LaValle, to explain his vote.

SENATOR LaVALLE: Thank you, Mr. President.

I certainly appreciate the discussion that we have had here on the floor.

One of the things that I think our committee has prided itself on is that when we hear, I think on a daily basis here, you know, New York is only one of three states or four states or the only state that hasn't adopted this legislation, the committee once again says, That's why we're the Empire State. That's why we believe in standards. That's why we believe that we have provided our citizens with the greatest protection when we do professional licensure or an extension of scope of practice.

Senator Golden has indicated that he will make changes based on this debate.

Senator, I appreciate that. I know we've had many, many discussions.

With that assurance, I vote in the affirmative, Mr. President.

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

Senator Stavisky, to explain her vote.

SENATOR STAVISKY: Yes, thank you, Mr. President.

And I thank Senator Golden for his responsiveness and his willingness to consider a chapter amendment to resolve some of our concerns.

I represent a large immigrant population -- people from China, Korea, various parts of the former Soviet Union, South Asia, et cetera. And I am very proud of the large immigrant population not only in my Senate district but in the City of New York.

They have come to this country with a vast background in their native land. Many professionals come here seeking a better life. And it seems to me we ought to offer them every opportunity to take advantage of what we

have to offer and to give them the opportunity to meet our standards and become part of the fabric of our existence.

I think they offer the future of our city. And for that reason, Mr. President, I vote aye.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 2169 are Senators L. Krueger and Stachowski.

Ayes, 60. Nays, 2.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Libous.

SENATOR LIBOUS: Mr. President, can we now take up Calendar Number 2173, by Senator Seward.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 2173, by Senator Seward, Senate Print 8624, an act to amend the Insurance Law.

SENATOR KLEIN: Explanation.

ACTING PRESIDENT GRIFFO: Senator Klein requests an explanation, Senator Seward.

SENATOR SEWARD: Certainly, Mr. President.

Senate Bill 8624 extends or makes permanent a number of important property and casualty provisions which are currently due to expire on June 30th of this year. This includes the New York Property Insurance Underwriting Association, so-called NYPIUA. This legislation would make NYPIUA permanent.

The bill would also extend for three years certain other property and casualty provisions which have proven to be important to insuring a very stable property and casualty market.

This bill also includes provisions to authorize auto insurers to increase or decrease their private passenger auto insurance premiums within a band of 5 percent up or down.

The bill, in addition, would make some other changes to NYPIUA. It would direct NYPIUA to develop a program to provide incentives for private-market insurers to

write homeowner's insurance in our coastal areas. And the bill would also authorize NYPIUA to write broader coverage in our coastal areas and other areas in the state and provide broader coverage when written in conjunction with a wraparound policy provided by a private carrier.

The legislation would also include a coastal market assistance program, the CMAP program, put that in statute. It would re-up the special advisory panel to look at problem areas of our state in terms of the availability and affordability of homeowner's insurance.

And finally, the legislation would require the superintendent of insurance to implement a program to attract more competitors to the state's homeowner's insurance market.

So this bill is a comprehensive bill which I believe will make a positive contribution to making property and casualty insurance available to more New Yorkers at an affordable rate.

ACTING PRESIDENT GRIFFO: Senator

Breslin.

SENATOR BRESLIN: Thank you, Mr. President.

Would the sponsor yield for a question or two.

ACTING PRESIDENT GRIFFO: Senator Seward, will you yield?

SENATOR SEWARD: Certainly.

ACTING PRESIDENT GRIFFO: Senator Breslin.

SENATOR BRESLIN: Through you, Mr. President, the part of the bill dealing with flex rating, can you tell us where New York State ranks in auto insurance in terms of cost?

SENATOR SEWARD: Mr. President, we rank somewhere between two and three in terms of the cost of auto insurance.

But I might mention that if you look at the NAIC information, those states that have these fewer controls on the rate-setting of auto insurance, they're about 10 percent lower than the group of -- than other states.

SENATOR BRESLIN: Through you

again, Mr. President, would the sponsor continue to yield.

ACTING PRESIDENT GRIFFO: Senator Seward, will you yield?

SENATOR SEWARD: Certainly.

ACTING PRESIDENT GRIFFO: Senator Breslin.

SENATOR BRESLIN: Senator Seward, do you know of any studies other than the NAIC report, any other studies that have been done on the allowance of increase in rates without some sort of analysis?

SENATOR SEWARD: Well, Mr. President, I think we can just look to our own experience right here in New York State. Up until the year 2001, for many years we had flex rating in New York State. In fact, it was at a 7 percent band at that time, so it was actually a larger band. And we did see premiums fall at that time.

So I think our own experience here in New York indicates that this is a positive policy. That law expired in 2001 and has not been re-upped. That's what we intend to do in this legislation, in conjunction with a whole

host of other changes that I have outlined.

SENATOR BRESLIN: And again through you, Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT GRIFFO: Senator Seward yields.

SENATOR SEWARD: Yes.

SENATOR BRESLIN: Through you, Mr. President, since 2001, can you tell us the increase or decrease in automobile premiums in the State of New York?

SENATOR SEWARD: Well, Mr. President, after the flex rating that we previously had in law expired, the two years following that we saw auto insurance rise for the two-year period just over 13 percent.

Now, in more recent years we have seen a increase in auto insurance in New York State, I think for a number of factors, one of which is the department, administratively, is being much more aggressive in terms of fighting fraud.

And one of the problems that we're hoping to correct in this legislation, Mr. President, is the fact that when an

insurance company -- in these times when we have seen decreasing auto insurance rates, we've had companies in this state that have had pending applications for decrease of their rates pending at the Insurance Department for months on end. And the consumers of our state have been paying more than they should have during those months.

So this is what we're attempting to correct under this legislation.

SENATOR BRESLIN: Again through you, Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT GRIFFO: Senator Seward, do you yield?

SENATOR SEWARD: Certainly.

ACTING PRESIDENT GRIFFO: Senator Breslin.

SENATOR BRESLIN: Can you tell us, if you know, of the companies in New York State that are licensed to do business in the automobile insurance, how many of them have applied for a decrease in their rates during the past year?

SENATOR SEWARD: I must say, I

don't have that information readily available to me.

SENATOR BRESLIN: And again through you, Mr. President, if the sponsor would continue to yield.

SENATOR SEWARD: Certainly.

ACTING PRESIDENT GRIFFO: Senator Seward yields.

SENATOR BRESLIN: Is there any concern at all that the placing of flex rating in the law would encourage a particular automobile insurer to arbitrarily raise rates, given the fact that he would need no prior approval?

SENATOR SEWARD: Well, Mr. President, I would answer Senator Breslin this way. The auto insurance market is quite competitive, quite competitive in New York State. There are a lot of players, a lot of companies want to write business in this state.

And I would say that if a company just said, Well, okay, we're going to raise our rates 4.9 percent because we can, I would find that that company would be at a serious

competitive disadvantage and they would lose market share considerably because there are so many other players that would be offering a lower rate and that they would pick up that market share.

So I do not have the fears that you have outlined because of the competitive nature of our market. And the passage of this legislation I predict will make our market here in New York even more competitive and entice more companies to write business here; thus, more benefits to the consumer.

SENATOR BRESLIN: And again through you, Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT GRIFFO: Senator Seward, do you yield?

SENATOR SEWARD: Yes, I do.

ACTING PRESIDENT GRIFFO: Senator Breslin.

SENATOR BRESLIN: Are there any situations within this bill where there is the possibility of an increase in premiums over and above the 5 percent cap?

SENATOR SEWARD: Well,

Mr. President, only in the situation -- it's very limited -- but because it's an average, that that would exceed the 5 percent.

SENATOR BRESLIN: Then again, through you, Mr. President, if the sponsor would continue to yield.

SENATOR SEWARD: Yes.

ACTING PRESIDENT GRIFFO: Senator Seward yields.

SENATOR BRESLIN: Can you tell us to what would be the greatest level increase that would be possible under the legislation?

SENATOR SEWARD: Well, Mr. President, the counsel informs me that since it's not specified in this legislation, I really don't have the answer for you.

SENATOR BRESLIN: Again through you, Mr. President, if the sponsor would continue to yield.

SENATOR SEWARD: Yes.

ACTING PRESIDENT GRIFFO: Senator Seward yields, Senator Breslin.

SENATOR BRESLIN: Then would there be any concern on your part that that might be a particular loophole in the

legislation which would afford companies to increase it to a greater extent?

SENATOR SEWARD: Well, Mr. President, I don't have those fears because in fact we are, under this bill, decreasing the band from 7, what had been the law in New York, down to 5. And it did not seem to be a problem previously. And it would be even less of a problem under this legislation.

SENATOR BRESLIN: Thank you, Senator Seward.

On the bill.

ACTING PRESIDENT GRIFFO: Senator Breslin, on the bill.

SENATOR BRESLIN: Thank you, Mr. President.

The NYPIUA portion of this bill I think is long, long overdue. We have been in this chamber -- I have been here 12 years arguing for permanency of NYPIUA because it does so much to -- particularly on Long Island for coastal flooding, but in areas where it's difficult arriving at coverage and the inability to plan because of our two-year

sunsets on NYPIUA. And this bill will take care of that.

I am concerned, on the automobile insurance side, of placing the burden with automobile carriers and giving them the ability to really raise rates without prior approval.

What does prior approval do? It scares the insurance company into doing their homework, and it allows them to come before the Insurance Department provide their analysis, and have professionals weigh in on that analysis.

However, in other states -- Illinois is being one good example -- when they have deregulated and left it to market conditions, those market conditions have worked extraordinarily well.

So I will, on this bill, vote overwhelmingly for the NYPIUA portion and somewhat grudgingly on the automobile portion. But in all, I will vote aye on this legislation.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator

Klein.

SENATOR KLEIN: Mr. President, would the sponsor yield for a couple of questions.

ACTING PRESIDENT GRIFFO: Senator Seward, do you yield for a couple of questions?

SENATOR SEWARD: Certainly, Mr. President.

SENATOR KLEIN: Thank you, Mr. President. Through you.

I'll, I guess, limit my questioning to the portion on the property loss mitigation, because my colleague already asked the questions about the car insurance.

In your bill memo, Senator Seward, the public benefit corporation provides grants that minimize the effects of catastrophic residential property losses. Can you explain that?

It's part of establishing the property loss mitigation public benefit corporation.

SENATOR SEWARD: Mr. President.

ACTING PRESIDENT GRIFFO: Senator

Seward.

SENATOR SEWARD: I'm sorry for the delay in getting the answer to you. Apparently you are reading from a dated memo. The mitigation portion of the legislation, that has been deleted from the actual bill.

SENATOR KLEIN: So there's no grants to assist homeowners who are --

SENATOR SEWARD: Mr. President, that is correct.

Personally, I think that's a positive thing to do. But that's perhaps something we will get to another year. We'll get to that another time.

SENATOR KLEIN: Through you, Mr. President, I have a couple more questions for the sponsor.

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

SENATOR SEWARD: Certainly, Mr. President.

SENATOR KLEIN: What we're actually doing here as far as this legislation today, what are we doing to ensure that homeowners who happen to live near coastal

areas won't have their insurance just dropped in an arbitrary manner by the carrier?

SENATOR SEWARD: Well, Mr. President, this legislation does not, shall we say, specifically address that situation.

Although it does, in a way, because it does help to stabilize the market in the coastal areas. Because it expands the role of NYPIUA, and it also requires NYPIUA to develop a program to help provide incentives for the private-market carriers to go into those areas of our state and also, in addition to that, directs the superintendent to develop and implement a program to do the exact same thing.

So what we're attempting to do here is to create a more vibrant market in the coastal areas of our state so that homeowners will not, in the situation as you describe, have their coverage dropped. But we're also creating a better safety net for them if that should occur.

SENATOR KLEIN: Again through you, Mr. President, will the sponsor continue

to yield for another question.

ACTING PRESIDENT GRIFFO: Does the sponsor yield?

SENATOR SEWARD: Certainly. Certainly.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KLEIN: Thank you. Through you, Mr. President.

Is there anything in this legislation that will study the issue of whether or not certain coastal regions within the State of New York -- in the Bronx, in Long Island -- are truly in hurricane zones?

SENATOR SEWARD: Mr. President, that is the responsibility of the special advisory panel on homeowner's insurance and catastrophe coverage. It's their responsibility to study and then make recommendations regarding the problems that are experienced in these sections of the state.

SENATOR KLEIN: Again through you, Mr. President, will the sponsor continue to yield.

ACTING PRESIDENT GRIFFO: Will the sponsor yield?

SENATOR SEWARD: Certainly.

ACTING PRESIDENT GRIFFO: Senator Klein.

SENATOR KLEIN: Again, I know making this group permanent tends to be, I gues, a benefit for people who have homeowner insurance.

Can you just elaborate on how this would make it more effective for the homeowner in being able to obtain reasonable homeowner insurance if they live in a community that happens to be a coastal community?

SENATOR SEWARD: Well, Mr. President, I'm a great believer in a healthy insurance market. In other words, if more carriers are willing to write in a region -- and we've seen some withdrawal in the coastal areas. And if we provide for a more vibrant market in those regions, that -- if you believe in market conditions affecting the price, then that should impact, in a very positive way, these homeowners.

And that's why we, as I've said

before, direct NYPIUA to help provide incentives to the private-market insurers to write more homeowner's insurance in these regions and, once again, the superintendent to do the same.

So I cannot cite the specifics, but we are doing -- what we are doing under this legislation is we're setting the foundation and framework for going forward in a positive way for those homeowners.

SENATOR KLEIN: Thank you, Senator Seward.

Mr. President, on the bill.

ACTING PRESIDENT GRIFFO: Senator Klein, on the bill.

SENATOR KLEIN: I know Senator Seward has the best intentions in making sure that individuals both have reasonable car insurance and coastal insurance policies if their homes happen to be near the water.

The first half of the legislation I think is only going to increase our car insurance by actually bringing the flexible rating system to New York on a permanent basis.

According to a memo that was jointly prepared by NYPIRG, CFA, and Consumers Union, it found that -- Consumer Federation of America found that rates rose significantly more slowly over the last 20 years in states that require prior approval than in states with weaker regulatory systems.

So in other words, we're moving away from the prior approval system to the flexible rate. And I'm just concerned that it's going to cause our automobile policies to go up even further than they are. New York State presently has the dubious distinction of having the second-highest automobile insurance premiums in the country, and I'm afraid we may reach that number-one mark under this system.

The second area, dealing with the property casualty insurance, I think is missing a lot of very important components.

One of the things that I found last year and continues this year, in the areas that I represent -- and I also hear stories about it happening out on Long Island as well -- is that certain insurers were just arbitrarily not renewing policies to

homeowners in certain areas. What we did find out is if they had their automobile policy with the insurer as well their homeowner policy, they were left alone.

The Superintendent of Insurance, Eric Dinallo, investigated that, and it stopped happening. The problem is those people who were canceled, those people who weren't renewed, were forced to pay anywhere from $500 to $1,000 more every year for their homeowner policy.

So we're still in a situation now where some insurance companies are actually cherry-picking. They're going into communities that happen to be near the water and claiming that they're in a hurricane zone, without any real concrete scientific evidence to back that up, and not renewing policies.

So I think what we need to address in this legislative session -- and of course we're not going to be able to do it now, but hopefully over the summer -- is truly address the problem of people who are having their policies -- receiving nonrenewal notices from their insurance companies and if they choose

to go to another insurance company, they're paying hundreds and even thousands of dollars more for their homeowner policy.

I've introduced legislation, as a matter of fact last year, which I think will deal with the problem. First, presently under New York State law any insurance company can only cancel up to 4 percent of their policies in New York State. I want to lower that number to 2 percent. Because clearly what Allstate and a lot of the other insurance companies are doing, time and time again, is they're getting very, very close to that 4 percent mark -- again, by cherry-picking the policies they don't want -- and people are losing their insurance, people who had their insurance for 25 or 30 years.

The next part of the legislation, which I think is also just as important, I think we need to force the insurance industry, before they cancel or fail to renew a homeowner's policy, to give a reason. They have to give a cost-benefit analysis explaining exactly why they're not renewing a policy that never made a claim in 25 or

30 years.

And then finally, and this is the question I asked of Senator Seward, I think the Insurance Superintendent of the Department of Insurance in New York State should once and for all do an independent study to find out in coastal regions within the State of New York, if certain communities that I represent, and many of my colleagues, are truly in a hurricane zone.

I think what's happening here is the insurance industry is hoping that we can create sort of national panic, have a catastrophic damage fund where taxpayer dollars are paying for loss mitigation which you're paying for as part of your homeowner insurance.

So I think we need to do a lot more than we're doing in this legislation. However, I think that in this piece the homeowner piece does make some improvements. I vote no because I think the part which deals with automobile insurance will only raise our rates further than they are now.

Thank you, Mr. President.

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

The debate is closed. The Secretary will ring the bell.

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.)

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

SENATOR LaVALLE: Thank you, Mr. President.

I want to congratulate Senator Seward for his leadership on this issue. This issue has been very daunting for the people of Long Island who have not, in so many instances, been able to receive insurance. Many cancellations.

Senator Klein, I had sponsored the 4 percent bill that you've referred to.

But Senator Seward held a hearing on Long Island, and Superintendent Dinallo testified. And one of the things that we

found through that hearing was that many of the provisions in this bill were recommended by the agents, by some of those testifying, and even the superintendent himself.

So I think this bill will give finality for people. As a matter of fact, in our law office one of the conditions that we had to put into our contract in order to protect a seller is a condition that the buyer not only have an approved mortgage but also availability of insurance. It reached that height where we would get to a closing and people didn't have insurance.

So with this legislation, we will deal with the availability issue.

Mr. President, I vote yes.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 2173 are Senators Adams, Connor, DeFrancisco, Dilan, Duane, Gonzalez, Hassell-Thompson, Klein, Libous, Parker, Savino and Stavisky. Also Senators L. Krueger and Sampson.

Absent from voting: Senator C. Kruger.

Ayes, 47. Nays, 14.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you please call up Calendar Number 2172.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 2172, by Senator Seward, Senate Print 8354B, an act to amend the Insurance Law.

SENATOR BRESLIN: Explanation.

ACTING PRESIDENT GRIFFO: Explanation requested by Senator Breslin, Senator Seward.

SENATOR SEWARD: Certainly, Mr. President.

This legislation, which is an agreed-upon bill with the Assembly and one that we worked on very closely with the Insurance Department on, takes a number of steps to enhance the integrity of health insurance premiums. And it does so in a

number of ways.

The bill increases the medical minimum loss ratio from 75 to 80 percent for the small group market. This means that at least 80 cents of every premium dollar must go to pay health care claims for services.

The bill also establishes clear definitions and standards for calculating the medical loss ratios. It provides a specific method for calculating direct claims incurred. This is designed to eliminate the gaming that's used by certain health plans whereby they deliberately miscalculate their minimum loss ratios.

The current test for meeting the minimum loss ratios is ambiguous and subject to manipulation. This bill will assist the Insurance Department in better monitoring these plans.

The bill further strengthens certification requirements by requiring that the insurers affirm, under penalty of perjury, that their rate filing was prepared in accordance with generally accepted actuarial principles.

The legislation would reinstate prior approval for insurers who materially misrepresent their medical loss ratios in two consecutive years.

And finally -- two more points, Mr. President -- the bill clarifies the in-network, out-of-network charges by prohibiting health insurers from charging a patient out-of-network, more expensive rates for hospital services in an in-network hospital, even when the physician performing the services may be out of network, and vice versa, when the patient cannot be charged under this bill out-of-network rates for services performed by an in-network physician even when it maybe be performed in an out-of-network hospital.

And finally, Mr. President, the legislation reduces the required time for an insurer to pay claims for healthcare providers when the claim is submitted electronically. It goes from 45 days to 21 days. And that will not only encourage more claims to be submitted electronically but gets the money in the pocket of our local hospitals and

healthcare providers sooner. The claims that are submitted in written form would still be at that 45-day level.

ACTING PRESIDENT GRIFFO: Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President.

Would the sponsor yield for a few questions.

ACTING PRESIDENT GRIFFO: Senator Seward, do you yield?

SENATOR SEWARD: Certainly, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President. Through you.

This bill does not, other than for a penalty's sake, establish any sort of prior approval; is that correct?

ACTING PRESIDENT GRIFFO: Senator Seward.

SENATOR SEWARD: Could Senator Breslin repeat the question? I didn't quite understand it. Or I couldn't hear him.

SENATOR BRESLIN: Again through you, Mr. President, does this bill, other than for the penalty for a carrier, allow anything other than prior -- excuse me, prior approval?

SENATOR SEWARD: Mr. President, this bill maintains all of the current sanctions that the department can impose. But it imposes the prior approval on, shall we say, the bad actors, to ensure -- what we're attempting to do here is ensure that premium payers in New York State do not pay one nickel more than they should for their health insurance.

SENATOR BRESLIN: And again through you, Mr. President, could you explain to us what the alternative to prior approval, file and use, which has been going on for some eight to 10 years, what that is?

SENATOR SEWARD: Well, Mr. President, each year the health plans file information, a whole set of data with the Insurance Department, and also indicate the rates that they are going to charge for the ensuing year.

And under file and use, which is in

place currently, the department has an opportunity, as the year goes by, to monitor very closely the health plans to make sure that they are meeting their medical loss ratios. And then, in the event that they do not meet those loss ratios, under current law, the plans are required to issue a refund.

And in fact, just recently there was a $50 million refund required to be paid by one of the plans.

And this legislation, in addition to those types of sanctions it would impose, if this happens twice, then they've got to be to go into the prior approval for three years.

SENATOR BRESLIN: Thank you, Senator Seward. On the bill.

ACTING PRESIDENT GRIFFO: Senator Breslin, on the bill.

SENATOR BRESLIN: Thank you, Mr. President.

This bill cleans up the medical loss ratio --

ACTING PRESIDENT GRIFFO: Senator Breslin, excuse me.

Can we have some order, please.

Senator Breslin, on the bill.

SENATOR BRESLIN: It cleans up the medical loss ratio and makes it more consistent and directs that HMOs spend a certain amount of money for the medical services.

However, it continues a file and use policy. And HMOs, over the last number of years, have used this file and use policy. Some people call it file and abuse.

And what does file and use allow a company to do? It really allows them to file a rate and then use it. And there isn't that strong check and balance where an HMO would say: Gee whiz, I've got to have this approved, and I've got to have this analyzed. So they tend, as most of us would, to file a higher rate than possibly is necessary.

And there was a study done which analyzed HMOs in New York State from 2001 to 2005 which showed that their profits increased just under 100 percent while, at the same time, the number of people they were serving decreased, the amounts of money they gave to providers, hospitals and doctors also

decreased, and at the same time, their expenses went up.

File and use is abused. The proper way to -- particularly when people are spending tremendous sums of money for their health policies, where bargaining units for unions, the most important thing is to keep that health component. And if we know that HMOs, as part of that component, are making extraordinary amounts of money, it's unfair.

The way to change that is to make sure that there is prior approval. And accordingly, because of the lack of a prior approval in this legislation and the continuation of file and use, I will be voting in the negative.

Thank you, Mr. President.

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

Debate is closed. The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 15. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 2172 are Senators Adams, Aubertine, Breslin, Connor, Dilan, Duane, Gonzalez, Hassell-Thompson, Huntley, C. Johnson, Klein, L. Krueger, Montgomery, Onorato, Oppenheimer, Parker, Perkins, Sabini, Sampson, Savino, Schneiderman, Serrano, Smith, Stachowski, Stavisky, Stewart-Cousins, Thompson and Valesky.

Absent from voting: Senator C. Kruger.

Ayes, 33. Nays, 28.

ACTING PRESIDENT GRIFFO: The bill is passed.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 2184, by Senator Nozzolio, Senate Print 8714, an act to amend the Criminal Procedure Law and others.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MAZIARZ: Oh, Senator Schneiderman has asked for an explanation. On the last day of session, an explanation, Senator Nozzolio. Requested by Senator Schneiderman on the last day of session.

(Laughter.)

SENATOR NOZZOLIO: Thank you, Mr. President.

I wish to thank Senator Schneiderman for the tremendous opportunity to inform my colleagues about this wonderful measure that is now before us for consideration.

Unfortunately, it's before us for consideration because of a loophole that judges of this state exhibited that would have resulted in freeing over 500 inmates onto the streets, many of whom are violent inmates, without any parole supervision.

This measure requires those courts, which failed to properly impose sentences as we have required by the states we have enacted, to immediately resentence those inmates affected by those judicial errors;

establishes a procedure so that the Department of Correctional Services as well as the New York State Department of Parole can identify these cases that caused the courts to initiate resentences; puts a very specific time frame of which these must be acted upon; and also provides opportunities for the district attorneys to cure whether procedurally that's likely and possible to do.

That this measure highlights also, in our criminal justice system, the important role of parole supervision. Violent felons do their time, but it's very important once they are released -- and let me parenthetically state, we have aggressively established a zero tolerance for violence in this state.

Mr. President, this measure is one that's necessary, and that the parole officers who can ensure that appropriate supervision is placed upon those inmates who are let out of jail upon the conclusion of their sentence play a very, very important role in our entire criminal justice system.

Thank you, Mr. President.

Thank you, Senator Schneiderman.

ACTING PRESIDENT MAZIARZ: Thank you, Senator Nozzolio.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. If the sponsor would yield for a brief question or two.

ACTING PRESIDENT MAZIARZ: Senator Nozzolio, would you yield for a brief question from Senator Schneiderman?

SENATOR NOZZOLIO: Yes, thank you, Mr. President, I'll be happy to yield.

ACTING PRESIDENT MAZIARZ: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Yes, through you, Mr. President, I just wanted to clarify that this final version of the bill does not including any grant of immunity that would enable any participant in the system to avoid liability for negligent or willfully wrongful misconduct.

ACTING PRESIDENT MAZIARZ: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, I thank Senator Schneiderman for that question.

That an earlier draft of the proposed legislation raised questions in that regard, and those provisions were excluded from the bill that we are voting on this afternoon.

SENATOR SCHNEIDERMAN: Thank you.

Mr. President, I'd like to thank the sponsor for his answers. I --

ACTING PRESIDENT MAZIARZ: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I am going to speak on the bill, Mr. President, if you will allow me to do so.

ACTING PRESIDENT MAZIARZ: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you. Thank you.

This is actually a success story, because the need for this legislation was created by a Court of Appeals decision in a called People v. Sparber.

Unfortunately, even though by statute we require courts to impose sentences if they are to include post-release supervision that state at the time of

sentencing that they're including post-release supervision, some judges have gotten sloppy and would only write down on the commitment sheet that there was post-release supervision required.

The Court of Appeals ordered on April 29th that they were going to have to release a number of prisoners if we didn't correct these illegal sentences. There's strong public policy in New York State that you have to undo an illegal sentence.

So I want to compliment the sponsor and the staff and the Assembly staff who got together and in very, very quick order worked out a compromise bill that does provide an alternative sentence, does provide for a resentencing hearing where it is necessary.

And, you know, for whoever was doing this, Senator Nozzolio or the staff or the Codes Committee staff, you somehow got the Assembly Codes Committee to actually agree on, draft and pass a bill that is going to increase certain people's sentences. I have been here nine years. I don't think I've ever seen that, ladies and gentlemen.

So it's fine that we were able -- it's really wonderful that we were able to do this so quickly at the end of the session. I didn't think we were going to able to get this done.

So kudos to all who worked on it, and to you, Mr. President. Better luck next year on the "Wounded Bear Chasing Children through the Woods Act."

ACTING PRESIDENT MAZIARZ: Senator Schneiderman, your compliments to Senator Nozzolio are noted for the record.

Any other Senators wish to speak on the bill?

The debate is closed. The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 2184: Ayes, 60. Nays, 1. Senator Duane recorded in the negative.

Senator C. Kruger absent from voting.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Libous.

SENATOR LIBOUS: We want to return to motions and resolutions.

And I believe you should call on Senator Robach.

ACTING PRESIDENT MAZIARZ: Motions and resolutions.

The chair recognizes Senator Robach.

SENATOR ROBACH: Yes, Mr. President, I wish to call up Senate Print Number 2393A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 2189, by Senator Leibell, Senate Print 2393A, an act to amend the Labor Law.

SENATOR ROBACH: Mr. President, I now move to reconsider the vote by which the bill was passed and ask that the bill be

restored to the order of third reading.

ACTING PRESIDENT MAZIARZ: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

SENATOR ROBACH: Mr. President, I now move to discharge, from the Committee on Rules, Assembly Print Number 2124A and substitute it for the identical Senate bill.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

Senator Robach.

SENATOR ROBACH: The Senate bill on first passage was voted unanimously. I now move that the substituted Assembly bill have its third reading at this time, on behalf of Senator Leibell.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 2189, by Member of the Assembly John, Assembly Print Number 2124A, an act to amend the Labor Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Libous.

SENATOR LIBOUS: Mr. President, on Supplemental Calendar Number 64B may we take up Calendar 2179, noncontroversial.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 2179, by the Senate Committee on Rules, Senate Print 8682B, an act to amend the General Business Law.

SENATOR LIZ KRUEGER: Lay it aside.

SENATOR LIBOUS: Is there a message of necessity at the desk?

ACTING PRESIDENT MAZIARZ: There is a message of necessity at the desk, Senator.

SENATOR LIBOUS: Move to accept the message, please.

ACTING PRESIDENT MAZIARZ: All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(No response.)

ACTING PRESIDENT MAZIARZ: The ayes have it; the message is accepted.

Read the last section.

SENATOR LIZ KRUEGER: Lay it aside.

ACTING PRESIDENT MAZIARZ: Oh, I'm sorry, Senator Krueger requests that the bill be laid aside.

Senator Libous.

SENATOR LIBOUS: Can we take up 2191, noncontroversial, on the same calendar.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 2191, by Senator O. Johnson, Senate Print 8713, an act to amend the Civil Practice Law and Rules.

ACTING PRESIDENT MAZIARZ: Senator Libous.

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

ACTING PRESIDENT MAZIARZ: There is a message of necessity at the desk.

SENATOR LIBOUS: May we please move to accept the message.

ACTING PRESIDENT MAZIARZ: All in favor signify by saying aye.

(Response of "Aye.)

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(No response.)

ACTING PRESIDENT MAZIARZ: The ayes have it; the message is accepted.

The Secretary will read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The

bill is passed.

Senator Libous.

SENATOR LIBOUS: Mr. President, can we take up 2192, noncontroversial.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 2192, by Senator Marcellino, Senate Print 8717, an act to amend the Tax Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President. As I get ready to --

ACTING PRESIDENT MAZIARZ: I'm sorry, Senator Duane, could you just bear an interruption? We have to accept a message of necessity.

Senator Libous.

SENATOR LIBOUS: Is there a message of necessity at the desk?

ACTING PRESIDENT MAZIARZ: There is a message of necessity at the desk, Senator.

SENATOR LIBOUS: Can we move,

please, to accept the message.

ACTING PRESIDENT MAZIARZ: A motion has been made to accept the message of necessity. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(No response.)

ACTING PRESIDENT MAZIARZ: The ayes have it; the message is accepted.

SENATOR LIBOUS: Thank you, Mr. President.

Thank you, Senator Duane.

ACTING PRESIDENT MAZIARZ: Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

I just wanted to point out that I believe this is the brownfields bill.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 17. This act shall take effect immediately.

ACTING PRESIDENT MAZIARZ: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Senator Thompson, to explain his vote.

SENATOR THOMPSON: Yes, to explain my vote.

First, I do support the bill. I want to first congratulate my colleague -- Senator Marcellino has worked on this for a long time -- in addition to Governor Paterson and Judith Enck and Commissioner Pete Grannis, and all the business and environmental advocates, for coming together and moving this legislation forward.

I do believe that there are a lot of good things in this bill. Not everyone is totally happy, but I think we've accomplished a number of positive things in this bill.

The first, I think, very important reform measure is that this bill will create an advisory board to deal with brownfields issues. The other thing is I know that this is a very difficult issue for a number of people. But politics is often the art of compromise. And that one of the important

compromises here provides some type of cap on some of the businesses and projects coming into this program.

I also believe that there are some other things that we can be proud of as well. While we did not reach the 10 percent additional credit for being in a BOA, or a Brownfield Opportunity Area, we do provide 2 percent. And I do think that's a start. Rome wasn't built in a day. But I think it moves us forward.

The other thing is there are a number of groups that did support this bill. I also believe that in moving forward there are some things that I believe will be helpful for business. And hopefully by the time they move to the regulation process of this bill, that issues like -- not only because it's gone to the Department of State for the BOA program, but I think we need to have better timelines. When businesspeople and residents and stakeholders put in an application, they want to know what the time frame is.

And that's something I think that I'd like to work with my colleagues on both

sides of the aisle, is making sure that when they put that application in, that whether it's through the BOA program or it's through a Brownfield Cleanup Program, that we have a clear, clean and defined time frame. Because sometimes it's very frustrating dealing with government.

So without further ado, I support this bill. I think it's a bold step forward. Many reforms were addressed. And we still have some work to do.

Thank you.

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

Senator Stachowski.

SENATOR STACHOWSKI: Yes, Mr. President. I too would like to explain my vote.

I think it's a great compromise. There was some fear that this bill wouldn't be done.

Obviously in Western New York, as you very well know, there's a lot of brownfields that are open to possible

development. I know that the grandfathering in of some in Western New York is very important to those people involved in those projects, and that the new parameters that will focus a lot more on cleanup will make the development of brownfields in Western New York that are available to be cleaned and developed, many of which are along the waterfront, and it will provide a great opportunity to make the waterfront in Western New York, particularly in some of my area, a much better place.

It's a very important bill. I'm glad we got to this compromise. I'm glad we're moving forward, albeit the last day. And I'd just like to congratulate everybody involved in getting this bill to the floor and moving ahead and helping to redevelop areas that we thought would not be developed for quite some time.

So I vote yes.

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

Senator Stewart-Cousins.

SENATOR STEWART-COUSINS: Yes, thank you, Mr. President.

I rise too to also commend Senator Marcellino and the Governor and all who were involved in this. This was extremely important, as both of my colleagues before me have mentioned.

Those of us who have important revitalization projects going on in our district, those of us who have had commitments by developers based on the tax credits were very, very concerned that suddenly the game would be changed midstream.

This allows for certainly many of the projects in Yonkers and Tarrytown and throughout the state that had already been in process to continue in that process, and also gives the added impetus so that we will continue to reclaim those brownfields that could indeed be revitalized so that we can use them so the economic prosperity continues.

So I certainly vote in the affirmative, and I'm very happy for the compromise.

ACTING PRESIDENT MAZIARZ:

Senator Stewart-Cousins will be recorded in the affirmative.

Senator Robach.

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

I am going to support this bill. And certainly this is a very, very important issue.

And we all know, those of us from upstate New York, that the current brownfields bill, while it was very good for cleaning up very, very expensive properties in New York City, was not meeting the mark in upstate urban areas, which also have a tremendous amount of brownfield areas, things that could be redeveloped for economic development as well as cleaned up.

So this bill does go with the new parameters to some degree to at least make upstate cities like Rochester, Buffalo, Syracuse a little bit more competitive. This is a step in the right direction.

And for that reason, I will support the bill, Mr. President.

ACTING PRESIDENT MAZIARZ:

Senator Robach will be recorded in the affirmative.

Senator Oppenheimer.

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

I'll be supporting this bill. And I'm very pleased to see that something that had me very distressed previously on the brownfield law has been corrected -- not as much as I would have liked, but it's been corrected quite a bit -- and that is that we had seen misuse of these funds.

I am thinking of one particular developer who remediated a tiny portion of the property and received funds for that and then had same amount percentage given to him for the redevelopment of what turned into a very magnificent structure, very high income, on which he would have made, with or without these credits, multiples of millions. And that was just so fraudulent, and yet it was within our law.

But now we have separated out the costs going -- the repayment going to brownfields and the amount of money that will

be going to development. And I think that is a move in the right direction.

And I see a project on the list that is in my Senate district in a place that is so intensely polluted that, without this kind of assistance, it would never, never be remediated.

So I'm very pleased to be supporting this bill.

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

Senator Maltese, to explain his vote.

SENATOR MALTESE: Mr. President, I must admit I had serious doubts about the bill. And in reading the entire bill, I commend, of course, Senator Marcellino for all his work and working with the Governor and working with the Speaker of the Assembly.

I realize that the Governor and all parties had to deal with severe fiscal constraints. Quite frankly, listening to my good colleague Senator Thompson, and realizing his position, and with some doubts in

realizing how much more needs to be done, I am disappointed, I admit.

Usually brownfields are not connected, perhaps, with Queens County, but the fact is that we have many areas that must be cleaned up, many areas that need, severely need economic development. To name just three, we have Gotham Center, the Atlas Park, and the Silvercup Studios.

I was disappointed that these were not included, specifically, in those areas that would receive the most assistance. I am hopeful that in the future something can be done to remedy that.

And therefore, Mr. President, I vote aye.

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

Senator Marcellino, to explain his vote.

SENATOR MARCELLINO: Thank you, Mr. President.

I do appreciate the comments of my colleagues. I do appreciate the input that I

received in the negotiations with this bill. Senator Thompson was cordial and pleasant enough to sit down with my staff and his staff and to discuss some issues relative to this legislation. Commissioner Grannis was very helpful, and his staff. The Governor's staff has been very helpful. Assembly staff has been very helpful.

Our Senate staff has been working day and night, day and night on this piece of legislation for a long, long time.

It has been a labor of hard work, but frankly a labor of love. Because those of us who have been involved with this brownfields program since 2003 wish it to go and continue on.

This program is a two-way street. Not only do we clean up sites that are insulting our communities with their pollution and sickening our people, but they create jobs, they create a future, they open up inner cities. The potential is phenomenal. I've said this all along with the first bill, and I'll say it again: This bill has the potential to be the greatest

environmental-cleanup bill in the history of this state as well as the greatest economic development bill in this state's history.

This is a good bill. Is it perfect? No. No. Does it go as far as I would like it to go? No. We'd like more. But it's a good first step, and we'll continue the process. With the brownfields board created in this bill, we have a mechanism to monitor the progress and to monitor the procedures and to recommend changes to the departments.

Moving the BOA program to the Department of State is a great move. That department is better suited for that kind of a program than DEC. And this was done voluntarily. DEC gave it up and the state accepted it. Nobody had to have their arms twisted; it was a voluntary move.

This is a good thing. Brings the communities into the program. Brings public input into the program. Accountability and transparency, this is what it's all about.

So again, I thank everybody that was involved. Work was hard, but I think the

result is a good one.

Mr. President, I proudly vote aye.

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

Senator Stavisky.

SENATOR STAVISKY: Thank you, Mr. President.

I have a parcel in my Senate district that has been grandfathered in under the provisions of this legislation. It's just to the east of Shea Stadium, along Roosevelt Avenue. It's the old Con Ed site, and it's being developed by Muss Development.

It's going to provide jobs, it's going to provide 800,000 square feet of retail space, a thousand housing units, and it's going to generate more than $20 million in tax revenue during the construction phase alone. So this legislation will obviously benefit this property.

I have another brownfields -- this was a brownfield site. I have another brownfields site, a 60-acre parcel in the same general area known as Willets Point. And I

hope that we can use some of the brownfields credits to help alleviate the brownfields in the Willets Point section of Queens.

I thank Senator Marcellino for his work on this issue. It is appreciated by everybody. Sometimes I think you spend long hours and figure nobody really appreciates it. People do. And the real people who are thanking you are the people who are going to benefit from the entire scope of this legislation.

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

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

I also rise to say --

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

SENATOR LIZ KRUEGER: Thank you. To explain my vote. Thank you, Mr. President.

So a few weeks ago a number of us had a press conference saying if we didn't get this done before we went home, shame on us.

So we waited till the last few minutes of the last day, but we're getting something done. And that is a good thing. And many of my colleagues have already spoken about how important these changes are.

When we passed the first brownfields bill when I was first in the Senate, a number of us thought, Hmm, this isn't going to work, we're going to have to fix it. And it didn't take very long to realize that was right.

It did take a while to get to this day. It took about four years to finally get to the point where we're making some fixes and we are moving forward as we should.

So the sponsor said this is a great bill, and I hope this time we're closer to getting it right. Thank you very much, Senator Marcellino.

Senator Antoine Thompson did a yeoman's job pushing for the BOA issues and importance of recognizing that not only do we need to clean up land, but we need to maximize our ability to ensure that in poor communities and in urban centers, we have really the

ability to do brownfields and combine it with economic activity in communities that so desperately need it.

Particularly I want to recognize DEC and Commissioner Grannis, who fought very, very hard, before he was the DEC commissioner and since he's been there, to try to get us to this point.

So yes, everyone's right, it's not the ultimate bill. We probably will need to come back and revisit pieces of it again. But I am delighted that we are moving this bill this afternoon before we go home. And I think that we all get to say, okay, this time we did it right. A little late, but we did it right.

I will be voting yes. Thank you.

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

Announce the results.

THE SECRETARY: Ayes, 62. Nays, 0.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Libous.

SENATOR LIBOUS: Mr. President, can we now go to Calendar 2179, controversial.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 2179, by the Senate Committee on Rules, Senate Print --

SENATOR LIZ KRUEGER: Explanation.

ACTING PRESIDENT MAZIARZ: Senator Winner, an explanation has been requested by Senator Krueger.

SENATOR WINNER: Thank you, Mr. President.

This legislation would allow a company that is located in Watervliet and has purchased a silicone manufacturing facility to be able to obtain the Empire Zone benefits of a significant regional project that it thought it was eligible for, but for certain timing mistakes had acquired the facility prior to its final certification by Empire State Development Corporation.

This bill as a measure has a message of necessity. It is obviously agreed

upon by the Second Floor. And as such, this is not any kind of an unusual hit to the state's treasury, because these are benefits that were intended to be provided to this company. This company has met all of the requirements to be eligible as a significant regional -- regionally significant project, were it not for some technical timing glitches in its application.

ACTING PRESIDENT MAZIARZ: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

ACTING PRESIDENT MAZIARZ: Senator Winner, will you yield for a question from Senator Krueger?

SENATOR WINNER: Yes, I yield.

ACTING PRESIDENT MAZIARZ: The Senator yields.

SENATOR LIZ KRUEGER: So you were explaining it's a glitch.

My understanding on Empire Zone rules, you are creating new jobs. How many new jobs will they create beyond what's already in existence?

SENATOR WINNER: Well, they

acquired a company that has over 750 jobs. They now have 1100 jobs there.

And in order to be eligible as a regionally significant project, they would have had to acquire a facility that had 750 jobs. And as such, they more than adequately meet the eligibility requirements as a regionally significant project.

SENATOR LIZ KRUEGER: Mr. President, through you, will the sponsor continue to yield.

ACTING PRESIDENT MAZIARZ: Senator Winner, would you yield for a question from Senator Krueger?

SENATOR WINNER: Yes, I do.

ACTING PRESIDENT MAZIARZ: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

Well, as you just explained, in order to qualify as regionally significant in this bill, they would have 750 jobs or more. How many new jobs are they committed to creating at this site if they are to get the Empire Zone advantages?

SENATOR WINNER: Well, they've

created enough additional jobs to be eligible were they to be starting anew, Senator Krueger.

So under the other provisions of what constitutes a regionally significant project, if you are going to create over 50 jobs, in certain circumstances, you're eligible to be so designated. They in fact acquired a company with over 750 jobs, and therefore are eligible under those circumstances as well.

And in fact they've employed a significant number of additional people since their acquisition of the property. Which they would, were it not for the filing -- were it not for the final certification by Empire State Development Corporation, in the understanding of everyone involved in this project, they would have been eligible for and be in receipt of these benefits.

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

ACTING PRESIDENT MAZIARZ: Senator Winner, would you yield for a question

from Senator Krueger?

SENATOR WINNER: Certainly.

ACTING PRESIDENT MAZIARZ: Senator Krueger.

SENATOR LIZ KRUEGER: So as I'm understanding this, Company X existed, had 750 jobs or more, sold to a new company. The new company is adding jobs or has added jobs beyond the 750 and is now applying for Empire Zone that was never finished for the previous owner or was never processed for the previous owner?

I'm looking for clarification still.

SENATOR WINNER: In fact, Senator Krueger, this company is -- they're eligible for the benefits by virtue of the fact that they were acquiring a company of over 750 jobs.

Additionally, they have created over 50 jobs as well, which would otherwise make them eligible for a regionally significant project. And in fact, the level of their employment would then be determinable as to the extent of the benefits that they are

afforded.

In every instance, they would have met the criteria to become eligible for a regionally significant project, but for the final couple of week glitch of not receiving the final certification from Empire State Development Corporation because of some holdup in some local actions involving hearings or the like.

They acquired this company in good faith, having every expectation of receiving the designation as this project. In fact, they would have had no problems, again, were it not for this technical filing glitch. And as a result, that is why this legislation is before you.

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

ACTING PRESIDENT MAZIARZ: Senator Winner, would you continue to yield to another question from Senator Krueger?

SENATOR WINNER: Yes.

ACTING PRESIDENT MAZIARZ: Senator Krueger.

SENATOR LIZ KRUEGER: Okay. So as I understand it, they would have been eligible as a regionally significant project under the old existing law with 750 jobs. They're adding, according to this bill, the creation of at least 50 more jobs.

How much will the tax exemptions and credits from this bill cost the State of New York and over what time period?

SENATOR WINNER: Obviously, it depends on the level of the wage tax credits and the other types of benefits you get under the existing program. I don't know exactly what the level of the benefits are.

But again, this is not any kind of new money, Senator. Again, I repeat myself for the fourth time, were it not for the technical glitch in the timing of the application's final certification, they would have had these benefits and we wouldn't be talking today.

This is not sliding anything under the door. This is not providing any special benefit for a company that is not similarly situated. This is correcting a glitch to

benefit a company that was promised and induced by the existence of these benefits to acquire this company and to come into the State of New York, employ a significant number of additional people, and retain a significant number of jobs. In fact, 1100 people are currently employed in this facility.

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

ACTING PRESIDENT MAZIARZ: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you. I appreciate the sponsor's tolerance in my trying to clarify the deal.

And he may be right that it's nothing that, all things being equal, the old company might not have been eligible for. I guess my frustration is I don't really like these Empire Zone deals to start with, and I've been consistent on that.

I was hoping we'd deal with Empire Zone reform before we left session. At least we got brownfields reform. That's good. But we didn't deal with Empire Zone reform, and we particularly didn't deal with the esoterica of

Empire Zones that allow for these regionally specific projects to self-declare themselves, to move the borders, to move from one side of the street to the other, to have a company sold and then claim perhaps it's new jobs when it's under a new corporate name when the jobs were already there.

I don't know if my information was correct. I was told that this deal could cost us $40 million over 10 years, $4 million a year. I'm not questioning that the sponsor knew something that he didn't answer. But that was someone who gave me that information.

And I have to say, a bill that allows, if you have 50 more jobs, to potentially get $40 million of New York State taxpayers' money is something that concerns me.

It also concerns me, as we discussed with previous bills that I debated on the floor today with Senator Johnson that seemed to relate to a particular mall, the Carousel Mall outside of Syracuse, that every time we make one of these deals not only are we giving up state and local tax revenue,

we're actually creating an unfair playing field for the businesses who can't fall into those categories.

So if you get your taxes reduced or exempted, then you have a business advantage over anyone else who's trying to do the same kind of work who doesn't get the deal.

So as I think I am consistent with on the floor of the Senate, I go both ways on Empire Zones. Either don't have them or make the whole state an Empire Zone so that everybody has a fair shot in business.

Because I feel that for these special deals that we make, even respecting the sponsor's analysis that under the existing rules they might have been eligible for this -- although obviously they needed some fix, because we're here in the Legislature with a message of necessity in a three-way deal at the last minute to fix it for them -- that we are doing something wrong here.

That we are not having equal taxation, that we don't have an even playing field for businesses, that we still end up disproportionately giving tax advantages to

the largest businesses when in fact all the data and research shows that it is small and medium-sized businesses who create the most jobs in the State of New York.

And we all seem to give a lot of lip service to the problems of small business but in fact when we make major tax policy decisions, and in fact government policy decisions, it's always for the larger ones, not the smaller ones.

So again, my frustrations are across the board on these policies and in fact on Empire Zones more specifically than perhaps the details of this bill. But again, I feel if it wasn't dated June 20th and it didn't come with a message of necessity and people had more time to look and evaluate and ask questions, maybe I'd have more concerns about this specific bill.

Right now I'll just vote no because I just don't like these Empire Zone deals.

Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Any other Senator wishing to be heard on this bill?

The debate is closed. The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: In relation to Calendar Number 2179: Ayes, 60. Nays, 1. Senator L. Krueger recorded in the negative.

Absent from voting: Senator C. Kruger.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator LaValle.

SENATOR LaVALLE: Mr. President, we have a supplemental calendar that begins with Calendar Number 947, by Senator Bonacic.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 947, Senator Bonacic moves to

discharge, from the Committee on Rules, Assembly Bill Number 9319A and substitute it for the identical Senate Bill Number 6222A, Third Reading Calendar 947.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 947, by Member of the Assembly Gunther, Assembly Print Number 9319A, an act relating to increasing availability.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1254, by Senator Sabini, Senate Print 1725C, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator LaValle.

SENATOR LaVALLE: Mr. President, would you take up Calendar Number 1903, by Senator Morahan, noncontroversial, please.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 1903, by Senator Morahan, Senate Print 8077, an act to amend the Civil Service Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ:

Senator Saland, to explain his vote.

SENATOR SALAND: Thank you.

Mr. President, this is a bill which will expand the prior provisions in Civil Service Law permitting, at that time, municipal and school employees to have time off for prostate and breast cancer testing.

This bill greatly exceeds the provisions of that law. It includes any number of additional employees, many of whom have the ability to access this testing without the need to have that type of time off. It's a rather large unfunded mandate on your municipalities, on your schools.

In addition to being an unfunded mandate, it also now requires that this time be paid time, as distinguished from time taken under the prior bill.

Mr. President, I will be voting in the negative on this bill. Thank you.

ACTING PRESIDENT MAZIARZ:

Senator Saland will be recorded in the

negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1903 are Senators DeFrancisco, Farley, Maltese, Maziarz, O. Johnson, Rath and Saland.

Ayes, 55. Nays, 7.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator LaValle.

SENATOR LaVALLE: There will be an immediate meeting of the Rules Committee in the Majority Conference Room, Room 332.

ACTING PRESIDENT MAZIARZ: There will be an immediate meeting of the Senate Rules Committee in Room 332.

Senator LaValle.

SENATOR LAVALLE: We'll stand at ease, Mr. President.

ACTING PRESIDENT MAZIARZ: The Senate will stand at ease pending the report of the Rules Committee.

(Whereupon, the Senate stood at ease at 5:53 p.m.)

(Whereupon, the Senate reconvened

at 6:12 p.m.)

ACTING PRESIDENT MAZIARZ: Senator Libous.

SENATOR LIBOUS: Mr. President, can we return to reports of standing committees for the report of the Rules Committee, please.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

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

Senate Print 4048A, by Senator Griffo, an act to amend the Tax Law;

4481A, by Senator Seward, an act to amend the Insurance Law;

4714A, by Senator Leibell, an act relating to giving;

5657A, by Senator Leibell, an act to amend the Town Law;

5987A, by Senator Leibell, an act to authorize;

6401A, by Senator Lanza, an act to amend the General Business Law;

6934A, by Senator Marcellino, an

act to amend the Vehicle and Traffic Law;

6998, by Senator Farley, an act to amend the Education Law;

7023, by Senator Lanza, an act to amend the Tax Law;

7032, by Senator Lanza, an act to amend the Public Authorities Law;

7315A, by Senator Seward, an act to amend the Insurance Law;

7337, by Senator Griffo, an act to amend the Executive Law;

7896, by Senator Griffo, an act authorizing;

7911A, by Senator Seward, an act to authorize;

7947B, by Senator Little, an act to amend the Tax Law;

7965B, by Senator Volker, an act to amend Chapter 605 of the Laws of 2000;

8021A, by Senator Winner, an act to amend the Environmental Conservation Law;

8122, by Senator Farley, an act to amend the Banking Law;

8154A, by Senator Serrano, an act to amend the New York State Urban Development

Corporation Act;

8161C, by Senator Robach, an act to amend the Public Health Law;

8185A, by Senator Hannon, an act to amend the Public Health Law;

8228, by Senator Volker, an act to amend the Environmental Conservation Law;

8289A, by Senator Smith, an act in relation to authorizing;

8299A, by Senator Sampson, an act to amend the Executive Law;

8356, by Senator Marcellino, an act to amend the Public Authorities Law;

8487, by Senator Little, an act to amend the Public Authorities Law;

8511, by Senator Bonacic, an act to amend the Tax Law;

8542A, by Senator C. Kruger, an act to amend the Tax Law;

8560, by Senator O. Johnson, an act to amend the Economic Development Law;

8565, by Senator Marcellino, an act to amend the General Municipal Law;

8569A, by Senator DeFrancisco, an act to amend the Domestic Relations Law;

8576, by Senator Volker, an act to amend the Criminal Procedure Law;

8583, by Senator Little, an act to amend the Insurance Law;

8609, by Senator Lanza, an act to amend the Public Buildings Law;

8611, by the Senate Committee on Rules, an act to amend the Public Health Law;

8628, by Senator Robach, an act to amend the Real Property Tax Law;

8629, by Senator Maltese, an act to amend the Penal Law;

8632, by Senator Seward, an act authorizing;

8638, by the Senate Committee on Rules, an act to repeal;

8642, by Senator Maziarz, an act to amend the Tax Law;

8643A, by Senator Marcellino, an act to amend the Environmental Conservation Law;

8645, by Senator Hannon, an act to amend the Public Health Law;

8647A, by Senator Padavan, an act to amend the Education Law;

8648, by Senator Perkins, an act authorizing the City of New York;

8650, by Senator Maltese, an act to amend the Education Law;

8657, by Senator Hannon, an act to amend the Public Health Law;

8659, by Senator Little, an act to amend the Navigation Law;

8667, by Senator Golden, an act to amend the Public Service Law;

And Senate Print 8670, by Senator Saland, an act to amend the Elder Law.

All bills ordered direct to third reading.

ACTING PRESIDENT MAZIARZ: Senator Libous.

SENATOR LIBOUS: Mr. President, move to accept the Rules report.

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

(Response of "Aye.)

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(No response.)

ACTING PRESIDENT MAZIARZ: The Rules report is accepted.

Senator Libous.

SENATOR LIBOUS: Mr. President, I believe there is a second Rules report. Could we please have it read.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

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

Senate Print 6527B, by Senator Hannon, an act to amend the Public Health Law;

7369A, by Senator Seward, an act to amend the Insurance Law;

And Senate Print 8580, by the Senate Committee on Rules, an act to amend the Public Health Law.

ACTING PRESIDENT MAZIARZ: Senator Libous.

SENATOR LIBOUS: Could we move to accept the Rules report, please.

ACTING PRESIDENT MAZIARZ: The motion has been made to accept the report of the Rules Committee. All those in favor

signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(No response.)

ACTING PRESIDENT MAZIARZ: The Rules Committee report is accepted.

Senator Libous.

SENATOR LIBOUS: Mr. President, could we do the noncontroversial reading of Supplemental Calendar 64C, please.

ACTING PRESIDENT MAZIARZ: The Secretary will read Supplemental Calendar 64C, noncontroversial.

SENATOR LIBOUS: Thank you.

THE SECRETARY: Calendar Number 2193, by Senator Griffo, Senate Print 4048A, an act to amend the Tax Law.

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

Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first day of a sales tax quarterly period.

ACTING PRESIDENT MAZIARZ: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 2194, by Senator Seward, Senate Print 4481A, an act to amend the Insurance Law and the Public Health Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 20. This act shall take effect January 1, 2009.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2195, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 3100A and substitute it for the identical Senate Bill Number 4714A, Third Reading Calendar 2195.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2195, by Member of the Assembly Bradley, Assembly Print Number 3100A, an act relating to giving certain Westchester County town boards.

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

Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2196, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 8831A and substitute it for the identical Senate Bill Number 5657A, Third Reading Calendar 2196.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2196, by Member of the Assembly Molinaro, Assembly Print Number 8831A, an act to amend the Town Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2197, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 8535A and substitute it for the identical Senate Bill Number 5987A, Third Reading Calendar 2197.

ACTING PRESIDENT MAZIARZ:

Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2197, by Member of the Assembly Bradley, Assembly Print Number 8535A, an act to authorize the lease of lands.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2198, Senator Lanza moves to discharge, from the Committee on Rules, Assembly Bill Number 11717 and substitute it for the identical Senate Bill Number 6401A, Third Reading Calendar 2198.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2198, by the Assembly Committee on Rules, Assembly Print Number 11717, an act to amend the General Business Law and the Executive Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Senator Duane.

SENATOR DUANE: Thank you, Mr. President. To explain my vote.

ACTING PRESIDENT MAZIARZ: Senator Duane, to explain his vote.

SENATOR DUANE: I believe that video games are -- and this is really the most important reason for my vote, which will be in the negative on this bill. I believe that video games are a form of protected speech and that mandatory prohibitions are unconstitutional and frankly wrong and that

voluntary ratings and compliance are a much more, if you will, American way to go.

And of course the marketplace would probably make the best decisions about this anyway, at least at this point.

But, you know, just some of the other things that I think are important and again, the reason -- though not my primary reason for voting no, which is on the First Amendment issue -- but which are also important is that the newer consoles either do or will have parental blocking. And we see that with cable television and DVRs, that sort of thing, and even filtering that are on computers. And parents actually provide guidance to their children on this.

There are some, I think, problems with some of the sections of the bill also in the way they're written, even if the intention is not such. You know, things like mandatory labeling of all games. I'm not sure how that's going to work.

Also -- I mean, just already there's voluntary ratings, you know, software ratings. I'm not big for playing these games,

but there's already a voluntary ratings system in effect by the companies that create these.

And I just also think that when you wholesale block content because of how they're being rated, it really is a slippery slope. And I just think that over time -- and I hope that our state is a leader in video games generally, nothing to do with violent video games, but just video games in general. I think this could be an impediment with our competitive edge.

And all those are very good reasons to vote no for this legislation. And, just to go back, the overarching issue of the constitutionality of this and the erosion of free expression.

So, you know, it's the last day of session. I think we could go back and look and see what we need to do. Cooler heads could prevail then. I think that we should vote no on this, give ourselves more of a chance to -- and I know we've had hearings and I know we've had conference committees, but I think the job is not done.

And I think that we need to buy

ourselves more time and have a more informed and a less constitutionally threatening people piece of legislation. So I'll be voting no and encouraging my colleagues to vote in the negative as well.

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

Senator Hassell-Thompson, to explain her vote.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President.

I feel somewhat sorry that this is one of the few times that Senator Duane and I are in total disagreement on a bill. But that's what life is about.

One of the reasons that I am pleased about this bill is because I'm one of the cosponsors, along with Senator Lanza.

If many of you may remember, last year we had quite a bit of confrontation on this bill because we were very concerned, I particularly, about how do we ensure that we create the opportunity for parents to have the proper level of notification about the kind of

games that their children are purchasing and try to be sure that we disallow children from having access to games, many of which are extremely violent.

The more violent the games are and the more you win, the levels get deeper and deeper. So that as you win each level, the level of violence increases. And it's a major problem for our young people, who really are not able to make the discernment necessary to differentiate between that which is real and that which is not real.

What we've asked for in this bill -- and I'm sorry that Senator Lanza is not here to assist me in defending this bill. But one of the things that we worked very hard with all of the toy companies and video game people on was that they would agree to come into communities and assist us in having meetings where we had the opportunity to explain to parents what the games are really about and how do we ensure that at least parents have some knowledge and some say in what is going into the hands of their children.

So what we've asked for, in the final analysis of this bill, is merely to have the ability to ensure that games will be labeled. We have taken out penalties, we have taken out a lot of other things that we felt strongly should have been in the bill initially. And we have modified the bill, not to satisfy the toy companies but to at least try to meet the thresholds of constitutionality.

I think this is an excellent bill. Certainly it was very clear that at some point last year it was thought that Senator Lanza and I were going to actually come to fisticuffs, actually going to come to fisticuffs about this bill. But we are both parents and grandparents who really care about that which our children are exposed to. And therefore, it is in the best interest of parents, at least, to have the ability to know what their children are viewing.

Thank you, Mr. President.

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

Senator Bruno.

SENATOR BRUNO: Mr. President, can we ask the Senate to suffer an interruption for a very worthy cause.

We have a very distinguished former Senator here, who is now the Governor and the great Governor of this great state, and we would like to request unanimous consent for this great Governor to address this body.

Mr. President, the Governor of New York State.

ACTING PRESIDENT MAZIARZ: Without objection --

(Standing ovation.)

ACTING PRESIDENT MAZIARZ: Without objection, Governor David Paterson.

Governor.

(Applause.)

GOVERNOR PATERSON: Thank you.

I opened the session standing here, so I didn't think it would be really inappropriate if I closed the session standing here.

But I wanted to thank all of you during what was a very difficult transition in

our state, in the midst of a national sliding recession, for all of the cooperation that you gave to me, to these two fine leaders who are standing here, and really to the residents of the State of New York.

This body, along with the Assembly, in the last week passed 21 substantive pieces of legislation in the last week. And no one can find a time when anyone passed a third of it, in anyone's recent memory. So congratulations to all of you.

(Applause.)

GOVERNOR PATERSON: And before wishing all of you a pleasant and peaceful summer and a very successful year, meaning that we'll see you back here next year, I wanted to thank --

(Scattered applause; laughter.)

GOVERNOR PATERSON: So someone's having a real problem.

(Laughter.)

GOVERNOR PATERSON: I wanted to thank Senator Malcolm Smith for his leadership, for his assistance to me, for the great work of his conference, and for his

friendship over these years.

And I wanted to lend my voice to all those who are wishing the best for our great, great leader who served in the Senate for 32 years, most recently in the last 14 years as Majority Leader of the Senate -- someone who I always called a leader but was blessed enough to call him a friend in the last few years, and someone whose imprint on legislation and process will be remembered for years to come.

Let's just go back to those days when session started an hour and a half to two hours before we scheduled it, when no one could ever be sure to be at a meeting on time. And he changed all that in 1995 when he came in as Majority Leader. But he changed a lot of things -- programs, stadiums named after him --

(Laughter.)

GOVERNOR PATERSON: A man of international acclaim, someone whose picture will probably be on future currency --

(Laughter.)

GOVERNOR PATERSON: -- our friend

and our great leader, Joseph L. Bruno.

(Extended standing ovation.)

SENATOR BRUNO: Thank you. Thank you. Thank you. Thank you.

Listen. As the acting Lieutenant Governor, I need order in the house.

(Laughter.)

SENATOR BRUNO: And I want to thank the Governor for his words, for his leadership, for partnering with all of us.

He has to be somewhere else, and our time is running a little longer, for some reason or other -- and it must be the Minority, Governor.

(Laughter.)

SENATOR BRUNO: But we are not adjourning. In case anybody has an interest, we're taking a small break. And thank you for allowing this in this great chamber.

And, Governor, I want to thank you, really, for your friendship, for your words, for taking the time, for doing all the good things that you do for everybody that's here, and everybody in this state.

And this Governor, I want to say it

while he's here, he stepped in, in the greatest turmoil that this state has probably experienced since the Constitution, and with class, he stepped up, stepped in, and got a budget done on time -- I'm calling it on time, and nobody's going to argue with that.

(Laughter.)

SENATOR BRUNO: -- and well done.

And, as you just heard, a record number of important legislation that could only happen with leadership and with partners. And that's everybody that's here, and partnering with the Assembly. And Governor, that is very, very special.

And I am going to look forward to the rest of this evening. And my one concern is I think the Governor's up in Saratoga, in my district, and he's there without me.

(Laughter.)

SENATOR BRUNO: But we're going to be here, we're going to be doing some good work.

And really, thank you for your leadership. Thanks for being a partner. Thanks mostly for being our friend, and for

all the good things that you are doing and will do.

So thank you, and God bless you. Thank you.

(Applause.)

GOVERNOR PATERSON: Before I leave -- I'm going to the broadcasters' convention in Lake George, at the Sagamore, so I may not be exactly in Senator Bruno's district.

But I wanted to point out that in 1995, I was very fortunate enough to have been appointed the Deputy Minority Leader by Senator Connor. And I was the floor leader, and I sat across from an individual who was appointed the Deputy Minority Leader -- Deputy Majority Leader. And we, for eight years, debated, worked the floor together, and generally, we thought, followed the direction of the leader and made the process in this place work a little better.

And so I am very much looking forward -- of course, I can't predict the future. But next year I am going to rewrite the Constitution.

(Laughter.)

GOVERNOR PATERSON: But before that time comes, I just wanted to extend well wishes to my friend, Senator Dean Skelos.

(Extended applause.)

GOVERNOR PATERSON: And finally, to all of the staff that works here, to those who have kept this chamber in the beautiful condition and made it the great landmark that it is, to our sergeant-at-arms, to the analysts that work here, to the members of the Senate and to the leaders of the Senate, should you ever be thrown into a situation as suddenly and as, in some ways, tragically as I was, and you're looking for some direction and you're trying to figure out what is the right thing to do, there's one old adage that serves true.

And it has to do with all the work that we conducted together, with my understanding that even though we differ sometimes on approach, that if we all drew a picture of the New York that we imagine, it would look very much the same. It's the respect for not only those of you who are

Senators, but the Assembly members as well who make the Legislature and work with the Executive branch to make law.

So when I was trying to figure out how to govern this state, when I started to sit down and have lunch and realized I might be Governor in a few hours, I remembered that adage: Don't forget where you came from.

Thank you very much.

(Standing ovation.)

ACTING PRESIDENT MAZIARZ: The Senate will come to order.

Senator Skelos.

SENATOR SKELOS: Yes, Mr. President, I believe we were on a roll call.

ACTING PRESIDENT MAZIARZ: Announce the results of Calendar Number 2198, please.

Oh, I'm sorry. Senator Lanza, to explain his vote. Senator Lanza.

SENATOR LANZA: Thank you, Mr. President.

I rise in support of this legislation, which I think will go very far in

providing information to parents who make tough choices every day with respect to what's appropriate for their children.

I listened to Senator Duane's comments on the bill, and he raised concerns about the First Amendment and speech, talked about the marketplace and competitive edge, and the industry here and their right to participate in the marketplace here in New York.

And I agree with all those concerns, Senator Duane. I think, however, if you look closely at this bill, they're not valid.

And let's start with speech. There's all kinds of speech. If you take an old-fashioned pinball machine and we plunked it down in the chamber, we'd look at it and no one would call it speech. But when we put that up on a video screen, it does become speech, and I acknowledge that. And it deserves protection under the Constitution.

I think, though, there's some confusion with respect to what this bill actually accomplishes. I think the word

"prohibition" was talked about. I want to be clear. This bill does not prohibit the sale of any video to anyone.

There has been legislation proposed, both in this state and in other states, that would do just that, that attempted to say you must have a rating on a video game and then, based on that rating, you can only sell the video games to certain age groups. Or, in the alternative, you couldn't sell a video game to someone based on a rating.

This doesn't do that. This simply says that every video game sold in the State of New York should simply have a rating consistent with what the ESRB does presently in a voluntary way.

I know Senator Duane talked about the fact that we do have a voluntary system. It does work. But the problem with voluntary is that tomorrow someone can change their mind. Someone could decide tomorrow to no longer place ratings on these games.

And so this is not prohibiting the sale, this is simply about providing

information to parents.

You know, I know when I'm in a store and I'm with my wife and the kids and they want a video game, and there's a lot going on in life and things are hectic, and you have that thing shoved in front of your face, and your son or your daughter asks once or twice or three times or four times, five times -- I have two minutes, correct? Getting near the end -- you know, if you're able to look at that video game and very quickly determine what kind of game it is, the decision that you have to make is a lot easier.

And that's what this does. It provides information. Information is good.

I want to commend Senator Hassell-Thompson for her work. We worked over the last two years on this legislation. Her insights and her work on this bill I think got us to the point where we have a very workable, comprehensive approach.

Last year's version, where there was a three-way agreement, included a provision that would have made it an E felony

to sell these games. We all thought it was wrong. We took that out. We worked with the industry, we worked with the Assembly.

And we do have an agreement here on a piece of legislation that I think will go a long way in allowing parents to make good decisions with respect to what is and what is not appropriate for their children.

I vote aye on the bill. Thank you.

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

Is there any other Senator who would wish to explain their vote?

Announce the results.

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

ACTING PRESIDENT MAZIARZ: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 2199, by Senator Marcellino, Senate Print 6934A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MAZIARZ: Read

the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 2200, by Senator Farley, Senate Print 6998, an act to amend the Education Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date as Chapter 654 of the Laws of 2007.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 2201, by Senator Lanza, Senate Print 7023, an

act to amend the Tax Law.

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

Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first day of the sales tax quarterly period.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

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

SENATOR LIZ KRUEGER: Thank you.

You know, I have a dilemma, because of course I'm actually pretty excited about a bill that encourages the use of environmentally sound vehicles in the City of New York. But I'm disturbed that I'm learning that we don't need a home rule from the City of New York for this bill, because we're giving away their sales tax.

And my understanding is that the City of New York has a revenue problem itself. And so right now we're standing here, not even sending an unfunded mandate to the City of

New York, we're saying we're going to pass a bill that does away with their tax revenue, and we didn't even ask them about it. Because we're arguing, apparently, since I was asking behind the scenes, that we don't need a home rule because we view tax policy as a statewide issue.

And I have to say I'm a little confused about that, because when we pass sales tax increases on the counties, we always get asked is there a home rule, and we have to have one. But when we're going to actually reduce the taxes on five counties, the City of New York, we don't have to ask them.

So I'm going to -- I don't know what to do. Because again, I think if the city was asked, they might support -- I know the City of New York not only wants fewer cars, they want better-emission cars. But we're not saying we're giving up our revenue, we're saying to them they have to give up their revenue, and we're not even asking them.

You know, so I'm -- I have to vote no. Because I don't think we should do this to a locality. I think I'm a strong believer

in home rule and when we take way their tax revenue, we ought to ask them and they ought to want us to. Because again, we argue here consistently about unfunded mandates, we argue about wanting to make sure we respect our local governments.

But right now we're passing a bill that will say: City of New York, you've lost your local sales and compensating use taxes, and we didn't ask you your opinion about it.

So I'll vote no. Thank you, Mr. President.

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

Any other Senator wish to be explain their vote?

Announce the results.

THE SECRETARY: Ayes, 60. Nays, 2. Senators L. Krueger and Onorato recorded in the negative.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 2202, by Senator Lanza, Senate Print 7032, an

act to amend the Public Authorities Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 2203, by Senator Seward, Senate Print 7315A, an act to amend the Insurance Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: In relation to

Calendar Number 2204, Senator Griffo moves to discharge, from the Committee on Rules, Assembly Bill Number 7277 and substitute it for the identical Senate Bill Number 7337, Third Reading Calendar 2204.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2204, by Member of the Assembly Destito, Assembly Print Number 7277, an act to amend the Executive Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 2205, by Senator Griffo, Senate Print 7896, an act authorizing the establishment of solar or

wind or farm waste energy system.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2206, Senator Seward moves to discharge, from the Committee on Rules, Assembly Bill Number 11591 and substitute it for the identical Senate Bill Number 7911A, Third Reading Calendar 2206.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2206, by the Assembly Committee on Rules, Assembly Print Number 11591, an act to authorize the conveyance.

ACTING PRESIDENT MAZIARZ: Read

the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 2207, by Senator Little, Senate Print 7947B, an act to amend the Tax Law.

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

Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2208, Senator Volker moves to

discharge, from the Committee on Rules, Assembly Bill Number 11293B and substitute it for the identical Senate Bill Number 7965B, Third Reading Calendar 2208.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2208, by Member of the Assembly Hoyt, Assembly Print Number 11293B, an act to amend Chapter 605 of the Laws of 2000.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2209, Senator Winner moves to discharge, from the Committee on Rules, Assembly Bill Number 10837C and substitute it

for the identical Senate Bill Number 8021A, Third Reading Calendar 2209.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2209, by Member of the Assembly Farrell, Assembly Print Number 10837C, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 30th day.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2210, Senator Farley moves to discharge, from the Committee on Rules, Assembly Bill Number 10979 and substitute it for the identical Senate Bill Number 8122, Third Reading Calendar 2210.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2210, by Member of the Assembly Greene, Assembly Print Number 10979, an act to amend the Banking Law and the Tax Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2211, Senator Serrano moves to discharge, from the Committee on Rules, Assembly Bill Number 10594A and substitute it for the identical Senate Bill Number 8154A, Third Reading Calendar 2211.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2211, by Member of the Assembly Bing, Assembly Print Number 10594A, an act to amend the New York State Urban Development Corporation Act.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Senator Serrano, to explain his vote.

SENATOR SERRANO: Thank you, Mr. President.

I want to thank all my colleagues in the Senate chamber for supporting this very important piece of legislation.

As we all know, we're very happy to know that we are building a new subway line on Second Avenue in Manhattan. And this will bring much-needed improvement to mass transit infrastructure as well as remove cars from the

road.

But there is a problem with disruption on Second Avenue, and it has really had a very negative impact on businesses in that area. One in five businesses have closed their doors. Many are losing money every single day.

And this bill will recognize the plight of the businesses on Second Avenue by providing a grants program for those businesses that have lost revenue and are in danger of going out of business.

So I want to thank, once again, my colleagues here in the Senate, as well as Assemblymember Bing and all of the Assemblymembers, for passing this legislation.

I vote yes.

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

Announce the results.

THE SECRETARY: Ayes, 62. Nays, 0.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2212, Senator Robach moves to discharge, from the Committee on Rules, Assembly Bill Number 10883B and substitute it for the identical Senate Bill Number 8161C, Third Reading Calendar 2212.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2212, by Member of the Assembly Morelle, Assembly Print Number 10883B, an act to amend the Public Health Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 2213, by Senator Hannon, Senate Print 8185A,

an act to amend the Public Health Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 22. This act shall take effect immediately.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2214, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 11033 and substitute it for the identical Senate Bill Number 8228, Third Reading Calendar 2214.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2214, by Member of the Assembly DelMonte, Assembly Print Number 11033, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT MAZIARZ: Read

the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 2215 --

ACTING PRESIDENT MAZIARZ: Senator Skelos.

SENATOR SKELOS: Mr. President, I believe there's a substitution. So if we could lay that aside temporarily.

ACTING PRESIDENT MAZIARZ: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 2216, by Senator Sampson, Senate Print 8299A, an act to amend the Executive Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the 60th day.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2217, Senator Marcellino moves to discharge, from the Committee on Corporations, Authorities and Commissions, Assembly Bill Number 3414A and substitute it for the identical Senate Bill Number 8356, Third Reading Calendar 2217.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2217, by Member of the Assembly Magnarelli, Assembly Print Number 3414A, an act to amend the Public Authorities Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

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

SENATOR LIZ KRUEGER: Thank you, Mr. President.

Well, it's not that I'm opposed to this bill; it's just after the momentum we seemed to have going here today with the brownfields bill, I was hoping we might be passing another one of the environmental global warming bills.

Maybe Senator Morahan's 8390. Maybe Senator Thompson's almost identical bill, 1800. If you add up the sponsors of those two bills, we have almost 30 sponsors alone. We have a bill by Senator Schneiderman that would actually deal with global warming. We have, actually, quite a few Senator Marcellino global warming good bills.

We don't need that much time to study global warming anymore. We actually know what the problem is.

And so I am sorry in 2008, on the

last day of the Senate session, rather than passing a bill that would address global warming, we're passing a bill that you can't really find a lot to complain about but would just say let's study it some more. And I think we're way past that. Even President Bush now knows we have a global warming problem.

So I vote yes, but I wish there were any number of other bills we were passing here tonight.

Thank you, Mr. President.

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

Senator Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I really can't strongly enough echo what Senator Krueger has just said.

And we've accomplished a great deal this session. We've been moving bills on which agreement has alluded us for years. But we are really very far behind the curve in

addressing the issue of global warming.

We have to do more to stop using so much energy. It's an economic matter as well as an environmental matter. And it's really becoming a moral matter. It is not something that we will be able to explain to our children or our grandchildren if the Senate of the State of New York does not take action.

I know Senator Marcellino sponsors a bill similar to mine on climate change. Senator Morahan, Senator Thompson, as Senator Krueger, has just said, sponsor a bill on global warming.

We have a bipartisan agreement, I would say close to an unparalleled bipartisan agreement, that this is an issue we must address. We need the political will to get these bills on the floor.

I'm going to support Senator Marcellino's bill to study greenhouse gas management, but I have to say I don't know that we need more study to give us information. We do need more study to help us organize and help us promote action.

The people of the State of New York

overwhelmingly support much more aggressive action. It is something that we're going to have to take up, I hope in a special session this year, but certainly at the beginning of the next year.

I vote yes, Mr. President, with the expectation -- not the hope, the expectation -- that we will do more in the very near future.

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

Announce the results.

THE SECRETARY: Ayes, 62. Nays, 0.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we can call up now Calendar Number 2215.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 2215, Senator Smith moves to discharge, from the Committee on Rules,

Assembly Bill Number 11222A and substitute it for the identical Senate Bill Number 8289A, Third Reading Calendar 2215.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2215, by Member of the Assembly Pheffer, Assembly Print Number 11222A, an act in relation to authorizing.

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

Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 2218, by Senator Little, Senate Print 8487, an act to amend the Public Authorities Law.

ACTING PRESIDENT MAZIARZ: Read

the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 2219, by Senator Bonacic, Senate Print 8511, an act to amend the Tax Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 2220, by Senator C. Kruger, Senate Print 8542A, an act to amend the Tax Law and the

Social Services Law.

SENATOR LIZ KRUEGER: Lay it aside, please.

ACTING PRESIDENT MAZIARZ: Lay the bill aside.

THE SECRETARY: In relation to Calendar Number 2221, Senator O. Johnson moves to discharge, from the Committee on Rules, Assembly Bill Number 11288 and substitute it for the identical Senate Bill Number 8560, Third Reading Calendar 2221.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2221, by Member of the Assembly Millman, Assembly Print Number 11288, an act to amend the Economic Development Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 2222, by Senator Marcellino, Senate Print 8565, an act to amend the General Municipal Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2223, Senator DeFrancisco moves to discharge, from the Committee on Rules, Assembly Bill Number 11657A and substitute it for the identical Senate Bill Number 8569A, Third Reading Calendar 2223.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2223, by the Assembly Committee on Rules, Assembly Print Number 11657A, an act to amend the Domestic Relations Law and others.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2224, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 7197 and substitute it for the identical Senate Bill Number 8576, Third Reading Calendar 2224.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

2224, by Member of the Assembly Lavine, Assembly Print Number 7197, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

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

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 2225, by Senator Little, Senate Print 8583, an act to amend the Insurance Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 15. This act shall take effect immediately.

ACTING PRESIDENT MAZIARZ: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 2226, by Senator Lanza, Senate Print 8609, an act to amend the Public Buildings Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 2227, by the Senate Committee on Rules, Senate Print Number 8611, an act to amend the Public Health Law.

ACTING PRESIDENT MAZIARZ: Read

the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2228, Senator Robach moves to discharge, from the Committee on Rules, Assembly Bill Number 9500A and substitute it for the identical Senate Bill Number 8628, Third Reading Calendar 2228.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2228, by Member of the Assembly Schroeder, Assembly Print Number 9500A, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MAZIARZ: Read

the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61. Nays, 1. Senator Hassell-Thompson recorded in the negative.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2229, Senator Maltese moves to discharge, from the Committee on Rules, Assembly Bill Number 11636 and substitute it for the identical Senate Bill Number 8629, Third Reading Calendar 2229.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2229, by the Assembly Committee on Rules, Assembly Print Number 11636, an act to amend the Penal Law.

ACTING PRESIDENT MAZIARZ: Read

the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 2229 are Senators Duane, Montgomery and Perkins.

Ayes, 59. Nays, 3.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 2230, by Senator Seward, Senate Print 8632, an act authorizing a study to ascertain.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 2231, by the Senate Committee on Rules, Senate Print Number 8638, an act to repeal subparagraph (vi) of paragraph 8 of subdivision (b) of Section 1101 of the Tax Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Senator Schneiderman, to explain your vote.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I'm going to encourage everyone to vote against this bill. I don't think it's likely to accomplish much, since it doesn't have a sponsor in the Assembly. But this is a bill that really takes us in the wrong

direction when it comes to the taxation of sales through the Internet.

For many, many years we have been discriminating against companies that actually have places of business in New York by allowing companies that sell through the Internet to avoid taxes. We've taken steps in the last few years to correct that.

This bill would take a particular type of Internet sales that's called an affiliates program and exempt it again from taxes, costing the State of New York $50 million a year.

As far as I'm concerned, if you're selling in New York, you should be subject to New York sales tax. The only evidence proffered is that one company decided not to use its affiliates program because of our existing law that requires all Internet sales companies to be taxed.

We don't need to be creating a $50 million hole. We don't need to be giving Internet companies in other states an advantage over the actual businesses in our state that employ our citizens.

I encourage everyone to vote no, including the sponsor, Senator Rules.

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

Senator Krueger, to explain her vote.

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

Well, I have to agree completely with my colleague Senator Schneiderman.

I really think Senator Rules needs to understand, one, we just put this law into effect three months ago in the budget.

Two, we've planned for $50 million in revenue from Internet sales, where we would have to go and cut $50 million somewhere now if this law went into effect.

But third, and I think most important, again, my theme for the day: What about being fair in tax policy to all the businesses in New York State? What about the small businesses that are employing people?

Because if you don't have to pay your tax by ordering online, why are you going

to go to your local community store and buy it there? They already find themselves in an economic unfair situation as far as having limited ability to purchase at a lower cost compared to the large national and even international guys.

And now we're saying, if we change this law, Oh, yeah, and if you go to your neighborhood store in your downtown on your main street in your small community or in your large city, if you go to the store to buy the product, then you're going to have to pay tax. But if you do it over the Internet, then you save that money and you lose us jobs right here at home.

Again, Senator Rules needs to understand, this is bad for small business and it's uneven and unfair tax treatment of business in New York State. I urge everyone, don't go down this road. We finally fixed this. Vote no here tonight.

Thank you, Mr. President.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 2231 are Senators Connor, Duane, Gonzalez, Hassell-Thompson, Huntley, L. Krueger, Onorato, Parker, Perkins, Sabini, Sampson, Savino and Schneiderman. Also Senator Stavisky. Also Senator Oppenheimer. Also Senator Serrano. Also Senator Montgomery. Also Senator Diaz.

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 44. Nays, 18.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2232, Senator Maziarz moves to discharge, from the Committee on Rules, Assembly Bill Number 11504 and substitute it for the identical Senate Bill Number 8642, Third Reading Calendar 2232.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2232, by the Assembly Committee on Rules, Assembly Print Number 11504, an act to amend the Tax Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2233, Senator Marcellino moves to discharge, from the Committee on Rules, Assembly Bill Number 11725 and substitute it for the identical Senate Bill Number 8643A, Third Reading Calendar 2233.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2233, by the Assembly Committee on Rules,

Assembly Print Number 11725, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

I'm sorry, Senator Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. To explain my vote.

This is a first step but a very modest first step towards dealing with another emerging environmental crisis in our state, which is the proliferation of plastic bags and our inability to dispose of them.

According to scientists, there's now an area out in the Pacific Ocean twice the side of Texas largely composed of plastic refuse from the United States.

I support this bill. I commend Senator Marcellino. But I don't believe a voluntary recycling program goes nearly far enough. I think the people of the State of New York are ready to go to a more sane system of using reusable bags and carrying them. A lot of stores are making them available now.

This is again an issue which I hope that in the months ahead we will take much more aggressive action. We should get back to the sack and dump plastic bags.

Thank you, Mr. President.

(Laughter.)

ACTING PRESIDENT MAZIARZ: Thank you, Senator Schneiderman.

Senator Schneiderman will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 62. Nays, 0.

ACTING PRESIDENT MAZIARZ: The bill is passed, again.

THE SECRETARY: Calendar Number 2234, by Senator Hannon, Senate Print 8645, an act to amend the Public Health Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2235, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 11714A and substitute it for the identical Senate Bill Number 8647A, Third Reading Calendar 2235.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2235, by the Assembly Committee on Rules, Assembly Print Number 11714A, an act to amend the Education Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2008.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2236, Senator Perkins moves to discharge, from the Committee on Rules, Assembly Bill Number 10772 and substitute it for the identical Senate Bill Number 8648, Third Reading Calendar 2236.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2236, by Member of the Assembly Wright, Assembly Print Number 10772, an act authorizing the City of New York to reconvey its interest.

ACTING PRESIDENT MAZIARZ: There

is a home-rule message at the desk.

Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2237, Senator Maltese moves to discharge, from the Committee on Rules, Assembly Bill Number 11719 and substitute it for the identical Senate Bill Number 8650, Third Reading Calendar 2237.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2237, by the Assembly Committee on Rules, Assembly Print Number 11719, an act to amend the Education Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2008.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 2238, by Senator Hannon, Senate Print 8657, an act to amend the Public Health Law and the Education Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer.

SENATOR OPPENHEIMER: I would like to speak on the bill.

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer, to explain your vote.

SENATOR OPPENHEIMER: That's what I meant.

I have a word here from the Physical Therapy Association, and they are opposing this bill. And they are opposing it because "New York State has had a very long tradition of insulating our healthcare professionals from profit pressures, which are created by the ownership of professional organizations by unlicensed individuals or corporations.

"Free of professional obligations, unlicensed individuals or corporations will pressure licensed healthcare professionals to put profits before care."

I think that's something we all worry about, profits before care. This bill erodes the public protection provided by the ban on corporate practice, and it subjects children served under the Early Intervention Program -- which this bill does, it's for the youngest children -- to the profit motives of unlicensed individuals.

It further grants them two representatives on the Corporate Practice Advisory Panel, and yet licensed healthcare professionals have no representation on the panel.

I think this is something that we worry about a lot. We worry about profits taking the place of good healthcare. And this is an instance where our youngest, our children who are in the Early Intervention Program, will be subjected to those pressures where profits may take precedence over care.

So I'm voting no, and I would like everyone to be voting no. Thank you.

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

Senator Hannon.

SENATOR HANNON: There's something on the bill I'd like to explain.

This bill is prompted by a program bill that was put in by the Department of Health which exposed some fissures, some rifts among the providers of early intervention. Early intervention for 20 years has functioned

in an exemplary way, treating young children, infants so that later on in their life they do not have medical problems.

What this bill does is simply take those rifts and hold them still. It does not create any new rights. All of the people who now practice can continue to practice while the Department of Health and the Department of Education have some ongoing talks to figure out how they can harmonize their regulation, how we can continue this program to move forward.

In essence, this is a standstill bill. It's not something that changes, I reiterate. I hadn't seen the memo that Senator Oppenheimer read. I wish she had brought it to my attention. Because as far as I know, it contains some serious factual errors, from her reading of it out loud.

I would recommend this bill. It will solve problems. It will continue early intervention, delivering services to kids in this state. And it means that we will revisit these very issues in the near future when we can get our regulatory agencies to act in a

rational manner.

Thank you.

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

Senator Stavisky, to explain her vote.

SENATOR STAVISKY: To explain my vote, please.

There are some very good people on this panel. However, by adding two representatives of the for-profit entities, it's like having the fox guarding the chicken house. Self-regulation I think is a danger, and I vote no.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 2238 are Senators Adams, Connor, Gonzalez, Hassell-Thompson, Huntley, L. Krueger, Montgomery, Onorato, Oppenheimer, Parker, Perkins, Sabini, Savino, Schneiderman and

Stavisky. Also Senator Serrano. Also Senator Duane.

Ayes, 45. Nays, 17.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 2239, by Senator Little, Senate Print 8659, an act to amend the Navigation Law and the Insurance Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 2240, by Senator Golden, Senate Print 8667, an act to amend the Public Service Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2241, Senator Saland moves to discharge, from the Committee on Rules, Assembly Bill Number 10474 and substitute it for the identical Senate Bill Number 8670, Third Reading Calendar 2241.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2241, by Member of the Assembly Dinowitz, Assembly Print Number 10474, an act to amend the Elder Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2242, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 9512A and substitute it for the identical Senate Bill Number 6527B, Third Reading Calendar 2242.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2242, by Member of the Assembly Weisenberg, Assembly Print Number 9512A, an act to amend the Public Health Law.

ACTING PRESIDENT MAZIARZ: Senator Skelos.

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

ACTING PRESIDENT MAZIARZ: There is no message of necessity at the desk for this bill. It's the next bill.

Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Senator LaValle.

SENATOR LaVALLE: Mr. President, I rise to compliment Senator Hannon for this bill that will provide early screening and establish best-practice protocols in screening for children who might have autism. And he is to be congratulated.

Early screening, early detection is the best defense that we have. I vote in the affirmative.

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

Announce the results.

THE SECRETARY: Ayes, 62. Nays, 0.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 2243, by Senator Seward, Senate Print 7369A, an act to amend the Insurance Law.

ACTING PRESIDENT MAZIARZ: Senator Skelos.

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

ACTING PRESIDENT MAZIARZ: There is a message of necessity at the desk.

SENATOR SKELOS: I move to accept.

ACTING PRESIDENT MAZIARZ: All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(No response.)

ACTING PRESIDENT MAZIARZ: The message is accepted.

Read the last section.

THE SECRETARY: Section 15. This act shall take effect on the 180th day.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 2244, by the Senate Committee on Rules, Senate Print 8580, an act to amend the Public Health Law.

SENATOR HANNON: Lay it aside.

ACTING PRESIDENT MAZIARZ: Lay the bill aside.

Senator Skelos, that completes the noncontroversial reading of Calendar Number 64C.

SENATOR SKELOS: Mr. President, would you please call up Calendar Number 1275.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1275, Senator Saland moves to discharge, from the Committee on Social Services, Children and Families, Assembly Bill Number 10228 and substitute it for the identical Senate Bill Number 7185, Third Reading Calendar 1275.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1275, by Member of the Assembly Paulin, Assembly Print Number 10228, an act to amend the Social Services Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you please call up Calendar Number 1635.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 1635, by Senator Nozzolio, Senate Print 7844B, an act in relation to authorizing the Town of

Webster in the County of Monroe.

ACTING PRESIDENT MAZIARZ: Senator Skelos.

SENATOR SKELOS: Is there a message at the desk?

ACTING PRESIDENT MAZIARZ: There is a message, Senator.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT MAZIARZ: There is a message of necessity at the desk. All those in favor of accepting the message signify by saying aye.

(Response of "Aye.)

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(No response.)

ACTING PRESIDENT MAZIARZ: The message is accepted.

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 MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Serrano.

SENATOR SERRANO: Thank you, Mr. President.

I just would like the record to reflect that had I had the opportunity, I would have voted no on Calendar Number 2214. Thank you.

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

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time call up Calendar Number 570.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 570, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 246B and substitute it for the identical Senate Bill Number 5920, Third Reading Calendar 570.

ACTING PRESIDENT MAZIARZ: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 570, by Member of the Assembly Clark, Assembly Print Number 246B, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MAZIARZ: The bill is passed.

SENATOR BRUNO: Mr. President, can we at this time lay aside permanently Calendar Number 2220. It was laid aside temporarily before.

ACTING PRESIDENT MAZIARZ: Calendar Number 2220 is laid aside for the day.

Senator Bruno.

SENATOR BRUNO: Can we return to motions and resolutions.

ACTING PRESIDENT MAZIARZ: Returning to the order of motions and resolutions.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

On behalf of Senator Hannon, I wish to call up Calendar Number 1974, Assembly Print Number 6811B.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 1974, by Member of the Assembly Gottfried, Assembly Print Number 6811B, an act to amend the Public Health Law.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the Assembly bill was substituted for this bill, Senate Print Number 7749A, on June 18th.

ACTING PRESIDENT MAZIARZ: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

SENATOR FUSCHILLO: I now move that Assembly Bill 6811B be recommitted to the Committee on Rules and the Senate bill be recommitted to the Committee on Rules.

ACTING PRESIDENT MAZIARZ: So ordered.

SENATOR FUSCHILLO: Thank you.

ACTING PRESIDENT MAZIARZ: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

On behalf of Senator Libous, I wish to call up Calendar Number 894, Assembly Print Number 536A.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 894, by Member of the Assembly Paulin, Assembly Print Number 536A, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT MAZIARZ: Senator Nozzolio.

SENATOR NOZZOLIO: I now move to reconsider the vote by which this Assembly

bill was substituted for Senate Print Number 3082A on June 10th.

ACTING PRESIDENT MAZIARZ: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

SENATOR NOZZOLIO: Mr. President, I now move that Assembly Bill Number 536A be recommitted to the Rules Committee and that the Senate bill be recommitted to the Committee on Rules.

ACTING PRESIDENT MAZIARZ: So ordered.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up Calendar Number 2244.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 2244, by the Senate Committee on Rules, Senate Print 8580, an act to amend the Public Health Law.

ACTING PRESIDENT MAZIARZ: Senator Hannon.

SENATOR HANNON: On the bill.

ACTING PRESIDENT MAZIARZ: Senator Hannon, on the bill.

SENATOR HANNON: This bill apparently would amend the Public Health Law in regard to office-space surgery. It was introduced and got into Rules.

I would oppose the bill because I have not had -- I never saw this before. We had it in Rules about half an hour ago. And I said that the office-space surgery statute, which took us at least two general statutes, one Court of Appeals decision, two reports by a special committee, many of whom were surgeons from the Medical Society of the State of New York, came up with a system of office-space surgery that I think is comprehensive and gives protection to the public of this state.

It went into effect on January 1 of this year. It talks about whenever there is surgery in an office that is of a moderate or heavy sedation, or a certain amount of liposuction, that there shall be regulations set up using not the state regulations but any

of the national recognized associations.

This would purport to give an exception to that. Seven years of discussion of that, I never heard of this. I don't know if this is well-based. And I would ask that that bill be laid aside at this time until we can consider it.

If people have objections to this, if people think there are legitimate reasons to have exceptions, well, fine, let's discuss them. Now is not the time.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Senator Krueger.

SENATOR HANNON: Slow roll call.

SENATOR LIZ KRUEGER: I yield to Senator Hannon first.

ACTING PRESIDENT MAZIARZ: Senator Hannon, why do you rise?

SENATOR HANNON: I'm requesting that people stand and we'll have a slow roll call.

I was told we weren't going to do this bill.

ACTING PRESIDENT MAZIARZ: Senator Hannon, there needs to be five members standing for a slow roll call. The chair does not see five members standing.

The Secretary will call the roll slowly.

Can we have some order in the house while the roll is called.

SENATOR ONORATO: Mr. President. Mr. President, point of information.

ACTING PRESIDENT MAZIARZ: Senator Onorato.

SENATOR ONORATO: Point of information.

ACTING PRESIDENT MAZIARZ: Excuse me, Senator Onorato, we're on a roll call. You can explain your vote when your name is called, Senator.

The Secretary will call the roll.

THE SECRETARY: Senator Adams.

SENATOR ADAMS: No.
THE SECRETARY: Senator Alesi.
SENATOR ALESI: Yes.
THE SECRETARY: Senator Aubertine.
ACTING PRESIDENT MAZIARZ: Senator Aubertine, how do you vote?
SENATOR AUBERTINE: No.
THE SECRETARY: Senator Bonacic.
SENATOR BONACIC: Yes.
THE SECRETARY: Senator Breslin.
SENATOR BRESLIN: No.
THE SECRETARY: Senator Bruno.
SENATOR BRUNO: Yes.
THE SECRETARY: Senator Connor.
SENATOR CONNOR: No.
THE SECRETARY: Senator DeFrancisco.
SENATOR DeFRANCISCO: Yes.
THE SECRETARY: Senator Diaz.
SENATOR DIAZ: No.
THE SECRETARY: Senator Dilan.
SENATOR DILAN: No.
THE SECRETARY: Senator Duane.
SENATOR DUANE: Mr. President,

before I vote, I'm confused. Oddly.

ACTING PRESIDENT MAZIARZ: Senator Duane, are you explaining your vote?

SENATOR DUANE: I want clarification on what I'm voting on. Am I voting on the procedure or on the underlying bill?

ACTING PRESIDENT MAZIARZ: We're voting on the bill, Senator Duane.

SENATOR DUANE: Voting on the bill.

ACTING PRESIDENT MAZIARZ: On the bill.

SENATOR DUANE: No.

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

THE SECRETARY: Senator Farley.

SENATOR FARLEY: Aye.

ACTING PRESIDENT MAZIARZ: Senator Flanagan.

SENATOR FLANAGAN: Yes.

THE SECRETARY: Senator Fuschillo.

SENATOR FUSCHILLO: Yes.

THE SECRETARY: Senator Golden.
SENATOR GOLDEN: Yes.
THE SECRETARY: Senator Gonzalez.
SENATOR GONZALEZ: No.
THE SECRETARY: Senator Griffo.
SENATOR GRIFFO: Yes.
SENATOR BRUNO: Mr. President, would you lay the bill aside, please.
ACTING PRESIDENT MAZIARZ: The bill is laid aside.
Senator Bruno.
SENATOR BRUNO: Mr. President, I'd like to recommit the balance of the calendar to the Committee on Rules.
ACTING PRESIDENT MAZIARZ: The calendar is recommitted to the Committee on Rules.
SENATOR BRUNO: Mr. President, can you recognize Senator Smith at this time.
ACTING PRESIDENT MAZIARZ: Senator Smith.
SENATOR SMITH: Thank you very much, Mr. President.
To my members, my colleagues, friends, staff, I would hope that you would

indulge me. To my hardworking members and my hardworking staff, I would like to yield my time to my good friend. I think the floor of the Senate belongs to him.

And at this time I would like to yield my time, Mr. President, to my good friend, someone who has been tremendous for this state, Senator Joe Bruno.

ACTING PRESIDENT MAZIARZ: Senator Bruno.

SENATOR BRUNO: Thank you, Senator Smith.

Mr. President and colleagues, you know, I'm learning the real meaning of bittersweet. And yesterday and today are exactly that.

I was reflecting, early this morning, I walked into this chamber about 40 years ago. Senator Stafford was here as my Senator. I was president, believe it or not, of the Young Republicans. Over 40 years ago.

(Laughter.)

SENATOR BRUNO: Before most of you were born.

And I remember -- and I'm asking

you to always remember -- when I walked into this chamber, I can tell you I can't adequately describe the feeling I had in my heart, in my gut. It felt like it was in a sanctuary. Hallowed ground. Something very, very special. A cathedral. I mean, you look around at this place. Think about the people that have walked through here.

I remember leaving, and that was over eight years before I went through a rather difficult primary to get to the Senate.

And I walked into this chamber 32 years ago and, like many of you, was pretty, still, awestruck.

And, you know, all of us here should just never, ever, ever forget what takes place here. What you do in your daily lives, how you step up, how you are representative of a constituency, how you are representative of the people of this state, how you partner with the other house, how you partner with the Executive.

There is no work like this work. None. It is challenging, it is difficult, it is troublesome. You have best friends,

members, who give you a hard time.

(Laughter.)

SENATOR BRUNO: And you end up having to lay a bill aside. But you still love them.

(Laughter.)

SENATOR BRUNO: And that's the love-hate part of what goes on here on a daily basis. Love-hate. Love-hate.

But just recognize honestly that this is our lives, and you are doing so many good things.

And I just am here tonight saying thank you. I have been blessed, honest and truly, beyond my wildest dreams as I grew up. And just being elected to the Senate was a dream come true. Being elected Majority Leader was more than a dream. I can't even describe.

And I thank my colleagues for that privilege of being of service. I thank all of you. Because without everybody here, you don't have a Senate. And we need a Minority, we need a Majority, we need the debate. And I just say thank you.

And I want to thank the people who support us. Many of them are in this room. Now, if I start mentioning names -- and I can remember when I thought, you know, with some previous officeholders, when I had done such outstanding things and they start rattling off names, and I'm standing there -- never mentioned my name. I thought it's unfair, it's not right. I did more than they did.

(Laughter.)

SENATOR BRUNO: And it's true. So I'm not going to mention any names.

(Laughter.)

SENATOR BRUNO: But I have to mention Amy Leitch, my executive assistant.

(Applause.)

SENATOR BRUNO: And Amy is the best.

(Applause.)

SENATOR BRUNO: And Amy Smith. Amy Smith.

(Applause.)

SENATOR BRUNO: Amy is probably not here, she's working. Is she?

Well, why aren't you working?

(Laughter.)

SENATOR BRUNO: Frank Mahar, who has been my shadow. People can't thank Frank --

(Applause.)

SENATOR BRUNO: Steve Boggess, who started out with me some, I don't know, 32, 34 years ago, really.

And all of the senior staff. You know who you are. And all of the people who just make this place work. You made me work. You -- honestly, you make me look so good.

And I've had calls from the people that I didn't know knew I existed, honestly, today and yesterday, and just saying things that really are troublesome in that they make me pretty emotional.

And I'm trying, you know, but I want to just say to them, those that are behind us all, that, you know, they go through the nights. They have been going through nights to close us out here. Never hear anything from them. They just do it. Why? Because they're committed. And they know that what they're doing is of service to the people

out there.

I see Jimmy Tedisco, the leader over in the Assembly, who has been a colleague and a friend for an awful lot of years.

Malcolm Smith, who is a very special person and a special leader.

Dean Skelos, who has been on this floor doing all the kinds of things that he does so well, and assisted by all the leaders here and there.

If you think about saying goodbye, think about your career, think about what you would say. And remember that every day that you are in public service. Because it's hard for me to believe that 32 years have gone by.

And my family -- I think my son Ken was here earlier -- and my family, they have stood up, like your families do. They're without you now. And they stand there with you when they prefer to be doing other things. And we thank the good Lord for them.

And thank the good Lord for the system that allows the transition from January 9th and what happened in this state that nobody, on January 9th, could ever have

foreseen or imagined. And a transition that took place, Governor Paterson stepped up, everybody closed ranks around him -- Speaker Silver, colleagues here, in the Assembly -- and made things happen here for the people of this state. That's what public service is all about.

And the Governor was here earlier and said some very, very nice things.

And I can tell you this, that we go out and we're going to campaign. And, you know, everybody does the best that they can do. But just remember always that we're colleagues and that we're here to govern. And you have to go out and do what we have to do between now and November.

And I'm going to take it a day at a time in my life, because I have learned that you only live a day at a time.

And we're going to recess here, and we're going to go in and have a conference -- and I'm going to ask you to just, if you will, stay with us -- and come in and offer up a resolution.

We all do our thing, we all have to

do what we feel we should be doing. But you go forward, you know, from here, and do what you do so well.

(Extended standing ovation.)

SENATOR BRUNO: Thank you. I am the proudest person in this whole state just for having you as colleagues and friends. Thank you.

And, Mr. President, can I ask that we recess while the Majority conferences, and I believe the Minority will conference. And I don't expect that we will be more than 10 or 15 minutes.

ACTING PRESIDENT MAZIARZ: There will be a Majority conference in Room 332, and a Minority Conference by Senator Dilan in the Minority Conference Room, Room 315.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 7:53 p.m.)

(Whereupon, the Senate reconvened at 8:30 p.m.)

(Standing ovation as Senator Bruno enters.)

SENATOR BRUNO: Thank you. Thank

you.

ACTING PRESIDENT MAZIARZ: The Senate will come to order.

Senator Bruno.

SENATOR BRUNO: Mr. President, I am proud to hand up a resolution, ask that the title be read, and move for its immediate adoption.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: By Senator Bruno, Senate Resolution Number 6834, providing for the election of Dean G. Skelos as Temporary President of the Senate for the remainder of 2008.

ACTING PRESIDENT MAZIARZ: Senator Klein.

SENATOR KLEIN: Thank you, Mr. President.

It is my distinct honor to nominate someone who has the leadership skills, the intelligence, and the ability to espouse the hopes and aspirations for one New York, the election of Malcolm Anthony Smith as president of the Senate for the remainder of 2008.

ACTING PRESIDENT MAZIARZ: The Secretary will read the resolution.

THE SECRETARY: By Senator Klein, Senate Resolution Number 6838, providing for the election of Malcolm A. Smith as Temporary President of the Senate for the remainder of 2008.

ACTING PRESIDENT MAZIARZ: Senator Klein.

SENATOR KLEIN: Thank you, Mr. President.

It's truly an honor to nominate my friend, my leader, Malcolm Smith.

When you ask the question what is leadership, I think leadership is many things. But I think certainly what Malcolm does each and every day is gets the most out of people. He understands his members. He understands how to push us, understands us, understands how we can really achieve greatness. And that's why I'm not only proud to call him my friend but also our leader.

He's also someone who's not afraid to take on a fight. When we went ahead and took on the subprime lending industry this

year, it was Malcolm who really pushed us forward. It was Malcolm who really put together a plan for upstate development and jobs. It was Malcolm who's been talking about doing something about property tax relief all over our state.

He's someone who really understands what it means to govern one New York. And that's why I'm so proud to call him -- maybe not today, but in the future my Majority Leader -- but for today, our Democratic leader.

Malcolm Smith, everyone.

ACTING PRESIDENT MAZIARZ: Thank you, Senator Klein.

On the substitute resolution, 6838, offered by Senator Klein, all those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT MAZIARZ: The nays have it. The resolution is defeated.

(Laughter.)

SENATOR BRUNO: Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Bruno.

SENATOR BRUNO: On the resolution before the house.

ACTING PRESIDENT MAZIARZ: Senator Bruno, on Resolution 6834.

SENATOR BRUNO: I was very, very happy to hear Senator Klein. And I am very happy to participate in keeping a nice guy -- and, you're right, a good leader -- as the Minority leader in the Senate.

(Laughter.)

SENATOR BRUNO: Now and forever.

(Laughter.)

SENATOR BRUNO: And, Mr. President, on Senator Skelos.

He truly is no stranger in this chamber. He has been here more hours than many of us put together. And his qualities speak for themselves.

Dean has been running the floor, he has been assisting me in every way to make this the greatest deliberative body in the United States.

I am not going to enumerate, because we have time constraints, all of the good deeds, the good works, the legislation that he sponsored, was responsible for carrying. And some really tough issues, difficult issues.

So he has the experience, he has the background, he has been here, he's diligent. He has a wife, Gail, that is a partner and supportive; a son, Adam, who is here proudly, looking proud and sharp. And looks senatorial to me.

(Laughter.)

SENATOR BRUNO: We are in difficult times, and we need the experienced leadership here in this house to move forward, to partner with this good Governor, partner with the Speaker. And that is Senator Skelos.

So I am proud to, on this resolution, raise my voice in support of the next Majority Leader of the New York State Senate, and Temporary President of the Senate, my friend, my colleague -- and by the way, when I ran 14 years ago, the first vote that I had, Senator Skelos. And why did he do it?

It was, he thought, in the best interests of this Senate, both sides of the aisle.

So he knows what to do and how to do it. I'm proud to recommend to this great body Senator Skelos.

Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Thank you, Senator Bruno.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I join Senator Bruno in seconding the nomination of Senator Skelos.

I can remember 20 years ago, when I was running for the Senate the first time, I got a phone call from Senator Skelos. And he said: "I chair the Aging Committee, and I'd like to come out and help you in your campaign," because I had a very tough campaign.

So he came out to Broome County -- actually, he came out to Chenango County. I took him up some back roads, and he wondered -- he saw the cows; he wondered where the people were.

(Laughter.)

SENATOR LIBOUS: And Senator Skelos and I went into a number of senior citizen centers, and he helped me as we talked about issues for the aging. And he told everybody there that if they elected me to the Senate that I would be helpful and do the right thing for the elderly.

I know that he's done that for many people here, because Senator Skelos has, as Senator Bruno said, been very, very committed to the Majority. He cares about it. He's worked very hard.

And as I said to him earlier tonight, because I know he has the passion and the commitment to be a great leader, I said that I know that he, in my eyes and in my heart, has earned this awesome responsibility.

I second this nomination.

ACTING PRESIDENT MAZIARZ: Thank you, Senator Libous.

(Applause.)

ACTING PRESIDENT MAZIARZ: The question is on Resolution 6834, electing Dean Skelos as the Temporary President of the

New York State Senate for the year 2008. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT MAZIARZ: The ayes have it. The resolution is adopted.

And the chair states for the record that Senator Dean Skelos has been elected Temporary President of the Senate for the remainder of 2008.

(Extended standing ovation.)

ACTING PRESIDENT MAZIARZ: We will now have the administration of the oath of office of Majority Leader, Temporary President of the Senate Senator Skelos, by Senator Bruno.

SENATOR BRUNO: Please raise your hand and repeat after me:

I, Dean Skelos --

SENATOR SKELOS: I, Dean Skelos --

SENATOR BRUNO: -- do solemnly swear --

SENATOR SKELOS: -- do solemnly swear --

SENATOR BRUNO: -- that I will support the Constitution of the United States --

SENATOR SKELOS: -- that I will support the Constitution of the United States --

SENATOR BRUNO: -- and the Constitution of the State of New York --

SENATOR SKELOS: -- and the Constitution of the State of New York --

SENATOR BRUNO: -- and that I will faithfully discharge the duties of the office --

SENATOR SKELOS: -- and that I will faithfully discharge the duties of the office --

SENATOR BRUNO: -- of the Temporary President of the Senate --

SENATOR SKELOS: -- of the Temporary President of the Senate --

SENATOR BRUNO: -- according to the best of my abilities --

SENATOR SKELOS: -- according to

the best of my abilities --

SENATOR BRUNO: -- so help me God.

SENATOR SKELOS: -- so help me God.

SENATOR BRUNO: Congratulations.

(Standing ovation.)

ACTING PRESIDENT MAZIARZ: Senator Skelos.

SENATOR SKELOS: Mr. President, as my first responsibility of being the Majority Leader, I would like to ask Senator Bruno to preside. And if you would give him that honor at this time.

SENATOR BRUNO: Thank you. Wow. Thank you.

(Standing ovation.)

ACTING PRESIDENT BRUNO: Thank you very much.

The Senate will come to order.

(Laughter.)

ACTING PRESIDENT BRUNO: Senator Skelos.

SENATOR SKELOS: Thank you, Senator Bruno.

I know you would ask me to, when I would sit here and be ready to make certain statements, to keep it short.

(Laughter.)

SENATOR SKELOS: And I certainly will.

But I'm just so happy this evening. And I'm really going to speak from the heart to everybody here. My wife, Gail; my son, Adam. My sister-in-law Carla and my nephew Carly. All the people that have worked with me for so many years. My Republican colleagues, my Democrat colleagues.

This is a very special evening for me. And I remember when I was first sworn in, Adam was a little kid, and I was holding him up there. And I was speaking a little too long, and he kept putting his hand over my mouth.

(Laughter.)

SENATOR SKELOS: And my mom was there, holding the Bible.

And she gave me the love of politics. Five kids; my birth mother died when I was three. She brought me up as her

child, which I was. And she gave me the -- and my father, the work ethic. My grandparents, my father. Growing up, five of us worked three jobs at a time to provide for the family.

My grandparents came from Greece to this country, worked hard, struggled and provided for the family. And I know, Joe, you've had that similar history and story, as so many of us in this room have.

I want to thank, first, my good friend Joe Bruno. This is a very bittersweet evening for me.

And in fact, Joe, when I heard all the applause when the Governor was speaking about you, I was worried you were going to change your mind.

(Laughter.)

SENATOR SKELOS: And you know what, Joe? If you did, I'd be the first one to move to reconsider the vote by which that resolution passed.

(Applause.)

SENATOR SKELOS: I can say without doubt that Joe has been the best

leader -- and I heard Dale say that before -- that we've ever had in this chamber. His strength became the strength of this Majority and really the strength of this chamber.

He recognized the wonderful diversity of New York State, the diversity of our membership, and how each region of the state has its own needs and opportunities.

Moving forward, this Majority and indeed the entire Senate will continue to build upon Joe's vision and legacy. At this time it's important to take stock, stock of the many accomplishments that we've had. In these difficult economic times, we made record investments in our schools, we protected our hospitals and nursing homes, and we delivered large property tax rebate checks for our seniors.

But more has to be done. We are suffering from a property tax crisis in this state. And despite the investments we've made in our school district and the assistance we've provided to local governments, property taxes have stretched household budgets beyond their ability to pay.

In too many upstate communities the lack of good-paying jobs has torn families apart as their children seek prosperity in other parts of the country. And in this time of soaring energy prices, the rising cost of living has threatened our quality of life.

As a collective body -- and I say that as a collective body -- this Senate will address the needs for property tax relief and the other prevailing challenges of our time.

In order to face that challenge, we must be bold, we must think outside the box, and we must do what's necessary to protect our constituents from those rising property taxes.

We're going to make New York State more competitive and help our businesses, large and small, to thrive. We will build upon each region's inherent advantages to expand our economic base and create quality jobs that enable people to support their families. And we're going to do this together.

I want to thank Governor Paterson for the class and the dignity he showed today by coming into this chamber and wishing our

leader the best and showing him the due respect that he earned over 32 years of public service in this state.

And I want to say to the Governor, our Majority will work with him in a cooperative way, and with the Speaker, and with the support of all my good friends on the other side of the aisle, to make sure that we do what's right for the people of this great state.

Together we can make a meaningful difference in people's lives. And I think we have to remember that's why we're elected: We're elected to serve the people.

You know, I look forward to being your leader for years to come.

And, Joe, so often when we're at various events together or just with members of the Majority, or if you're walking by and somebody says hello or somebody hands you a bottle of water, no matter who -- Ray, in the lounge -- the one thing you always say is "thank you." No matter who it is, no matter what the opportunity, you always say "thank you."

And at times we'll be at different events, and our colleagues will take side bets on how many times you're going to say "thank you."

(Laughter.)

SENATOR SKELOS: So I think the best thing I can do at this time is just say, Joe Bruno, thank you.

(Extended standing ovation.)

ACTING PRESIDENT BRUNO: Thank you.

And, Senator Skelos, are you handing up some orders of business?

(Laughter.)

SENATOR SKELOS: You know what, I hope you always direct me this way.

And it is my pleasure, Tommy Libous, to hand up the following Majority leadership changes and ask that they be filed in the Journal.

ACTING PRESIDENT BRUNO: The changes will be made according to the leader's wishes.

And, Tommy, you will file them accordingly. Thank you, very, very much.

(Laughter.)

ACTING PRESIDENT BRUNO: And thank you.

John, that's two thank yous.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT BRUNO: Senator Skelos.

SENATOR SKELOS: And I know how often you like to say this: There being no further business, I move we adjourn to the call of the Majority Leader, intervening days being legislative days.

ACTING PRESIDENT BRUNO: And on that motion, may I wish you and the new leader health and prosperity. And, truly, God bless each and every one of you.

I am honored to move this Senate to adjournment.

(Standing ovation.)

(Whereupon, at 8:52 p.m., the Senate adjourned.)