NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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12:22 p.m.

REGULAR SESSION

SENATOR NEIL D. BRESLIN, Acting President

ANGELO J. APONTE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT BRESLIN: The Senate will please come to order.

I ask all present to please rise and repeat the Pledge of Allegiance to the Flag.

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

ACTING PRESIDENT BRESLIN: The invocation today will be given by the Reverend Peter G. Young, of the Mother Theresa Community in Albany.

REVEREND YOUNG: Let us pray.

As we gather in the midst of the budget concerns, may we pray for those who are affected by today's continuing after-care after the tremors in Haiti. All people are called to respond to assist those in need.

God, You have given us many different gifts that we have to respond with, but it is always the spirit in this chamber that You guide us. There are many different ways to serve as Senators, but it is always You, O God, that have granted them to be used

for the good of our New York State citizens.

God has gifted each Senator with a special potential to help constituents. Let us take a moment to thank God for the talents and the skills that we thank You for, for these gifts of these Senators, unique to each Senator.

And let us again pray and rejoice in You who have given and made us dedicate our gifts to those to the good of our New York State citizens.

Amen.

ACTING PRESIDENT BRESLIN: Thank you, Father Young.

The reading of the Journal.

The Secretary will read.

THE SECRETARY: In Senate, Tuesday, January 19, the Senate met pursuant to adjournment. The Journal of Monday, January 18, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Smith.

SENATOR SMITH: Yes, Mr. President. I believe there is a resolution by Senator Sampson at the desk. I ask that the resolution be read in its entirety and move for its immediate adoption.

ACTING PRESIDENT BRESLIN: Senator Smith, has this resolution been deemed privileged and submitted to the office of the Temporary President?

SENATOR SMITH: Yes, Mr. President.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: By Senators Sampson, Skelos, Thompson, Hassell-Thompson

and Adams, legislative resolution celebrating the observance of the 25th National Martin Luther King, Jr., Day.

"WHEREAS, This Legislative Body is proudly moved to honor and pay tribute to the life and works of Dr. Martin Luther King, Jr.; and

"WHEREAS, Across this great state and nation, many events were held on January 18, 2010, to recognize the 25th National Martin Luther King, Jr., Day. This year's theme 'Saluting Greatness: The Legacy of Dr. Martin Luther King, Jr.' serves as an excellent rallying point to continue the dialogue that transmits the message of the virtues Dr. King and Mrs. King stood for, such as selflessness, sacrifice, determination, dignity and equality. Their lives were committed to the service of others for the greater good; and

"WHEREAS, People of all ages and backgrounds came together to improve lives, bridge social barriers, and move our nation closer to the 'Beloved Community' that

Dr. Martin Luther King, Jr., envisioned. He devoted his life's work to causes of equality and social justice; and

"WHEREAS, Born the grandson of a slave into a segregated society in Atlanta, Georgia, on January 15, 1929, Dr. Martin Luther King, Jr., was instrumental in formulating the policy which ultimately led to the American civil rights movement nationwide; and

"WHEREAS, Dr. Martin Luther King, Jr., wanted us to remember him as a person who tried to live his life serving others, that he tried to love somebody, and that he tried to love and serve humanity; and

"WHEREAS, Dr. King taught that through nonviolence and service to one another, problems such as hunger and homelessness, prejudice and discrimination can be overcome. His teachings can continue to guide us in addressing America's most pressing needs of poverty, economic insecurity, job loss and education; and

"WHEREAS, Dr. Martin Luther King,

Jr., was a vital figure of the modern era. His lectures and dialogues stirred the concern and sparked the conscience of a generation; and

"WHEREAS, The movements and marches Dr. King led brought significant changes to the fabric of American life through his courage and selfless devotion. This devotion gave direction to 13 years of civil rights activities, and his charismatic leadership inspired men and women, young and old, throughout the United States and around the world; and

"WHEREAS, Dr. King's concept of 'somebodiness,' which symbolized the celebration of human worth and the conquest of subjugation, gave African-Americans and the poor hope and a sense of dignity. His philosophy of nonviolent direct action and his strategies for rational and non-destructive social change galvanized the conscience of America and reordered its priorities. His wisdom, his words, his actions, his commitment, and his dream for a new way of

life are intertwined with the American experience; and

"WHEREAS, It is the sense of this Legislative Body that the common and shared responsibility of governance demands an irrevocable commitment to the preservation and enhancement of human dignity as exemplified by Dr. Martin Luther King, Jr.; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to celebrate the observance of the 25th National Martin Luther King, Jr., Day."

ACTING PRESIDENT BRESLIN: Senator Hassell-Thompson.

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

I rise to thank this body for this opportunity to commemorate the life of Dr. King and to just say very quickly on the record that as we deliberate in these chambers, we do so with the idea of the dream in mind. That it is our wish that we remember that peace is not just the absence of

violence, but that it is the presence of justice.

Thank you, Mr. President.

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

Senator Parker.

SENATOR PARKER: Thank you, Mr. President. On the resolution.

MLK Day is always an important time for me, as it is, I think, for many African-Americans around the country. I know myself I would not have an opportunity to represent the 21st District in Brooklyn if it was not for the work of Dr. King, members of the Southern Christian Leadership Conference, SNCC, members of the Black Power movement, and others who gave their life, their time, shed blood and tears to make sure that African-Americans had a place in terms of the line of opportunity here in America.

And we get caught up in the dream, and I think people like that. People like the idea of something that was part of sleep but not really part of reality. And really, when

you talk about what Dr. King was really about and the message he delivered, and particularly in D.C., that it really wasn't much about the dream. In fact, the idea of the dream was an ad lib.

What he did come to talk about was the idea of cashing in a check of justice that at that point was marked "unfulfilled." I would say now that we've made some deposits on it, but it's still not completely fulfilled.

It is, in my view, the mission of the members of this body and in this chamber on both sides of the aisle to make sure that that check is marked "sufficient." And not just sufficient for African-Americans, but sufficient for all Americans, all New Yorkers, all people of goodwill in this state.

And so lastly I just wanted to point to the second thing he talked about, and that was the importance of the now. That it wasn't just important just to say that we have to someday get this check fulfilled sufficient, but we have to do it now.

And let me just say, colleagues,

that now is the time for us to do the right things by the people of the State of New York. Now is the time for us to come together and make sure that we continue to fully fund education. Now is the time to make sure that we in fact have a jobs program for people in the state. Now is the time to make sure that people's property taxes are in fact in line with their incomes and people are not being overburdened. Now is the time that we make sure that healthcare is really available for all people. Now is the time that adequate housing needs to be fulfilled.

And we have bills in this body that would do those things. And I would say that we should not wait until the budget and wait until this or the other thing happens or wait until the elections come and wait for that -- we have to do what King asked us to do, which is to act in the now.

And so it's important, if we're going to remember the life and legacy of Dr. King, not simply to remember the dream, but to make sure, Mr. President, that we are

in fact acting in the now and honoring his legacy with action.

ACTING PRESIDENT BRESLIN: Thank you, Senator Parker.

Senator Larkin.

SENATOR LARKIN: Thank you, Mr. President.

You know, in one respect it's a shame we didn't do this on the holiday or we didn't do it on the 15th day of January, which was his birthday.

I don't know how many people in this room ever met Dr. King face to face, ever shook hands with him. But if you did, you'd now that when Dr. King talked to you -- and I know it, because I met him, short visit, 10 minutes, Selma, Alabama, 21 March, 1965 -- Dr. King looked right at you. He didn't look to see who was watching him, he looked right at you and said how important the mission was.

And I think all of us -- I just heard what Senator Parker said, and I think we all ought to remember in August of 1963 in Washington, D.C., when Dr. King said he had a

dream. And I think a lot of people today, young and old, have forgot the contents of that message. The message wasn't to go out and spread anger or violence. The message was try to come together and do something positive -- not for African-Americans, but for all Americans, for young and old. Dr. King had a perfect message.

When he was killed in April of 1968 in Memphis, Tennessee, he was there to help the sanitation workers. And I see a lot of people say they did this, they did this. You know what? Go back and read the speech of August of '63. And read what he said to the sanitation workers in April of '68 before he was killed. There was a message there that many of us today don't understand and are not willing to accept what was proposed. The proposals were not accepted on a lot of sides.

But had it not been for Dr. King's march from Selma to Montgomery, I don't know how many years it would have taken us to do the Civil Rights Act, the Voting Civil Rights Act which was enhanced by then-Senator Nolan

from California because President Johnson did not have the votes.

But Dr. King looked at you very emphatic, said to you what he did. And my short 10 minutes with him, I'll remember he said "God bless you and let's pray for a successful mission." We had a successful mission on the march from Selma to Montgomery.

And we also should note that there was a very distinguished individual in that front row marching. The Governor's father, Basil, was one of the marchers.

Thank you.

ACTING PRESIDENT BRESLIN: Thank you, Senator Larkin.

Senator Adams.

SENATOR ADAMS: Thank you, Mr. President.

One of the challenging things of sitting on this side of the room is that Senator Parker often takes my speeches.

I always like to go back and look at what people were saying while the person was alive. It's easy to retrospectively talk

about the greatness of someone. But what was going on the month and the year before we lost Dr. King?

You know, we need to talk about the fact that when he was in Harlem, a group of Harlem parishioners at a church threw eggs at him when he walked out. We need to talk about the various newspapers and editorial pages that criticized him and stated that he was trying to move the country too fast. We need to talk about how he was disdained and disliked.

We need to talk about the FBI building that bears the name of one of the most draconian government officials that we could ever imagine, J. Edgar Hoover, and how he followed Dr. King and how he sent tapes to Dr. King's family, and how he attempted to push Dr. King into committing suicide.

We need to talk about from location to location that Dr. King was hated. He was hated by governmental officials when he talked about the Vietnam War. He was hated in the local papers in the South. He was hated in

the North.

So it's nice now to reflect and talk about the greatness of his dream, but the reality, Dr. King lived a nightmare. He was afraid. His family was under a constant threat. Those of us who cherish him now may have participated in branding him as being someone that was tearing the country apart. Our late president had a significant role in stopping many of the roadblocks that he wanted to do.

So we can reflect, but we must be clear not to be revisionist. If we give a correct reflection of history and what Dr. King went through in his life, clearly we'll know that those of us who write about us now who don't have the foresight to understand that marriage equality is right, who don't have the foresight to understand that giving all of our children an equal educational opportunity is right, who don't understand that we need to reignite affordable housing in this state -- and we are right -- who don't understand that we need to address the issue

that a countless number of New Yorkers across the state are going through a daily ritual of sitting down at their kitchen table with their head in their hand, wondering how they're going to move forward -- and we're fighting for them; we are right.

So no matter what is wrote in the papers, no matter how we are demonized, there's something uniquely qualified about what we are doing. We are King-like. We are living the dream of King, not in what we say but in our actions.

And I too want to just pause for a moment. And if Dr. King was here, I believe he would say "Stop looking at me as the star." There were a countless number of costars who participated in what he did. It was not that our concern is just the man, Dr. King; it's the spirit of Dr. King. That is what took place.

And there were many people who participated in the evolution of this country who already went through, as he stated, the morning of childhood, already went through the

afternoon of adulthood, and they were in the evening of their lives, they marched, they were jailed, they were incarcerated -- but they believed in Dr. King, just as the people in this state believe in the things that we're doing. So we need to relive the dream and prevent the nightmares throughout our entire state.

So I applaud the life of Dr. King.

ACTING PRESIDENT BRESLIN: Thank you, Senator Adams.

Senator Perkins.

SENATOR PERKINS: Thank you, Mr. President. I'm going to be brief.

I guess more difficult than following Kevin Parker, who plagiarizes speeches, is following Senator Adams, because he's always so eloquent.

But I just wanted to take a brief moment to remember Dr. King as he was in his last episode, not simply working with labor in Memphis, Tennessee -- and in fact I had the privilege on his birthday, the 15th, of having a celebration of his relationship with labor

with labor leaders from throughout the city and state.

But he was at that point involved in an economic justice campaign which was not only emphasized by his labor relationships but also by his campaign for poor people. He was organizing a march to Washington, D.C., called the Poor People's Campaign, in which he was organizing people from the Appalachian Mountains and from the urban communities to go down to Washington, D.C., and stay there until an economic justice agenda was provided.

It reminds me to some extent of what Senator Parker was alluding to when he reminded us of the type of legislation that we already have on the books to be voted on and that would to some extent address his dream, especially from the economic justice point of view.

So I just wanted to remind us that yes, he was the great civil rights leader and yes, he was a great religious leader, a moral leader, but he understood that the next movement was the movement for economic

justice, especially for poor people. And so I wanted to, for the record, make that point.

Thank you.

ACTING PRESIDENT BRESLIN: Thank you, Senator Perkins.

Are there any other Senators wishing to be heard on the resolution?

The question, then, is on the resolution. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BRESLIN: The resolution is adopted.

Senators Sampson and Skelos have indicated they would like to open up this resolution for joint sponsorship. Anyone not wishing to be on it please notify the desk.

Senator Smith.

SENATOR SMITH: Thank you very much, Mr. President.

I believe there is a resolution at

the desk by Senator Kevin Parker. I ask that that resolution be read in its entirety and, at the behest of Senator Parker, move for its immediate adoption.

ACTING PRESIDENT BRESLIN: Senator Smith, has this resolution been deemed privileged and submitted to the office of the Temporary President?

SENATOR SMITH: Yes, it has, Mr. President.

ACTING PRESIDENT BRESLIN: The Secretary will then read.

THE SECRETARY: By Senators Parker, Sampson, Adams and Foley, legislative resolution sending deepest condolences to the people of Haiti in wake of the catastrophic earthquake that hit the island on Tuesday, January 12, 2010, and expressing solidarity with all individuals and organizations involved in the ongoing rescue and recovery efforts.

"WHEREAS, The human toll resulting from the devastating tragic events of the 7.0 earthquake that shook Haiti and its aftermath

will alter the course of the lives of countless families and require the efforts and support of New Yorkers, Americans, and compassionate individuals throughout all nations to ensure the restoration of stability to all of the regions affected by the horrific natural disaster; and

"WHEREAS, This Legislative Body is sincerely moved to send the deepest heartfelt condolences from the people of the State of New York to the people of Haiti in wake of the catastrophic earthquake that hit the island on Tuesday, January 12, 2010, and to express solidarity with all individuals and organizations involved in the ongoing rescue and recovery efforts; and

"WHEREAS, This devastating earthquake, which gave virtually no warning, has left thousands dead, nearly 3 million homeless, countless orphaned, and untold thousands still missing; and

"WHEREAS, The most powerful earthquake Haiti has witnessed in over 200 years has damaged and destroyed government

headquarters, schools, medical buildings, roads and bridges, requiring a widespread need for food, water, supplies, tools, equipment, medicine, healthcare, law enforcement personnel, security services, public utility services, sanitation and waste disposal, removal of debris, and property restoration and reconstruction; and

"WHEREAS, The giving nature of New Yorkers and all Americans is already apparent by the outpouring of sympathy and contributions made on behalf of countless individuals and organizations who have aided in the rescue and relief efforts; and

"WHEREAS, There are more than 230,000 people of Haitian origin living in New York State, including approximately 122,000 in New York City alone, as well as a growing and dynamic Haitian-American community on Long Island. The Haitian presence, particularly in Brooklyn, has positively impacted many neighborhoods and has led to the creation of several vibrant Haitian-American community institutions and organizations; and

"WHEREAS, This Legislative Body represents a community that possesses the natural inclination to come to the aid of those in need, especially in times of tragedies as great as this that have occurred on our own soil as well as abroad; and

"WHEREAS, This Legislative Body recognizes the magnitude of this ongoing national tragedy, and with these words sends the message to the people of Haiti that the citizens of the great Empire State relate to the suffering that others endure in times of such devastation and recovery, and will remain steadfast in support and compassion with them for as long as it takes to reunite their families, restore hope to their lives, and secure their future; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to send deepest condolences to the people of Haiti in wake of the catastrophic earthquake that hit the island on Tuesday, January 12, 2010, and expressing solidarity with all individuals and organizations involved in the ongoing rescue

and recovery efforts."

ACTING PRESIDENT BRESLIN: Senator Parker.

SENATOR PARKER: Thank you, Mr. President. On the resolution.

Approximately a week ago there was a catastrophic earthquake in Haiti, as we all know, that devastated the country. I happen to represent, in Flatbush and East Flatbush, the largest concentration of Haitians outside of Haiti in the entire world. I share a large Haitian population with many of my colleagues, including Senator Adams, Senator Sampson, Senator Hassell-Thompson, Senator Foley. I know Senator Tom Morahan has a large population in Spring Valley. There's a significant population out in Rosedale, in Queens.

And so, you know, when we look at how important this population has been for the growth of New York State and Brooklyn in particular, we're in unity in terms of the stress that we're feeling.

Never before have I, particularly

as an elected official, have gone through something that has touched me so personally. That this is in fact not something that is just abstract on TV, but, you know, members of my staff who are from Haiti are missing, have lost family members and loved ones. You know, people I've grown up with, you know, some of their children who are over there, you know, some were missing, some have been found. This is profoundly horrific for the people of my district and of course for the people who live in Haiti now.

And so I just wanted to at this moment not just to raise the issue so that we all continue to think about it, but really use this moment as a call to action to ask members of this body on both sides of the aisle to really seriously be engaged in this.

We frankly owe a debt to Haiti because in part the earthquake that hit Haiti was on top of all of the other problems that Haiti had been having already with the deep poverty, lack of healthcare, you know, not strong architectural structures that we're now

finding. And that's a condition that we as Americans helped to create.

And I know a lot of people don't necessarily want to face up to that. But the reality is that there were many European powers that, when Haiti got to be the first republic to be free in the Western Hemisphere, did not see that as a good thing and in fact pledged themselves to make sure that Haiti would be made an example of. And so not only political and economic and social exploitation has been part of the process that they've gone through, but it has been really a collusion and a conspiracy of silence around Haiti up until this point.

We now have an opportunity in this call to action to do more. And I know that people have been making monetary contributions, and I want to thank people for doing that. And I think there's more to be done. But we really need to both call on the federal government to do a few more things as well as some of our corporate partners.

And I certainly want to give a lot

of credit to President Barack Obama and the members of Congress, particularly from the New York delegation, and most notably my Congresswoman, Yvette Clarke, around calling for things like the temporary protective status for Haitian immigrants. The President, without even prompting, stopped the deportation of Haitian immigrants. There's literally no more capacity for the country to absorb people going back to the country, and so we have to take it upon ourselves to do that.

I've reached out to the Governor of this state to make an armory available and to have the New York Air National Guard be available to take down supplies when the time is right. And I've yet to hear from him. I'm hoping that the Governor will hear my plea today and make that happen for New Yorkers who are looking for help from their government to help their home country. And it's a small price to pay.

And I know that we're in the middle of an economic crisis in the state, but the

people of Haiti are in the middle of a human crisis, and that human crisis is right now. And we can figure out a way to balance the budget, and we always do. But how is Haiti going to get out of this situation if we don't help? The question is not what happens to our budget if we help Haiti, the question is what happens to Haiti if we don't help them. And what happens to us as a consequence of that nonaction? And so this is a call of action to get them involved.

You know, I've worked on energy and telecommunications issues, I've reached out to Con Ed, I'm shortly going to reach out to National Grid to send down electrical engineers and technicians and equipment to help Haiti get back online.

We've reached out to credit card companies to make sure that they are not charging fees to people who are making contributions on their credit cards, and to make sure that any fees that have been charged to this point get sent to Haiti as a donation, to make sure that our donations are being used

correctly.

I have to commend, on this same issue, Congressman Charles Rangel, who in fact has made it possible so that the contributions that we're making now on behalf of Haiti can in fact be deducted from the 2009 taxes.

We need to do all these small things. I've reached out to the airlines and asked them to provide low-cost flights and free flights, for people who are trapped in Haiti to fly back and people who need to get down to check on loved ones and families as well as to send down rescue workers.

We're going to need to reach out to the world community, and particularly the world financial community, like the IMF, the International Monetary Fund, and the World Bank. And I'm asking them to forgive Haiti's loans. We can't continue to send in aid and do the things that we're going to be doing and, you know, Haiti has these debts in a context in which we know they're going to never be able to pay back. Let's forgive them. Let's forgive those loans and let's

move towards building Haiti.

In that vein, again I congratulate President Barack Obama and the members of Congress for pledging $100 million towards their rebuilding effort. That's not nearly enough. I have actually written a letter to the President and to the members of Congress asking for a billion-dollar rebuilding program to be implemented by Congress. That will just be a beginning of what we need to do to turn Haiti around to make sure that it can be a sustainable country again with its own government.

And so, you know, how can we in fact talk about sending them and working with them around a billion dollars if they in fact have these astronomical loans that they have to pay back? So, you know, these things kind of work hand in glove.

There's so much more that we can do both as a state and as a national government. And so, again, my call to action today is to ask my colleagues here on the floor to be involved in this process, to reach out to me

and to other members who are interested in helping to rebuild Haiti and making sure that our constituents here of Haitian descent, make sure that they're secure and that their loved ones are okay.

And so as we deal with this crisis, we use it as an opportunity, both to express our humanity and to work alongside of our constituencies and their families and loved ones back home, but also to right past injustices that were done to Haiti and go forward with a renewed spirit of cooperation and partnership to make sure that this world is the kind of world that we all want to live in. And that is one where there isn't any kind of economic and political oppression and where we aren't creating economic blockades around countries and we aren't, you know, ignoring the cries of one of the poorest countries in the Western Hemisphere.

And so I look forward to our continued work together, because Haiti has hit rock bottom. And for all of us, there is no place to go but up.

ACTING PRESIDENT BRESLIN: Thank you, Senator Parker.

Senator Foley.

SENATOR FOLEY: Thank you, Mr. President.

I'd like to take this opportunity to express our solidarity with the people of Haiti and with our great Haitian-American community during this tragic time. We've learned over the past week this is the worst earthquake to hit Haiti in over 200 years, leaving millions homeless and tens of thousands who have died.

Shortly after the earthquake, which was 7.0 on the Richter scale, people across the great State of New York began efforts to help those in desperate need. From fund-raising drives to calls to gather crucial supplies, New Yorkers began to pitch in at a very speedy pace.

In my own district on Long Island, we've seen unprecedented efforts to help victims of the Haitian earthquake. And while we're grateful to those who have rolled up

their sleeves and donated their time, money and energy to the cause, I wanted to take a moment to particularly thank the Haitian-American community on Long Island.

And in my own district, which is one of the more diverse districts in our state, we have seen a vibrant Haitian-American community coming together. And I want to especially thank a not-for-profit organization, Haitian-Americans United for Change, which has been working tirelessly to help victims of the earthquake.

So the Haitian-Americans United for Change and all others who are volunteering and making whatever contributions possible are some of the real heroes who deserve our eternal gratitude.

So as we proceed today, Mr. President, with our business in the Senate, rest assured that New York stands with the Haitian-American community and with our friends who are suffering today in Haiti.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank

you, Senator Foley.

Senator Hassell-Thompson.

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

I rise to add my condolence to that of the members in this chamber for the catastrophe that has happened in Haiti and, as we have heard, continues with this latest earthquake that has rocked that island.

Let me say first that New Yorkers and people across the world have responded very quickly. And it is very important that we continue our efforts. We can talk and there's a lot to be said about the relationship that we have had with Haiti, but that's a subject for another day. Today is about the deepest condolences for those families who continue to have missing relatives that they cannot find, for family members that they know who are lost to them forever.

I had the opportunity to realize, during this catastrophe, the size and the growing size of Haitian members that live in

my communities. And I visited an all-Haitian church where they speak only Creole and had the pastor, the celebrant of that Episcopal church translate my message into Creole. And to have those people come and embrace me not because I had done anything, but just because I cared. And I think that that's what people want more than anything for us to acknowledge, that we care about human suffering.

And so that as we put information on our websites and as we go forth and try to do that which is appropriate, I thank this body for the moments that we have taken today in this session to thank those who have opened their hearts and their pocketbooks, but more for those who have yet to do so and know that it is no robbery to share that which they have.

Thank you, Mr. President.

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

Senator Diaz.

SENATOR DIAZ: Thank you, Mr. Chairman.

We in the Hispanic community have seen, Mr. Chairman, many destruction, many incidents of catastrophic magnitude: Puerto Rico, Santo Domingo, Mexico, Cuba, Honduras, Columbia, Nicaragua, you name it. We have seen big things happen. But like this thing that happened in Haiti, nothing is equal to that. This has been so far the biggest thing that we have seen. And they said about 200,000 lives have been lost, more than a million people have been affected -- children have been left orphaned. So it is a big problem that we are facing in Haiti.

But nonetheless, it is so magnificent, Mr. President and ladies and gentlemen, it is so great, the response of the people of the State of New York and the City of New York.

The district that I represent, the 32nd Senatorial District, there are poor people there, people unemployed. They have senior citizens, they don't have that much money. But Saturday, this past Saturday, we did a street marathon on Southern Boulevard in

the Bronx, together with the office of the Bronx Borough President, Ruben Diaz, Jr., and the office of the Assemblyman Marcos Crespo, the New York Hispanic Clergy Organization, Radio Vision Cristiana Internacional, and the cooperation of the New York City Police Department under the direction of the Bronx Borough Commander, Chief Purtell.

You have to see the outpouring of people going there. On that day, five hours, between the hours of 12:00 to 5:00, we placed there two containers, 40-foot containers. They got filled up, and they were shipped to Santo Domingo so they will be taken to Haiti. And we raised more than $50,000 that day there.

It was so great that even the Governor, I have to thank the Governor of the State of New York, David Paterson, he showed up there. And he showed his concern by appearing in that street marathon and contributing, with a thousand dollars, to that marathon in the Bronx this past Saturday.

So we all could do something

to help. No matter what we do, we wouldn't be able to help the whole situation. But that should not stop us from saying we've got to do something. My staff, the staff of my Senatorial -- my district staff, you've got to see people coming out.

And I thank the people of the Bronx, and I thank this institution, the office of the Bronx Borough President, the New York Hispanic Clergy Organization, Assemblyman Marcos Crespo, the New York City Police Department, Radio Vision Cristiana Internacional and the Governor of the State of New York, David Paterson, for showing there, for helping us, and for showing that they care.

And today I appreciate that Senator Parker is introducing this resolution. Because this is a time for unity, this is a time for concern, a time to do something.

And I have also to recognize that the office of Senator John Sampson gave me a big hand in coordinating this activity on

Saturday. So also to Senator Sampson I have to appreciate, to express my appreciation for all the help that they did Saturday in the Bronx.

Thank you.

ACTING PRESIDENT BRESLIN: Thank you, Senator Diaz.

Senator Craig Johnson.

SENATOR CRAIG JOHNSON: Thank you, Mr. President.

I also rise to echo my colleagues' sentiments and statements about supporting the efforts not just today to help the victims of this terrible tragedy and disaster, but also to ensure that as the days and weeks and months go on, we continue those efforts.

Because it's not -- right now we're still, incredibly, in the rescue phase. Every day, it seems, there's incredible story of survival that comes out of either Port-au-Prince or the areas surrounding the capital. Just last night two young children were pulled out of the wreckage. So hope continues to live on that we can find more

survivors.

But when those rescue phases turn to recovery phases, we need to make sure that our aid -- whether it's a simple charitable donation to your local Red Cross, whether it's a state initiative, whether it's a national initiative, we need to help the residents of this island nation, an island nation that even before this earthquake was on the brink.

A number of us, many of us here, maybe all of us in this great chamber have constituents who are either from or have relatives who are Haitian, who live in Haiti. Long Island is seeing its growing immigrant population comes from the island of Haiti. In my district, in areas like Westbury and Elmont, the Haitian community is a strong, vibrant community that contributes so much to the work and the play of Nassau County.

But as a result, this tragedy has truly struck home. And so my thoughts today are with Lionel Sannon, a gentleman who lives in Westbury who lost over 20 relatives in this earthquake. His wife happened to luckily

survive the earthquake and is now in the islands of the Bahamas, but we need to help bring her back and bring her back to Nassau County. It is vital that she comes back and receives medical care close to home so this family can start to heal.

And so as we move forward, as we do these food drives, as we do these financial drives today, we need keep doing them beyond today. Because sometimes that happens. Sometimes, when the news cameras get shut off and the reporters come home, tragedy lives on. And tragedy will live on in Haiti and those Haitians who live in our neighborhoods.

And so I hope that in the coming months we can continue to work together to provide the necessary resources to help this island recover and help its citizens, who are now our citizens, heal.

Thank you very much.

ACTING PRESIDENT BRESLIN: Thank you, Senator Johnson.

Senator Stewart-Cousins.

SENATOR STEWART-COUSINS: Thank

you, Mr. President.

I also rise to give my condolences and talk about so much of what has happened, and certainly in conjunction with Dr. King and how his inspiration allows us a vision that goes far beyond what it is that happens in our lives.

What happened in Haiti is so much intertwined with what we have celebrated and what we continue to celebrate as humanity. When I listen to Dr. King's whole "Dream" speech, he talked about, at that time, Negroes on the island of poverty. And when you look at Haiti and you see the impoverished nation that we are all gazing upon, we realize how much work we have to do.

And so it is important that we realize that in fulfilling Dr. King's dream, we are able to look at nations and people and understand that our work will never be done until that level of poverty is eradicated.

I also rose to talk about a pastor from my district -- Hawthorne, New York -- who lost his life in Haiti. He was trapped for

55 hours under the rubble of a fallen hotel. They got him back to Florida only for him to die. His name was Reverend Clinton Rabb.

And I raise his name so that we can understand that the Clinton Rabbs of the world, the Reverend Clinton Rabbs of the world, were in Haiti doing work in that country to uplift that nation to do things that we never thought about doing until now.

And so we must understand that we have a bigger mission, a bigger vision, a bigger responsibility. And as we work to rescue the people and rescue what we can and rebuild, we have to do it on a daily basis from our seats here, from our communities and throughout the nation. It is a fitting tribute.

ACTING PRESIDENT BRESLIN: Thank you, Senator Stewart-Cousins.

Are there any other Senators wishing to be heard on this resolution?

The question is then on the resolution. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BRESLIN: The resolution is adopted.

Senator Parker has indicated that the resolution is open to all members. Anyone wishing not to be on the resolution please notify the desk.

Senator Smith.

SENATOR SMITH: Thank you very much, Mr. President.

At this time may we please adopt the Resolution Calendar in its entirety.

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

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BRESLIN: The Resolution Calendar is adopted.

Senator Smith.

SENATOR SMITH: Mr. President, there will be an immediate meeting of the Finance Committee in Room 332, followed by an immediate meeting of the Rules Committee.

Pending the return of the Rules Committee, may we please stand at ease.

ACTING PRESIDENT BRESLIN: The Senate will stand at ease pending the return of the Finance Committee and the Rules Committee.

(Whereupon, the Senate stood at ease at 1:11 p.m.)

(Whereupon, the Senate reconvened at 1:47 p.m.)

ACTING PRESIDENT BRESLIN: Senator Klein.

SENATOR KLEIN: Mr. President, I just want to alert the members that there will be an immediate Labor Committee meeting in Room 332.

ACTING PRESIDENT BRESLIN: There will be an immediate meeting of the Labor Committee in Room 332.

The Senate remains at ease.

(Whereupon, the Senate stood at ease at 1:48 p.m.)

(Whereupon, the Senate reconvened at 2:06 p.m.)

ACTING PRESIDENT BRESLIN: Senator Klein.

SENATOR KLEIN: Mr. President, I believe there's a report of the Rules Committee at the desk.

I move that we adopt the report of the Rules Committee at this time.

ACTING PRESIDENT BRESLIN: The Secretary will read.

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

Senate Print 6439, by Senator Squadron, an act to amend the Public Officers Law;

And Senate Print 6457, by Senator Schneiderman, an act to amend the Executive Law.

Both bills ordered direct to third

reading.

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

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BRESLIN: The report of the Rules Committee is adopted.

Senator Klein.

SENATOR KLEIN: Mr. President, at this time could we please move to a reading of the calendar.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: Calendar Number 4, by Senator Klein, Senate Print 1904A, an act to amend the Executive Law, in relation to maximum age.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BRESLIN: The bill is passed.

Senator Klein.

SENATOR KLEIN: Mr. President, at this time could we please move to a reading of the supplemental calendar.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: Calendar Number 17, by Senator Squadron, Senate Print 6439, an act to amend the Public Officers Law.

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT BRESLIN: The bill is laid aside.

The Secretary will continue to read.

THE SECRETARY: In relation to Calendar Number 18, Senator Schneiderman moves

to discharge, from the Committee on Rules, Assembly Bill Number 9544 and substitute it for the identical Senate Bill Number 6457, Third Reading Calendar 18.

ACTING PRESIDENT BRESLIN: Substitution ordered.

THE SECRETARY: Calendar Number 18, by Member of the Assembly Silver, Assembly Print Number 9544, an act to amend the Executive Law.

ACTING PRESIDENT BRESLIN: Read the last section.

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT BRESLIN: The bill is laid aside.

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

SENATOR KLEIN: Mr. President, at this time can we please move to the reading of the controversial supplemental calendar.

ACTING PRESIDENT BRESLIN: If the Secretary would please ring the bell, members are asked to come to the chamber for the controversial reading of the calendar.

The Secretary will read.

THE SECRETARY: Calendar Number 17, by Senator Squadron, Senate Print 6439, an act to amend the Public --

SENATOR LIBOUS: Explanation, please.

ACTING PRESIDENT BRESLIN: Senator Squadron, an explanation has been requested.

SENATOR SQUADRON: Thank you, Mr. President.

This bill is meant to clarify some gaps in state law. It would create a clear standard on activity that is undeniably wrong. I think all of us in the chamber would know what's wrong and should unquestionably be prohibited. Unfortunately, under current law, it's not, in a clear way.

What that bill does is it says you can't use your government resources for outside compensated business activities. It's pretty clear. It says it in a couple of ways.

It clarifies the Code of Ethics, which currently has an unwarranted privileges

reference. And instead of just leaving it at that, it makes it very clear you can't use your government resources for outside compensated business under the Code of Ethics.

In addition, in the Penal Law it makes clear that an ongoing scheme -- it actually makes it an ongoing scheme to defraud the government. Using your government resources for outside business in a value greater than $1,000 would be a violation under the Penal Law.

Both of these provisions, both the unwarranted privileges under the Code of Ethics and the standard of defrauding the government under the Penal Law, have been used in Albany in recent times or referenced.

And they've also, as we all know, sometimes not been used. And we know that some recent cases have not happened in state court at all, have not happened under the Legislative Ethics Commission at all. There's a gap in state law when it comes to being clear on this behavior that we all know shouldn't happen, we all know in our bones

should be prohibited.

The bill's intent is really not controversial. Its provisions are not surprising. It is a little bit shocking that the provisions don't currently exist in state law. And it's a little bit shocking that this gap in state law has been exploited in the ways that it has.

You know, I'm sure there will be some questions on this bill and on the next bill that we're going to discuss. And I thank Senator Sampson and Senator Schneiderman and Senator Krueger and a lot of others who have worked on these issues for a long time.

And as we begin this debate, I'm reminded that in Albany everyone is in favor of ethics enforcement so long as there are no laws to enforce ethics. I think that's how we got this gap in state law. And I think that by passing this bill and hopefully the next bill, we'll go a long way in filling that gap.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, would the Senator yield to a couple of questions?

ACTING PRESIDENT BRESLIN: Senator Squadron, will you yield for a couple of questions?

SENATOR SQUADRON: Sure.

ACTING PRESIDENT BRESLIN: Senator DeFrancisco, you may proceed.

SENATOR DeFRANCISCO: You had indicated that it's shocking that this type of conduct is not already prohibited under the law. Have there been any cases attempting to prosecute somebody under this law as it now exists for the circumstances that you're trying to clarify?

SENATOR SQUADRON: Through you, Mr. President, to be clear, it is not explicitly prohibited under state law.

I would make the argument that the "unwarranted privileges" phrase in the Code of Ethics and the defrauding-the-government component of the Penal Law both potentially could be used.

I also, I think, would point to the

fact that we've had some recent cases in the federal courts, not in the state courts or under the Legislative Ethics Commission.

ACTING PRESIDENT BRESLIN: Senator DeFrancisco.

SENATOR DeFRANCISCO: Would he yield to the question again.

ACTING PRESIDENT BRESLIN: Senator Squadron, will you continue to yield to Senator DeFrancisco?

SENATOR SQUADRON: I'd be happy to.

ACTING PRESIDENT BRESLIN: Senator DeFrancisco.

SENATOR DeFRANCISCO: The question was, simply, have there been instances where this type of conduct has been attempted to be prosecuted under the existing statute that for some reason was unsuccessful and therefore the statute needs to be clarified?

ACTING PRESIDENT BRESLIN: Senator Squadron.

SENATOR SQUADRON: Through you,

Mr. President, if Senator DeFrancisco is thinking of a specific case, I would be happy to discuss it.

I know there have been some cases in which this has been referenced by the Inspector General and others. But if there's a specific case that he's interested in, I'd be happy to discuss it.

ACTING PRESIDENT BRESLIN: Senator DeFrancisco.

SENATOR DeFRANCISCO: I'll just make a point and I'll have another question.

I'm not looking for any specific case. I'm asking if the sponsor, who believes that this language is necessary to form some kind of clarification, I'm just asking whether or not he knows of any case where there was a difficulty in prosecuting the conduct that he wants to prosecute -- or to clarify it in the statute, whether there's been any difficulty of any case that he knows of.

ACTING PRESIDENT BRESLIN: Senator Squadron.

SENATOR SQUADRON: Just

confirming. And, you know, I think that what you see is as we're coming and there's no obvious answer to what the Senator is asking, is that we don't have clarity in the law. And we have, as I have said, seen cases where this has clearly happened and clearly not been prosecuted under state law nor pursued under the Code of Ethics.

ACTING PRESIDENT BRESLIN: Senator DeFrancisco.

SENATOR DeFRANCISCO: You had indicated -- excuse me.

ACTING PRESIDENT BRESLIN: Through the chair.

SENATOR DeFRANCISCO: Would the Senator yield to another question?

ACTING PRESIDENT BRESLIN: Do you yield, Senator Squadron?

SENATOR SQUADRON: Sure thing.

SENATOR DeFRANCISCO: The language that's in the bill talks about unwarranted privileges being taken by someone. What's the definition of warranted? Is there a definition under the statute, so that

anybody that might be faced with questions under this statute could at least explain -- or at least know what is warranted and what's not?

ACTING PRESIDENT BRESLIN: Senator Squadron.

SENATOR SQUADRON: Well, I'd like to thank Senator DeFrancisco, actually, for making that point. Although I'd like to clarify something.

Unwarranted privileges is actually in the law currently. It's not modified by this bill. Although I do, as I say, want to thank Senator DeFrancisco for pointing out that as currently written that language I don't think has the clarity that we will have once we pass this -- hopefully pass this bill into law.

ACTING PRESIDENT BRESLIN: Senator DeFrancisco.

SENATOR DeFRANCISCO: Would the Senator continue to yield?

ACTING PRESIDENT BRESLIN: Senator Squadron, would you continue to yield

for another question by Senator DeFrancisco?

SENATOR SQUADRON: Yes.

SENATOR DeFRANCISCO: The statute apparently prohibits someone securing unwarranted privileges, including but not limited to misappropriation to himself, herself, or others of property, services or other resources for private business or other compensated nongovernmental processes.

Does this statute prohibit the unwarranted privileges being accepted for personal use?

ACTING PRESIDENT BRESLIN: Senator Squadron.

SENATOR SQUADRON: This statute as written -- and again, I know Senator DeFrancisco read the language. I will read a smaller section of the language for clarity: "for private business or other compensated nongovernmental purposes." I think that's clear.

SENATOR DeFRANCISCO: All right. So would he yield to another question?

ACTING PRESIDENT BRESLIN:

Senator Squadron, would you continue to yield for another question?

SENATOR SQUADRON: I will.

ACTING PRESIDENT BRESLIN: Senator Squadron will yield. You may proceed.

SENATOR DeFRANCISCO: There's nothing in this statute as you've modified it that would prohibit someone from taking unwarranted privileges for personal use as opposed to business or compensating uses.

ACTING PRESIDENT BRESLIN: Senator Squadron.

SENATOR SQUADRON: To be clear, Senator DeFrancisco asked that question quite specifically. As modified, I agree that this statute would not change the definition of unwarranted privileges as applies to other uses.

It's also, I think, quite clear that this is not limiting language, it is clarifying language. And so, as written, it would not modify the definition of unwarranted privileges other than in the way that it does, which is with this clarification.

ACTING PRESIDENT BRESLIN:

Senator DeFrancisco.

SENATOR DeFRANCISCO: Would the Senator continue to yield?

ACTING PRESIDENT BRESLIN:

Senator Squadron, will you continue to yield?

SENATOR SQUADRON: Yes.

ACTING PRESIDENT BRESLIN:

Senator DeFrancisco.

SENATOR DeFRANCISCO: So, Senator Squadron, are you saying that the existing statute before this amendment would prohibit someone from obtaining unwarranted privileges for personal use, under the language as it currently exists?

ACTING PRESIDENT BRESLIN:

Senator Squadron.

SENATOR SQUADRON: Through you, Mr. President, as you may know, I'm relatively new here still, although it feels less new every day. And this unwarranted-privileges statute was passed into law before I was here. I am not an attorney. In terms of discussing the existing law that's not being modified, I

certainly wouldn't put myself forward as the authority.

As a Senator in this body that is certainly modifying law around that language, I think that it's pretty clear from the existing law that all unwarranted privileges for himself, herself, or others are prohibited under this statute.

I also, though, would point out that it has been difficult to prosecute or in this case to follow up on violations of the statute as currently written. And again, this clarification would do it.

I think that, again, the cases that you see -- including Senator Bruno and others -- that are not pursued under state law and are in fact pursued in federal court would call out loudly for this clarification.

ACTING PRESIDENT BRESLIN: Senator DeFrancisco.

SENATOR DeFRANCISCO: Would the Senator yield to one additional question.

ACTING PRESIDENT BRESLIN: Senator Squadron, would you yield for one last

question?

SENATOR SQUADRON: One or more.

SENATOR DeFRANCISCO: One or more? Okay, thank you.

Senator, with respect to Section A(ii), this is a new section that prohibits someone from defrauding the state by making use of property, et cetera, et cetera. Correct?

SENATOR SQUADRON: That is correct.

SENATOR DeFRANCISCO: Would he answer one other --

ACTING PRESIDENT BRESLIN: Senator Squadron --

SENATOR DeFRANCISCO: -- one other question, please.

ACTING PRESIDENT BRESLIN: Senator Squadron, would you yield for one more last question?

SENATOR SQUADRON: Sure. That may be a statement that needs clarification, so of course I'd be happy to.

SENATOR DeFRANCISCO: Senator

Squadron, isn't there existing laws prohibiting anyone from defrauding the government or to committing fraud by use of a position?

In other words, do you need another statute saying the same thing as existing law? Fraud is illegal, isn't it, presently?

ACTING PRESIDENT BRESLIN: Senator Squadron.

SENATOR SQUADRON: Through you, Mr. President, I do hope this is the final question, if only because I think it's a full circle and really defines the need for this law.

Yes, I do believe, just as I do under unwarranted privileges -- and I don't just believe it, it's a matter of undeniable fact that defrauding the government is a crime.

I think it's also a matter of undeniable fact that you have seen this activity repeatedly not be pursued under state law. And that comes, in my view, from any number of issues. I think that the bill we're

about to debate will hopefully help with some of them.

But this law will fill that gap in state law that I think has too often led to a lack of clarity where, with behavior like this -- and it's possible that Senator DeFrancisco and others disagree with me. My view is that with behavior like this, you should be as clear as possible. I think that's better for us as public officers. I think that's better for the state in terms of being able to ensure integrity among its public officers.

ACTING PRESIDENT BRESLIN: Senator DeFrancisco.

SENATOR DeFRANCISCO: On the bill.

ACTING PRESIDENT BRESLIN: Senator DeFrancisco on the bill.

SENATOR DeFRANCISCO: With respect to this bill, it seems to me it's a bill that may be good political fodder, but it really is not necessary.

If the existing law is that you

can't take unwarranted privileges for personal use, then certainly the law would also prohibit not taking unwarranted privileges for purposes of your business or for compensation. I mean, it just follows logically.

The fact that some one prosecutor chooses not to prosecute, for whatever reason, in state court under this provision or another provision doesn't change the fact that the law already prohibits this type of conduct.

Similarly, fraud is fraud is fraud is fraud. And to say that you're going to prohibit someone from defrauding the government, well, it's already a statute and it's already a statute that could be prosecuted. The fact that someone chooses not to, the prosecutor chooses not to, that's fine.

So the point I would like to make, in this day and age of reform and trying to make certain that we make sure that everybody who's in public office is under the utmost possible scrutiny for any possible reason, even though there's existing laws that already

prohibit that -- well, this may make good political sense, but as a practical matter I think it's superfluous, it's not needed, and that is the point I would like to make.

Thank you.

ACTING PRESIDENT BRESLIN: Thank you, Senator DeFrancisco.

Senator Saland.

SENATOR SALAND: Thank you, Mr. President. Would the sponsor yield?

ACTING PRESIDENT BRESLIN: Senator Squadron, do you yield for a question from Senator Saland?

SENATOR SQUADRON: I will.

SENATOR SALAND: Senator Squadron, if I understood you correctly, the language which you have added in lines 7 through 10 is intended to, in effect, flesh out or make more understandable what constitutes an unwarranted privilege under the existing law. Is that --

ACTING PRESIDENT BRESLIN: Senator Squadron.

SENATOR SQUADRON: I'd say that

lines 7 through 10 clarify one sort of unwarranted privilege that is particularly glaring and has, shockingly, not been pursued even when taken.

ACTING PRESIDENT BRESLIN: Senator Saland.

SENATOR SALAND: If Senator Squadron were to continue to yield.

ACTING PRESIDENT BRESLIN: Will you continue to yield, Senator Squadron?

SENATOR SQUADRON: Of course.

SENATOR SALAND: You make reference to property, services, and other resources. I know what property is. I know what services are. I'm not quite sure what other resources are. What is it that you intend to be covered by "other resources"?

ACTING PRESIDENT BRESLIN: Senator Squadron.

SENATOR SQUADRON: Well, I think "other resources" would be government resources that are neither property nor services.

ACTING PRESIDENT BRESLIN:

Senator Saland.

SENATOR SALAND: If you'd continue to yield, would you care to give me a couple of examples of what might be those other resources?

ACTING PRESIDENT BRESLIN: Will you continue to yield, Senator Squadron?

SENATOR SQUADRON: Yes. Yes, I will.

ACTING PRESIDENT BRESLIN: You may proceed, Senator Saland.

SENATOR SALAND: Might you provide me with a couple of examples of those other governmental --

ACTING PRESIDENT BRESLIN: Senator Squadron.

SENATOR SQUADRON: I'd be happy to describe that value of the part of the law, which is, to be quite serious, a clear and blanket prohibition on government resources.

As Senator Saland points out, we know what property is, we know what services is. Certainly without trying to come up out of thin air right now with an example of an

additional government resource, I would say that the reason for that language is to ensure that neither property nor services are read through a pinhole.

SENATOR SALAND: I'm sorry, I didn't hear the conclusion of the Senator's comment.

ACTING PRESIDENT BRESLIN: Senator Squadron, Senator Saland has indicated he did not hear the last part of your answer.

SENATOR SQUADRON: That language is there to ensure that neither property nor services are read through a pinhole, to make clear this is a broad prohibition on the use of government resources of all forms.

SENATOR SALAND: Would the Senator continue to yield?

ACTING PRESIDENT BRESLIN: Do you continue to yield, Senator Squadron?

SENATOR SQUADRON: I'd be happy to.

SENATOR SALAND: Would other resources also constitute communications seeking outcomes with government agencies?

ACTING PRESIDENT BRESLIN:

Senator Squadron.

SENATOR SQUADRON: I think it would depend what resources were used in those communications. I don't think that on its face, in all cases, the example described would be prohibited.

SENATOR SALAND: If the Senator would continue to yield.

ACTING PRESIDENT BRESLIN:

Senator Squadron, will you continue to yield?

SENATOR SQUADRON: Yes.

SENATOR SALAND: Senator Squadron, as you know, we all from time to time are called upon to communicate with a variety of government agencies. We do that in our official capacity as a state legislator.

Some of us have occupations or are involved in activities that are other than the one we serve in as we function here as a legislator. And if we contact a state agency, say for example I -- and I happen to be a lawyer -- I contact a state agency on behalf of a former client or I'm a businessperson, I

contact that state agency on behalf of a former business associate, seeking either to set up a meeting between that individual and that particular agency, does that constitute an unwarranted privilege whereby I'm seeking to somehow or other gain by reason of my office?

ACTING PRESIDENT BRESLIN: Senator Squadron.

SENATOR SQUADRON: I'd like to say that I'm reluctant to define here today the entire meaning of unwarranted privileges as it's existed since passed into law. I certainly don't have its legislative history. I do not have a canonical record in front of me of its definition.

I would say, however, in the example you cited, you suggested former. So it could be that pointing you to line 9 and 10, the reference to private business or other compensated nongovernmental purpose, might lend some guidance there in terms of the new language.

In terms of the definition of

unwarranted privileges as it exists and has existed, I'm going to have to leave that to a different day.

ACTING PRESIDENT BRESLIN: Senator Saland.

SENATOR SALAND: Well, that -- I'm sorry, did you say you have to leave that to another day? Is that what you said?

ACTING PRESIDENT BRESLIN: Senator Squadron, do you continue to yield for the additional question?

SENATOR SQUADRON: I will.

And what I said was, as I said to Senator DeFrancisco, rather than look at this bill as creating a new limit on the definition of unwarranted privileges, I think that you should see this bill as a clarification of one of unwarranted privileges' meanings.

And so what I feel that we should focus on and talk about today is that new specific reference to unwarranted privileges, rather than try to define out all others that aren't necessarily discussed in the new language in this bill.

ACTING PRESIDENT BRESLIN: Senator Saland.

SENATOR SALAND: Thank you, Mr. President. I would respectfully beg to differ with Senator Squadron, because I think it's critically important to --

ACTING PRESIDENT BRESLIN: Senator Saland, do you have a question for Senator Squadron?

SENATOR SALAND: Yes, I do have a question for Senator Squadron.

ACTING PRESIDENT BRESLIN: Then, Senator Squadron, do you continue to yield?

SENATOR SQUADRON: I will.

SENATOR SALAND: Your language talks in terms of both private business and other compensated nongovernmental purposes. And that's repeated in the next section, which is on the following page.

I'll come back to what I asked previously. You have stated that it's your intention to provide some clarification to the section of existing law dealing with unwarranted privileges. In order to do that,

you had to have some sense of what constituted an unwarranted privilege.

There's nobody in this chamber -- no man, no woman, no member of this chamber -- who does not deal with state agencies. You deal with them in a multitude of capacities. And some of the people in this chamber wear more than one hat in their lives.

And when you make a call to a state agency for some purpose -- and that purpose may well constitute private business; you're doing it in your official capacity, it involves the private business of the person for whom you are making the phone call -- are you, by reason of your office, seeking an unwarranted privilege? Particularly if you at one time or another had a relationship with that person in your business or professional life or have a relationship with that person in your existing business or professional life.

ACTING PRESIDENT BRESLIN: Senator Squadron.

SENATOR SQUADRON: I'd like to be

clear about two things. Through you, of course.

The first is my reluctance is on limiting the definition of unwarranted privileges, not in discussing its effect. I think we actually have had some discussion today of the effect of unwarranted privileges. And you see my reluctance whenever there's sort of an attempt to limit what it might not include -- or to get a definitive statement from me of what it absolutely does include. I don't think that's what we're talking about today.

I think what we're talking about is what it would include if this law passes. And hopefully we all agree that including what would be added would be a good thing.

I would also, though, to the point Senator Saland was making, point to the misappropriation of such government resources and would say that while I certainly don't know the specifics of Senator Saland's hypothetical, I think that the simple fact of calling a state agency, even in one's outside

business dealings, would not necessarily constitute a misappropriation. And I would ask each public officer to, in each case, ensure they are not misappropriating government resources when they're using them.

ACTING PRESIDENT BRESLIN: Senator Saland.

SENATOR SALAND: On the bill, Mr. President.

ACTING PRESIDENT BRESLIN: Senator Saland on the bill.

SENATOR SALAND: Mr. President, I came here assuming that this was a bill that could be readily explained. I came here, concerned, as one of 62 members of this house and one who full well appreciates the sensitivity at times of issues that we are involved in because a number of us wear two hats.

I have found no comfort whatsoever in the responses that have been provided by Senator Squadron. His intent certainly is noble. I would hope that he might go back to the drawing board and come up with something

that really responds to the questions that I've asked.

How many times a week do the members of this chamber call or ask a member of their staff to call an agency? And particularly for those of us who wear more than one hat, are we somehow or other misappropriating our office or taking advantage of our office under this language that has been proposed by Senator Squadron? I'm not sure I heard an answer that told me that that's okay.

So if, for example, those of us who do practice law, those of us who might be insurance agents, those of us who might have some other activity, you may be severely circumscribed in what you're permitted to do and not be able to fully represent the people in your district who come to you with any number of constituent issues that you routinely go to an agency to deal with. That's a very, very frightening thought.

Now, politically, this is a bill that the last thing you want to do is have to

explain why you would vote no. But the bottom line is that this is a bill that is sorely lacking and puts at risk virtually anybody, as I said earlier, who does not exclusively serve as a legislator -- and may put at risk some who do exclusively serve as a legislator.

So I would only hope that when the day is done -- I know there's no same-as currently -- that we get to see a bill that deals with the problem that Senator Squadron would like to deal with but deals with it in a fashion that doesn't put at risk the public service of any number if not the majority of people in this chamber.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Saland.

Are there any other Senators wishing to be heard?

Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President. Would Senator Squadron yield for a question or two, please.

ACTING PRESIDENT BRESLIN:

Senator Squadron, will you yield to Senator Diaz for a question?

SENATOR SQUADRON: Yes, I would.

ACTING PRESIDENT BRESLIN: Senator Diaz, you may proceed.

SENATOR DIAZ: Thank you, Senator Squadron.

I'm reading the bill and it says no officer or employee of a state agency, member of the Legislature, or legislative employee should use or attempt to use his or her official position to secure unwarranted privilege.

Let me play Columbo here. I know you already said something, but would you please tell me again what is unwarranted privilege?

ACTING PRESIDENT BRESLIN: Senator Squadron.

SENATOR SQUADRON: The lines of the bill that Senator Diaz read there, just to point out, are not new language. That's the existing law that was written. The phrase "unwarranted privileges" does not start with

this bill. It won't be passed into law if this bill is. There is, in fact, a same-as, so I'm very hopeful it will be passed into law.

But "unwarranted privileges" has to this point, as I understand it, been interpreted by the Inspector General and others to mean inappropriately using one's position or government resources for something other than their appropriate and official use. That's my understanding in a broad sense of it.

I think that clearly it has not been a tool that's been used a lot. And this bill will hopefully make it significantly clearer in the case of compensated outside business.

ACTING PRESIDENT BRESLIN: Senator Diaz.

SENATOR DIAZ: Mr. President, would Senator Squadron yield for another question.

ACTING PRESIDENT BRESLIN: Senator Squadron, will you continue to yield

to Senator Diaz?

SENATOR SQUADRON: Yes.

ACTING PRESIDENT BRESLIN: You may proceed, Senator Diaz.

SENATOR DIAZ: Senator Squadron, is the use of a vehicle a privilege?

SENATOR SQUADRON: The use --

SENATOR DIAZ: Of a state vehicle.

SENATOR SQUADRON: Is the use of a state vehicle a privilege? I would say that a state vehicle is certainly a government resource.

SENATOR DIAZ: Do --

ACTING PRESIDENT BRESLIN: Yes, Senator Diaz, you may continue.

SENATOR DIAZ: So the use of a state vehicle, Senator Squadron, is a privilege?

ACTING PRESIDENT BRESLIN: Senator Squadron.

SENATOR DIAZ: Yes or no?

SENATOR SQUADRON: The use of a government vehicle is a privilege? See, it

seems to me that the context of the use of it would be -- would have to be considered. I think that currently a government vehicle is a government resource. I think that the language of this bill would not affect that use in any way unless potentially it was being used for outside compensated business activities. And I think in that case then it would, under this bill, likely be an unwarranted privilege, yes.

ACTING PRESIDENT BRESLIN: Senator Diaz.

SENATOR DIAZ: Mr. President, would Senator Squadron yield for another question?

ACTING PRESIDENT BRESLIN: Senator Squadron, will you yield for another question?

SENATOR SQUADRON: Yes.

SENATOR DIAZ: Senator Squadron, so if I use a state vehicle to go or to do any other thing that is not related with my senatorial duties, like going to work to my second job, is that an unwarranted privilege?

Am I using the government property for personal reason, would that be included in there?

SENATOR SQUADRON: Through you, Mr. President, I would point out that we're talking about the Code of Ethics under the Public Officers Law. It is widely recognized and understood that de minimis, something of de minimis value is not covered. So I think that there would be a question, again, as to in the hypothetical.

I would say this. If you're using a state vehicle to sell ice cream all summer, I think that would be an unwarranted privilege, clearly, under this bill. I think that as the hypotheticals move one way or the other, we'd have to look at them in a lot more specifics.

ACTING PRESIDENT BRESLIN: Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President.

Senator Squadron, I'm not talking about a hypothetical thing, I'm talking about

reality here. And the reality is --

ACTING PRESIDENT BRESLIN: Do you have a question, Senator Diaz?

SENATOR DIAZ: Mr. President, would Senator Squadron yield for another question?

ACTING PRESIDENT BRESLIN: Senator Squadron, will you continue to yield?

SENATOR SQUADRON: Yes.

SENATOR DIAZ: Senator Squadron, I'm not talking about nothing in the air, I'm talking about reality. The reality is that most of the criticism that this body has gotten that is that we are part-time workers and that this job is a part-time job.

I could assure you, Senator Squadron, that I not a part-time Senator. I am every day in my office from 9:00 to whatever, attending to constituents. But, Senator Squadron -- and I'm going to get to my question -- there are members of this body that really are part-time. And that when session ends in June, they go to do their own business, to their private businesses.

Now, some of them are using government property as a vehicle during the whole year. Will you tell me that those members of this body that use their vehicle when session ends and they are going on their own business, to do their private business, they are violating the law?

SENATOR SQUADRON: Again, through you, Mr. President, de minimis violations aside, I would say that today, yes. If this law passes, yes.

SENATOR DIAZ: Thank you, Senator.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Diaz.

Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. Chairman. Will the sponsor yield for one question?

ACTING PRESIDENT BRESLIN: Senator Squadron, will you yield for one question from Senator Bonacic?

SENATOR SQUADRON: Yes.

SENATOR BONACIC: I hadn't intended to ask you any questions, but you raised my curiosity and concern with your back-and-forth with Senator Saland.

I want to ask you one question for clarification. I have a contributor that contributes to my campaign, as an example, and then he asks me to call or she asks me to call the DEC for an environmental problem they're having with their gas station. Is that -- am I in violation of an unwarranted service or privilege, in your mind, under your intent under this legislation?

ACTING PRESIDENT BRESLIN: Senator Squadron.

SENATOR SQUADRON: To answer Senator Bonacic's question, and hopefully to answer Senator Saland's question -- again, a former client in Senator Saland's example, a contributor in Senator Bonacic's example, neither count, as I understand it. Neither would be compensated business. So neither would be affected by this bill.

I believe there may be other

components of the law that deal with how one deals with contributors, but that's not what this is. This is about compensated outside business.

SENATOR BONACIC: Thank you, Senator Squadron.

ACTING PRESIDENT BRESLIN: Are there any other Senators who wish to be heard?

(No response.)

ACTING PRESIDENT BRESLIN: In that event, the debate is closed.

The Secretary will please ring the bells.

(Pause.)

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 60. Nays,

0.

ACTING PRESIDENT BRESLIN: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 18, substituted earlier today by Member of the Assembly Silver, Assembly Print Number 9544, an act to amend the Executive Law.

SENATOR LIBOUS: Explanation, please.

ACTING PRESIDENT BRESLIN: An explanation has been requested, Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

The bill before us now is the Ethics Reform Act of 2010. It is a piece of legislation that contains a series of reforms to both the ethics and the election and campaign finance laws of the State of New York.

As far as I'm concerned, this is a bill that has been a long time in coming. I'm

glad we are finally getting to vote on it here today.

I have to say, Mr. President, when I first started coming up here about 11 years ago, I felt as though when we enter the Capitol area we come into kind of a fog in which good people seem to lose their sense that "go along to get along" and "pay to play" is somehow objectionable.

Ladies and gentlemen, there is something about the atmosphere here, the culture that has developed here, that leads to good people to turn a blind eye to daily transactions in which public interest is trumped by private benefit.

And this bill is designed to pierce that fog. I would suggest that this is the first step in changing that culture. This is the first step in ending pay-to-play as we know it in Albany.

The message from this bill to everyone who has worked here, in a capital where disclosure is minimal, transparency is a joke, and enforcement is something that is

limited to the state troopers in Greene County -- the one area of the Thruway where they give us tickets -- the message of this bill is that the game is over.

Ladies and gentlemen, we have several provisions in the bill. I know we'll be talking about it for a while, but let me outline it generally.

First of all, this changes the ethics laws in the state to deal with a fundamental fact that the people of the State of New York seem to understand, even if it's taken us a while here to get it.

Our financial disclosure system as it exists now is a joke. This bill would change that. For the first time, we'll end the system of redacting the amount of money we make from our financial disclosure forms. We will set up a system whereby the forms we file are actually reviewed. There's a system of general review to ensure accuracy and random review, to ensure that we're actually filling out the forms properly.

This bill for the first time will

require that anyone who does business with the state and seeks to influence us, anyone who is a lobbyist or who hires a lobbyist, who pays any of us, has to disclose that relationship this is -- it's really remarkable that this is not the law now. It is not the law now. This bill sounds the death knell for the shroud of secrecy, for this fog that has enveloped the state government for too long.

This bill also broadens the definition of lobbying. Right now no one has to report if they're lobbying us on a budget resolution. This bill would broaden the definition of lobbying to make sure that it covers everything.

The second component of this bill is the change in the election and campaign finance laws. And I have to say that these portions of the bill to me personally are the most important, because we now have a system of campaign finance laws in which the public has no confidence. And quite honestly, ladies and gentlemen, I think the public is right to have little or no confidence.

Independent expenditures on behalf or against a candidate are not now reported. Under this bill, they would be reported. We will mandate for the first time that we have the actual -- we actually have an enforcement unit that must be funded in the Board of Elections to enforce the law when it comes to violations of the campaign finance laws. We increase penalties. We even have a "three strikes you're out" provision which we put in specially for Senator Volker to ensure that he votes for the bill. In case you fail to file reports three times, the penalties are substantially enhanced.

The partisan gridlock that has made our campaign enforcement system a joke is ended by this bill. Right now you need a majority of members of the Board of Elections, which is split between Republicans and Democrats, to vote to begin an enforcement proceeding. This bill changes it so you need a majority to stop an enforcement proceeding. And it creates an independent enforcement unit whose funding is mandated, with counsel who

gets a term of years so they can't be fired for being overly aggressive.

This bill creates the reality of a campaign finance system that enforces laws, that clarifies law. This bill also restores, in both the ethics and campaign finance areas, a system of getting advisory opinions so that any of us who want to know the answer to a question, who want to be clear that we're complying with the law, can get that answer.

So, ladies and gentlemen, this bill -- which has been criticized because it doesn't go far enough, and there are some of my colleagues who think it should do more to require disclosure from lawyers or it should do more to limit campaign contributions. I don't disagree with them. I don't disagree with them. This doesn't do everything. This doesn't provide for public financing of campaigns. There are a lot of bills that I sponsor whose elements I would like to see in this legislation. It's not all here.

But I assure you, in every area of the law that is addressed by this legislation,

it moves us forward. It moves us towards transparency. It moves us towards disclosure. It moves us towards a system of enforcement that the people of the State of New York will respect.

You want to know why we're losing their respect? Not because there are individual bad actors here, but because we have for too long tolerated a system which enables us, authorizes us and allows us under law to engage in conduct which the people of the State of New York recognize is unacceptable.

We've got to end the culture of pay-to-play. We've got to end the perception and the reality that people are able to influence members of the government -- not just the Legislature, but members of the executive branch as well.

Today we take a step towards doing that. This bill begins the process of lifting that fog. This bill I hope is the death knell of the pay-to-play culture. I hope everyone will join in voting for this. I know there

are some amendments that my understanding is aren't actually intended to weaken the bill but in some respects, perhaps, to alter it. And I know that there are some objections, although I must say I'm pleased to report that on both sides of the aisle, where I've talked to dozens of my colleagues, my sense is that most people's criticism is that this bill doesn't go far enough in certain areas.

I'm pleased by the fact that some of my colleagues on the other side of the aisle have spoken to me about this, come forward with ideas. Senator Saland in particular spotted something that, quite frankly, we had missed. Senator Flanagan came forward with a suggestion to make the bill more equitable, which I appreciate, and we're working on.

Yes, you came forward as well, but I know you'll speak for yourself, Senator Diaz.

I do not think this is a partisan matter, ladies and gentlemen. This is an institutional matter. We have to restore

public confidence. We have to get rid of this fog. We have to step up and recognize that the culture which allows people to contribute money or allows businesses to pay legislators while they're still seeking to engage in business with the state has to end.

Today we start the process of ending that, Mr. President. I urge everyone to vote yes on this bill.

SENATOR PADAVAN: Mr. President, are there amendments at the desk?

ACTING PRESIDENT BRESLIN: Senator Padavan, why do you rise?

SENATOR PADAVAN: Are there amendments at the desk, Mr. President?

ACTING PRESIDENT BRESLIN: Senator Padavan, your amendment is here at the desk. Without objection --

SENATOR PADAVAN: Well, would you please call on Senator DeFrancisco for his amendments.

ACTING PRESIDENT BRESLIN: Certainly.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, there's an amendment at the desk and I'd waive its reading.

ACTING PRESIDENT BRESLIN: Senator DeFrancisco, there is an amendment at the desk. And without objection, the reading is waived and you may speak on the amendment.

SENATOR DeFRANCISCO: Senator Schneiderman indicated in no uncertain terms that he believes the most important part of this bill is the campaign finance law reform, and gave the reasons for that. And he indicated that we must restore confidence in the public as to how campaign finance law works and how people in the Legislature work under it.

And he pointed out that one of the most important aspects of the unit or of the change is an enforcement unit. Now the enforcement can be done. And he emphasized that it's so important that we stop the partisan gridlock.

Well, I'm going to help him do that by this modification, because it's got to be

an oversight. The modification deals with the enforcement counsel who is given the authority to actually commence proceedings under the alleged violations under the Election Law. And it takes actually three out of the four commission members to stop those proceedings. But the enforcement counsel can start them.

The enforcement counsel is not elected by anybody, it's appointed. And the enforcement counsel since the '70s has always been a member of the Democrat Party.

Now, it would be just as offensive, if we're trying to reform the system, if that person was a member of the Republican Party. The fact is one party has the person that's in charge of starting the process that could only be stopped by three out of four commission members.

Not only that, that person has a four-year term. And that four-year term, when that person is done after the four-year term, the person can be either reappointed or reappointed by the same persons who appointed that person in the first place, which are the

Democrat commissioners.

Now, if we're really and truly talking about true reform, a bill like this, where there's enforcement authority, depends upon the fairness of the enforcement. And I don't know Liz Hogan from anybody. I've never met her. But she's been in that position for some time. Not casting any aspersions on her.

But if we want the public to feel confident that there's not partisan gridlock and one party isn't controlling the enforcement process, then we've got to change that. And that's what this amendment would do.

Instead of a four-year term for that person who is the enforcement counsel, it would be a two-year term and it would alternate between the enforcement counsel and the deputy, who would be of the other party. So that every two years, the person who's in charge of enforcing the law and bringing charges that could only be stopped by three of the four members of the commission is of a different party.

Now, that seems logical. It follows exactly the parameters that Senator Schneiderman talked about, bipartisan, no partisan gridlock. And it will restore faith that the process is a fair process for both parties.

And for those reasons, I offer this amendment and I urge my colleagues to support it.

ACTING PRESIDENT BRESLIN: Are there any other Senators wishing to be heard on the amendment?

(No response.)

ACTING PRESIDENT BRESLIN: Then the question is on the nonsponsor motion to amend Calendar Number 18.

Those Senators voting in support of the nonsponsor amendment please raise your hands.

Announce the results.

THE SECRETARY: Those recorded in the affirmative are Senators Alesi, Bonacic, DeFrancisco, Farley, Flanagan, Fuschillo, Golden, Griffo, Hannon, O. Johnson, Lanza,

Larkin, Leibell, Little, Marcellino, Maziarz, McDonald, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and Young.

Ayes, 27. Nays, 32.

ACTING PRESIDENT BRESLIN: The motion fails.

SENATOR PADAVAN: Is there a second amendment at the desk, Mr. President?

ACTING PRESIDENT BRESLIN: Yes, Senator Padavan.

Senator DeFrancisco, there is a second amendment at the desk. Without objection, the reading is waived and you may speak on the amendment.

SENATOR DeFRANCISCO: Thank you.

Anticipating that there really wasn't a strong desire on the other side of the aisle to make this a bipartisan enforcement process, I figured that maybe there would be another way to at least have some modicum of fairness in the process of who determines what charges are going to be brought and who prosecutes those charges.

And what this bill basically does is it eliminates the enforcement officer -- who is a Democrat, has been a Democrat, will always be a Democrat under the current statute -- from pursuing charges against possibly, in close election years, Republicans more than Democrats, just possibly.

To have some modicum of fairness, this says eliminate that enforcement officer and make it an elected official, the Attorney General. Who for the time being happens to be a Democrat and will be a Democrat between now and the next election.

The fact of the matter is at least the person who's going to be enforcing these so-called bipartisan rules will be someone elected by the people. And it could be a Republican, it could be a Democrat, it could be usually a Democrat. But at least there's some modicum of fairness.

So that's what this amendment does. And I would urge each of my colleagues to provide some fairness in the enforcement process so we are not accused of reforming

something so that it is truly partisan in how the enforcement is determined.

ACTING PRESIDENT BRESLIN: Are there any other Senators wishing to be heard on the amendment?

(No response.)

ACTING PRESIDENT BRESLIN: The question then is on the nonsponsor motion to amend Calendar Number 18.

Those Senators voting in support of the nonsponsor amendment please raise your hands.

Announce the results.

THE SECRETARY: Ayes, 27. Nays, 32.

ACTING PRESIDENT BRESLIN: The motion fails.

Senator Padavan, why do you rise?

SENATOR PADAVAN: Mr. President, will you call up my amendment, please.

ACTING PRESIDENT BRESLIN: Senator Padavan, your amendment is here at the desk. Without objection, the reading is waived and you may speak on the amendment.

SENATOR PADAVAN: Thank you, Mr. President.

Today is a day we deal with disclosure, we deal with transparency, we deal with issues such as Senator Schneiderman referred to as pay-to-play. But there's one area that we totally ignore, and they fit the bill in terms of the need for transparency, the need for disclosure, and the preemptor of pay-to-play. And they're called political consultants.

These individuals and entities currently, as far as the state is concerned, do not have to disclose their clients or their relationships, or in any way, shape or form would any of the entities that we've created in current law and which we have expanded upon today.

And this amendment would do just that. It's a bill that I introduced last session and the year before. It patterns something which is currently in effect, believe it or not, in the City of New York -- and in the State of Texas and the City of

San Francisco.

Now, to clarify some of the insights into what we're trying to do here, there was an interesting article, a very lengthy one, written in the New York Times a few years ago on this very subject. It's entitled "First the Campaign, Then the Lobbying." And I'd like to just read two sentences from it because I think it's helpful to understand what we're trying to achieve.

"'Helping elect someone and then lobbying that official so clearly represents the appearance of a conflict of interest that will undermine public confidence in government. The nexus between the lobbyist, the government official, and the corporation is a dangerous one, a kind of Iron Triangle,' said Douglas Muzzio, a professor of public policy at Baruch College. 'They are not only influencing policy, which they are supposed to do as a lobbyist, they are actually choosing the government officials who will then turn around and act on clients whose interests these people are representing.'"

Now, it just seems logical to me that if we're going to require so much in the way of public disclosure, that this group of individuals and entities are totally outside what we are seeking to achieve, at least at the state level. And all we're doing is simply asking them to disclose. It also, by the way, provides for a code of conduct in the exercise of their activity.

So, Mr. President, that in essence is what this amendment does. It seems so logical, so essential, and I think we all know why it's so important.

ACTING PRESIDENT BRESLIN: Thank you, Senator Padavan.

Are there any other Senators wishing to be heard on the amendment?

The question is on the nonsponsor motion to amend Calendar 18. Those Senators voting in support of the nonsponsor amendment please raise your hands.

Announce the results.

THE SECRETARY: Ayes, 27. Nays, 32.

ACTING PRESIDENT BRESLIN: The motion fails.

We are now back on the main bill.

Senator Squadron, on the bill.

SENATOR SQUADRON: Thank you, Mr. President. There's much to say --

ACTING PRESIDENT BRESLIN: Excuse me.

Senator Padavan.

SENATOR PADAVAN: I was simply going to ask the sponsor to yield to a question. But if you wish --

ACTING PRESIDENT BRESLIN: As soon as Senator Squadron does not have the floor, you may proceed, Senator Padavan.

Senator Squadron.

SENATOR SQUADRON: Thank you, Mr. President.

There's much to say about the things this bill doesn't do for reform. We just saw some amendments presented, and a lot of it's legitimate. But there's also a lot about what this bill does do for reform. And the truth is -- I think we all know it -- for

years Albany hasn't done much to reform itself. An ever-shifting set of arguments has been used to prevent action, to kill reform in a closed back room, or through the alluring words of an empty press release.

Today is the beginning of actually getting something done and passed into law -- not out of this house, not out of the other house, not out of the second floor -- into law. I hope we're not tripped up in this step forward.

The arguments against passing the bill are arguments against a step forward. They are not arguments, as they may be guised to be, to go farther. That's important. That's not a reason to oppose this bill; it's a reason to keep going after we pass this bill.

Senator Schneiderman ably described this bill and its need, and I appreciate that. I appreciate Senator Sampson's and Senator Krueger's and so many others fighting for this issue for so long, well before I was here.

There's one piece of the bill I

want to highlight very briefly that I think may be a source of some of its opposition. In addition to the disclosure and the enforcement that Senator Schneiderman talked about, this bill would significantly increase the independence of ethics oversight for us in the Legislature and legislative employees.

The new Legislative Office of Ethics Investigation will have commissioners serving for a fixed term, an appointed executive director serving for a fixed term, pursuing all complaints regardless of the source. The commissioners and executive director can't be legislators, they can't be lobbyists, they can't work for the Legislature. No majority of that commission is controlled by either party or either house. Finally, any findings of wrongdoing will be made public from the LOEI.

But we can't just focus on the Legislature. This bill also changes oversight of the executive branch. Under this bill, we cannot ignore that for the first time ever, executive ethics will not be controlled by the

Governor.

Under current law, as you know, a majority of commissioners on the Commission on Public Integrity are appointed by the Governor. That Commission on Public Integrity oversees lobbying in the executive branch. If this bill doesn't pass into law, that will not change. If this bill does pass into law, the Governor, the Comptroller, the Attorney General will all appoint the Executive Ethics Commission. None of them, no individual will control executive ethics.

Let's be honest. This bill is the beginning and not the end of needed reform. And even so, it is a difficult pill to swallow for a lot of folks in this room, a lot of folks in government, because it will affect us. Those of us who are passing it and hopefully signing it into law will have new oversight on our behavior. It's true for the Legislature, it's true for the Executive, it's true for candidates for office.

And whatever disagreements we have about how far we should go -- and a lot of us,

including myself, would like to continue and would like to keep going farther -- this bill will start that process. Stopping this bill, this bill's failure, will stop the process in its tracks. And that's the reason that I hope we pass it out of this house today and I hope to see it signed into law as soon as possible.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Squadron.

Senator Padavan.

SENATOR PADAVAN: Will Senator Schneiderman yield for a question.

ACTING PRESIDENT BRESLIN: Senator Schneiderman, will you yield for a question from Senator Padavan?

SENATOR SCHNEIDERMAN: Yes, Mr. President, I will be happy to yield.

ACTING PRESIDENT BRESLIN: Senator Padavan, you may proceed.

SENATOR PADAVAN: Senator, you touched on this briefly, but I wonder if you'd amplify it by answering my question.

If currently you are a legislator

filing your annual forms and disclosure forms and so on, and you also are a contractor, a consultant, a manufacturer, so on -- any one of a number of different vocations or professions -- you would have to list the names of all your clients, am I correct?

SENATOR SCHNEIDERMAN: You have to list -- there are two different areas of disclosure that I discussed. One is the disclosure by the members of the Legislature. You have to list your sources of income. And unless there is a particular privilege that applies, as it does with doctors or lawyers --

SENATOR PADAVAN: Well, I'm going to get to that, Senator. I'm talking about someone like --

SENATOR SCHNEIDERMAN: I have to --

SENATOR PADAVAN: -- someone like --

SENATOR SCHNEIDERMAN: I --

SENATOR PADAVAN: -- someone like me, Senator.

ACTING PRESIDENT BRESLIN:

Senator Padavan, please. Let Senator Schneiderman finish his answer.

SENATOR SCHNEIDERMAN: I know you're enthusiastic to hear me talk, but let me just finish this sentence and we'll get to the good stuff.

Unless a privilege applies, you have to list the clients of a firm that pays you. The idea here is that you can't just say "I got a million dollars from XYZ Consultants." In every case except those as to which a privilege applies, you have to list the clients of that firm as well.

There is also a provision, however, that requires disclosure by the firms. If anyone is doing business with the state seeking to influence the Legislature, either by being a lobbyist or employing a lobbyist, whether it's privileged or not -- lawyer, doctor, anyone -- they have to disclose that.

So we have two types of disclosure. One is clients in general. But the second and, to me, most significant part of this is that anyone seeking to do business with the

state or influence the Legislature has got to disclose a financial relationship with a legislator even if it is a lawyer. This gets in the lawyers and doctors and ministers. Anyone with a privilege, the client has to waive that privilege if they're trying to do business with the state.

SENATOR PADAVAN: Would the Senator continue to yield.

ACTING PRESIDENT BRESLIN: Senator Schneiderman, do you continue to yield to Senator Padavan?

SENATOR SCHNEIDERMAN: Yes.

SENATOR PADAVAN: I understand fully the issue of lobbyists; namely, if there's a lobbyist involved, that disclosure is required.

What I'm talking about and my question related to those business involvements -- clients, customers, whatever you wish to call them -- where there is no lobbyist involved. It's directly between the legislator and the entity in question.

So therefore the answer to my

question, if I heard you correctly, is yes, they must list all their clients. Is that correct?

ACTING PRESIDENT BRESLIN: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Except that I'm not sure who "they" is. But yes --

SENATOR PADAVAN: "They" being a legislator who deals directly with clients, who do not have lobbyists, no lobbyists involved. And that entity can be one of a hundred different things. I described them before: Manufacturing, management consulting, all the way down the line.

SENATOR SCHNEIDERMAN: Yes. Through you, Mr. President, that does not mean that everybody who buys a product from a manufacturer has to be listed. All that means is that if you are receiving payment from someone, through an entity, through a consulting entity, that now has to be disclosed.

This is to deal with the problem that has come up that was discussed earlier

today, that there were questions that have been raised and there have been some cases that have come up recently with members of the Legislature relating to consulting firms, where essentially there was a loophole in the current law that you have to list the fact that I'm paid a million dollars by XYZ Consultants, but you don't have to disclose who's paying to XYZ Consultants.

That's what this gets at. Not the fact that if you receive money from Wal-Mart, you have to list everyone who's ever bought anything at Wal-Mart. That's not what this does.

SENATOR PADAVAN: I would presume not.

And by the way, I think that's a good idea.

ACTING PRESIDENT BRESLIN: Senator Padavan, do you wish --

SENATOR PADAVAN: Would he continue to yield?

SENATOR SCHNEIDERMAN: I continue to yield.

ACTING PRESIDENT BRESLIN: You may proceed, Senator Padavan.

SENATOR PADAVAN: You touched on this in passing. If you were in a protected class -- and that, I presume, includes attorneys and individuals who do real estate work or insurance work. I don't know what other protected classes there are, but in those categories -- you would not have to do what you and I just agreed upon you do have to do in every other case. Is that so?

SENATOR SCHNEIDERMAN: Yes. Through you, Mr. President. Under this bill -- and this is an issue that we've had a lot of discussions about, certainly in our conference. Some people feel that it doesn't go far enough. But under this bill, as to those professions for which there is a privilege, you do not have to disclose the identity of your clients or patients, as the case may be.

ACTING PRESIDENT BRESLIN: Senator Padavan.

SENATOR PADAVAN: Will you

continue to yield?

SENATOR SCHNEIDERMAN: I will continue to yield.

SENATOR PADAVAN: If you --

ACTING PRESIDENT BRESLIN: Excuse me, Senator Padavan. I think you understand the process. I'm not trying to be difficult.

SENATOR PADAVAN: No, I thought I heard him say yes.

SENATOR SCHNEIDERMAN: No, but through Mr. President. Yes, Mr. President, I yield.

ACTING PRESIDENT BRESLIN: You may proceed.

SENATOR PADAVAN: I'm just trying to get home earlier, Senator.

Senator, there are roughly, I think, 211, 212 legislators here in the Capitol. What percentage of them would you think are either lawyers, insurance brokers, any of the other protected -- real estate agents, any of the other protected classes? What percentage would you think that is, roughly? I wouldn't hold you to an exact

number.

ACTING PRESIDENT BRESLIN: Senator Schneiderman.

SENATOR SCHNEIDERMAN: I have no idea.

SENATOR PADAVAN: Would you say a third?

ACTING PRESIDENT BRESLIN: Senator Padavan --

SENATOR SCHNEIDERMAN: Through you, Mr. President, no, I wouldn't say a third. I have no idea.

SENATOR PADAVAN: All right. Well, thank you, Senator. You've been very kind.

SENATOR SCHNEIDERMAN: Thank you, Senator.

SENATOR PADAVAN: Just briefly, Mr. President.

ACTING PRESIDENT BRESLIN: Senator Padavan on the bill.

SENATOR PADAVAN: This dialogue obviously has been a subject of a lot of public dialogue on the very issue.

And I would take a guess that probably if you added up all of the categories that are in the protected class, you're talking about roughly one-fourth to one-third of the total number of legislators here in the Capitol.

And while I have no feeling at all that any of them would or are doing anything that is untold, the fact remains that we shouldn't have two classes of citizens here. There should not be one group who might be in a whole score of other kinds of activities, have clients who do business with the state and they have to disclose it, income from these clients and whatever the case may be, and then another class where that's just simply not the case.

I don't think that engenders public confidence to the degree that I believe the sponsors all intend to do. And that is -- you know, I hear frequently the comment that this is a beginning and we have more to do and all of that --

ACTING PRESIDENT BRESLIN:

Senator Duane, why do you rise?

SENATOR DUANE: I'm wondering if the Senator would yield for a moment.

SENATOR PADAVAN: Sure.

ACTING PRESIDENT BRESLIN: Senator Padavan, will you yield?

SENATOR PADAVAN: Yes, certainly.

ACTING PRESIDENT BRESLIN: Senator Duane.

SENATOR DUANE: Mr. President, I'm curious as to whether or not in the assertion of not wanting two classes of people, if that also includes those who are able to be married or not.

SENATOR PADAVAN: I don't know if that's a -- I don't know the answer to that question. I don't know if they're in a protected class or not. Ask the sponsor.

ACTING PRESIDENT BRESLIN: Senator Duane.

SENATOR DUANE: Even though it wasn't through you, Mr. President, thank you.

ACTING PRESIDENT BRESLIN: I accept it. Thank you, Senator Duane.

SENATOR PADAVAN: All right, thank you. Getting back to what I was saying, with all due respect to the intentions of the sponsors of this legislation -- and I intend to vote for it. And as a matter of public disclosure, I don't have any businesses, I'm a full-time legislator, I don't have any firm or whatever. So my question is purely academic, in case you were wondering.

But the fact remains it's still a valid question. And I would hope that as time evolves and as the public weighs in and finds out what we've done today, that perhaps we'll move in a direction that will provide a more even playing field, a more total environment in terms of disclosure and reporting.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Padavan.

Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. Chairman. Will the sponsor answer a few questions for me?

ACTING PRESIDENT BRESLIN:

Senator Schneiderman, will you yield to Senator Bonacic for questions?

SENATOR SCHNEIDERMAN: I will be happy to yield to Senator Bonacic, who has long toiled in the vineyards of reform.

SENATOR BONACIC: Senator Schneiderman, let me first thank you for advancing the ethics legislation. That will probably be the last compliment I will give you as we have this dialogue.

My first question to you, let's assume that this legislation becomes law and that Senator Bruno was still the majority leader. Under the old law, we know what had to be done. But under the new law, how would it have affected him?

ACTING PRESIDENT BRESLIN: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Well, through you, Mr. President, I'm really not sure how it would have affected Senator Bruno. I am not intimately familiar with the facts of his case.

There certainly are restrictions in

this law, and certainly the clarification of the existing law that was provided in Senator Squadron's bill that may have intercepted conduct at an earlier stage.

I do know that if you have a disclosure form and you can't just list that you make money from a consulting firm but you have to list the clients of the consulting firm, that might have provided disclosure that may have caused things to take a different course.

But I can't say specifically how this would have affected the course of events surrounding Senator Bruno.

SENATOR BONACIC: Will Senator Schneiderman continue to yield?

ACTING PRESIDENT BRESLIN: Will you continue to yield, Senator Schneiderman?

SENATOR SCHNEIDERMAN: Through you, Mr. President, I'm happy to.

SENATOR BONACIC: Under the question I asked, there probably would have been more disclosure requirements for a consulting business, whether it be Assemblyman

Seminerio or the former majority leader, Senator Bruno. Would you agree to that?

ACTING PRESIDENT BRESLIN: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Yes, through you, Mr. President, this legislation would provide substantially more disclosure, both disclosure by the legislator but also disclosure by any firm doing business with the state on their reports to the Lobbying Commission.

ACTING PRESIDENT BRESLIN: Senator Bonacic.

SENATOR BONACIC: Would you continue to yield, Mr. Schneiderman?

ACTING PRESIDENT BRESLIN: Do you continue to yield, Senator Schneiderman?

SENATOR SCHNEIDERMAN: Through you, Mr. President, I'd be happy to.

ACTING PRESIDENT BRESLIN: You may proceed.

SENATOR BONACIC: Now I'm going to ask that same question with respect to Assemblyman Silver. Under the old reporting

requirements and now under the new reporting requirements, if this is to become law, is there any increased burden in disclosure with respect to the Speaker of the other house?

SENATOR SCHNEIDERMAN: Again, through you, Mr. President, I'm not sure at present what Speaker Silver's employment status is.

I will tell you that if he derives a financial benefit, either that he is hired by or shares in the profits of a firm, for anyone that seeks to do business of any kind with the state, under this bill that would now have to be disclosed. I don't know -- I'm not sure what his status is with his firm, so I can't really go beyond that.

ACTING PRESIDENT BRESLIN: Senator Bonacic.

SENATOR BONACIC: Would you continue to yield?

ACTING PRESIDENT BRESLIN: Do you continue to yield, Senator?

SENATOR SCHNEIDERMAN: I would continue to yield.

ACTING PRESIDENT BRESLIN: You may proceed.

SENATOR BONACIC: Is there anything in the new legislation if it passes, in this bill, that would require disclosure of clients of that firm with respect to the Speaker of the other house?

ACTING PRESIDENT BRESLIN: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Yes. Through you, Mr. President. Again, to me, the most important thing in the area of ethics and disclosure that this bill does is require that if I'm a lawyer and someone who is seeking to do business with the State of New York, a company or an individual, retains me to do any work or retains a firm whose profits I share in, that has to be disclosed.

So this is to say that if someone retains me or Speaker Silver or anyone else to represent them in a slip-and-fall case in a hotel -- it has nothing to do with the state -- that relationship does not have to be disclosed. And to me, those are not the most

significant things that we're missing here.

If any company or individual that does business with the state retains me for any purpose, even if they're not retaining me in connection with their business with the state, that has to be disclosed. So that would affect all the lawyers here, including the Speaker.

ACTING PRESIDENT BRESLIN: Senator Bonacic.

SENATOR BONACIC: Senator Schneiderman, would you continue to yield?

SENATOR SCHNEIDERMAN: I will continue to yield, Mr. President.

ACTING PRESIDENT BRESLIN: Senator Schneiderman will continue to yield.

SENATOR BONACIC: I guess I understand your answer with respect to the Speaker, but how about the clients of the Speaker, having them have to disclose their relationship?

SENATOR SCHNEIDERMAN: Yes. Through you, Mr. President, I think that's what I just said. That there will have to be

disclosure -- an attorney cannot waive a privilege for a client, but the clients are required under this bill to waive a privilege if they're doing business with the state and disclose that interest. Even if they are retaining a lawyer -- legislator-lawyer -- for some business other than their business with the state.

So any relationship that could possibly be construed as pay-to-play -- the intention of this bill, at any rate, is to have disclosure of any relationship that could possibly be construed to as pay-to-play, whether it's a doctor or a lawyer or a minister or anyone else subject to privilege.

ACTING PRESIDENT BRESLIN: Senator Bonacic.

SENATOR BONACIC: Mr. Schneiderman, will you continue to yield?

ACTING PRESIDENT BRESLIN: Do you continue to yield, Senator Schneiderman?

SENATOR SCHNEIDERMAN: Through you, Mr. President, I will yield to Mr. Bonacic.

SENATOR BONACIC: Okay. As you recall, in the Codes Committee we had concerns about an attended event of more than 25 people with a threshold of $10. And I have a series of questions that many of the members on both sides of the aisle participate in these events, and I thought the language in the legislation was vague. So for the spirit of the legislation, I'm asking you to clarify. And I'm going to give you four examples that we all experience in attending events. Okay?

SENATOR SCHNEIDERMAN: Through you, Mr. President, I am happy to participate in this multiple-choice exam.

ACTING PRESIDENT BRESLIN: And you may proceed, Senator Bonacic.

SENATOR BONACIC: I'm trying to get at the legislative intent.

An elected official, Assemblyman or a Senator, gets invited to a firefighters' dinner, and the meal and the soda is $25. And there's no ceremonial acts. That fire company has a lobbyist. They may ask him, you know, help us out with equipment or some other

firematics need. In your mind, is that a violation of the language in this legislation for our officials?

SENATOR SCHNEIDERMAN: Through you, Mr. President, we did discuss this before. That should not be a problem.

And let me just point out that this is on page 11 of the proposed legislation, starting at line 41. It's a section that's called "Complimentary attendance: Food and bench offered by the sponsor of an event." And the issue here is really how to ensure that no one is being, as the expression goes, wined and dined to influence themselves.

You would not have a problem with a dinner by a fire company or any other organization if it meets any of these requirements: If it is a charitable function, which most of these are; if it is something that is a widely attended event where 25 or more people have been invited to the event, which is true in most of these situations; or if you're consuming less than $10 worth of goodies.

The point of this is not to prevent any of us from going to the events we attend all the time in our districts. Charitable organizations that you go to, fine. Widely attended events, fine. And even if you go to an event that's just a few people that's being done for business purposes, as long as you don't take more than $10 worth of food or other goods, fine.

So the intention here is certainly not to stop any legislator from going about their business and going to these public events. And I think that we have covered all of that with this whole list of exceptions to the prohibition.

SENATOR BONACIC: Okay. Thank you, Mr. Schneiderman. Will you continue to yield?

ACTING PRESIDENT BRESLIN: Do you continue to yield, Senator Schneiderman?

SENATOR SCHNEIDERMAN: Mr. President, I'll continue to yield.

ACTING PRESIDENT BRESLIN: Senator Saland, why do you rise?

SENATOR SALAND: I realize that Senator Schneiderman has yielded to Senator Bonacic. But before this exchange goes any further, I would wonder if Senator Bonacic and Senator Schneiderman might permit me to ask Senator Schneiderman to yield, if that's permitted under the rules.

ACTING PRESIDENT BRESLIN: It would be up to Senator Bonacic, Senator Saland. He has the floor.

SENATOR BONACIC: Of course. To Senator Saland, sure.

ACTING PRESIDENT BRESLIN: Senator Saland, you may -- would you yield to Senator Saland, Senator Schneiderman? Senator Schneiderman, would you yield to Senator Saland?

SENATOR SCHNEIDERMAN: Yes. To Senator Saland, yes. Yes.

SENATOR SALAND: Thank you, Senator Schneiderman.

I heard you make reference to this attendance being okay if in fact there was a $10 cap. I'm looking at page 11, and I'm not

starting at line 41, I'm starting at line 37. And line 37 reads: "The following are excluded from the definition of a gift." Nowhere between line 37 and line 54 is there any mention of any amount.

In single (i) it says complimentary attendance, including food and beverage, at a bona fide charitable and political event. And the rest of the language in the existing law is omitted. Again, it says nothing about the $10 limitation. And if you go to (ii), if you read that language, it says nothing about a $10 limitation.

So my question to you is, if you're invited to a charitable event -- let's assume the XYZ hospital in your district invites you, and you're there as their guest and the price of a ticket is $100. Under this section, is that a permitted event if it's a widely attended event and nothing in here makes any reference --

SENATOR SCHNEIDERMAN: Yes. Yes. Through you, Mr. President, Senator Saland is absolutely correct.

As I tried to explain in my discourse with Senator Bonacic, these are series of exceptions. The $10 limitation is at the next page, the bottom of page 12.

But if you are going for a charitable function in connection with your services as a Senator or performing ceremonial duties or if it is a widely attended event, the $10 limit is not required. That is a separate exception to the prohibition.

So Senator Saland is correct. That's on the next page, on page 12, at the bottom.

ACTING PRESIDENT BRESLIN: Thank you very much, Senator Saland.

Senator Bonacic, you may proceed.

SENATOR BONACIC: Back to Senator Schneiderman.

SENATOR SCHNEIDERMAN: Senator Bonacic, I missed you.

SENATOR BONACIC: When I spoke of that firefighters' event, it may not be charitable and it may not be political. And they do have a lobbyist. So I just don't want

to get caught with your rules where a lobbyist is involved and it doesn't fall into the categories of political or charitable and they do ask you as Senator to help them with firefighter needs. In your mind, is that a violation?

ACTING PRESIDENT BRESLIN: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Through you, Mr. President. Again, this is a list -- we're talking about a prohibition against accepting a benefit. There are a long list of exceptions to the prohibition. One of the prohibitions has to do with a charitable event. Another has to do with consuming $10 or less of food or drink. But the most common is that if this is a widely attended event -- which certainly in my district virtually all of these are events where 25 or more people are invited.

If you meet any of these -- and again, in my district, most of these we're talking about not-for-profit organizations, and a lot of these events are in fact within

the definition of charitable events. So if you meet any of these exceptions, you are not subject to the prohibition.

And I cannot imagine an event, unless you have an extraordinarily fancy for-profit fire company that is wining and dining you in a very small room with only a few people, I can't imagine the circumstances where the dinner with the firefighters would possibly not meet one of these exceptions.

SENATOR BONACIC: Okay. Would you continue to yield?

ACTING PRESIDENT BRESLIN: Do you continue to yield to Senator Bonacic?

SENATOR SCHNEIDERMAN: Through you, Mr. President, yes.

ACTING PRESIDENT BRESLIN: You may proceed.

SENATOR BONACIC: Another example. We in our districts are invited to meet with school superintendents. And it's probably 8 to 15 of them, depending on how many school districts you have in that particular county. And they serve you lunch,

and the value of the lunch may be $15. And they have a lobbyist. In your mind, is that a violation for an elected official?

ACTING PRESIDENT BRESLIN: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Through you, Mr. President. Again -- and let me cite you to page 12, line 51. Another aspect of this is an exclusion of meals and refreshments from participating in a professional or educational program and the meals or refreshments are provided to all participants.

So again, I'm not sure what the circumstances are here. But it's hard for me to see how would not fit within one of these exceptions. Certainly it is not the intention of this bill to prevent you from meeting with local school superintendents.

Again, there's even a broader, blanket exception that covers something that would enable you, if you have any question about this, to question the Ethics Oversight Board to determine there was any question about it. And the standard there is that if

this event is related to your duties or responsibilities as determined by the Ethics Oversight Board.

Again, meeting with people in your district to get their input on what you're doing is not what this is designed to prevent.

ACTING PRESIDENT BRESLIN: Senator Bonacic.

SENATOR BONACIC: Would you continue to yield?

ACTING PRESIDENT BRESLIN: Will you continue to yield, Senator Schneiderman?

SENATOR SCHNEIDERMAN: I will continue to yield, Mr. President.

SENATOR BONACIC: The same question, but now I've been invited for five hospitals and their CEOs. And now there's only five of them there, and they treat us to lunch that's worth $20. And obviously, whether it's the superintendents, whether it's the hospitals, they want to know how they're going to be affected on budget, what we can do, help with member items, capital funds.

Is that a violation? And they have

a lobbyist.

SENATOR SCHNEIDERMAN: Well, through you, Mr. President. If you are the only Senator invited and five hospital CEOs take you out for a fancy meal and talk to you about healthcare cuts in the state budget, that could be a violation, yes.

ACTING PRESIDENT BRESLIN: Senator Bonacic.

SENATOR SCHNEIDERMAN: If it's a widely attended event and they're inviting lots of people, no.

And I assure you, I have much fancier hospitals and CEOs in my district than you probably do in yours, and they have their own dining rooms. But if they invite me up there to influence me and I accept that, that could be a violation.

If it's a generally attended event, a charitable function, I consume less than $10, or any of these other exceptions, it's not a problem.

SENATOR BONACIC: Senator Schneiderman, will you continue to yield?

SENATOR SCHNEIDERMAN: Through you, Mr. President, I'm happy to yield.

ACTING PRESIDENT BRESLIN: Senator Schneiderman continues to yield.

SENATOR BONACIC: In most of these districts, both Assembly and Senate outside New York City, there's a great geographical area and there's multiple events, sometimes at the same time, and we have a to send a representative on our behalf.

Now, let's assume it's not a well-attended event and the cost of the meal is in excess of $10. Who is in violation? Question number one. Is it the representative that sends -- you know, the elected official that sends the rep, or is the representative in violation?

SENATOR SCHNEIDERMAN: Well, through you, Mr. President, these rules apply to elected officials. But it does extend to the staff. It's not something that would -- the staff member would not be incurring a penalty; we would.

SENATOR BONACIC: Okay, let me

make sure I -- Mr. Schneiderman, would you continue to yield?

ACTING PRESIDENT BRESLIN: Senator Schneiderman, do you continue to yield?

SENATOR SCHNEIDERMAN: Through you, Mr. President, I continue to yield.

SENATOR BONACIC: So there would never be a violation against that elected official's rep. And are you saying that it is also not a violation against the elected official in that case?

ACTING PRESIDENT BRESLIN: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Well, through you, Mr. President, it's the same set of rules we've been discussing. If the staff member goes to dinner with a small group of people who take him to a hundred-dollar meal and talk to him about -- and essentially are lobbying him, that could be a violation, that person acting on behalf of me or you or another legislator. It depends on the specific circumstances.

Again, if it is a charitable function, a widely attended event, any of the other exceptions we've discussed, no violation.

ACTING PRESIDENT BRESLIN: Senator Bonacic.

SENATOR BONACIC: Would you continue to yield, Mr. Schneiderman?

ACTING PRESIDENT BRESLIN: Senator Schneiderman.

SENATOR SCHNEIDERMAN: I will, through you, Mr. President.

SENATOR BONACIC: We have events in Albany all the time. And my first question is we have constituents at a reception, and the cost of that sponsor putting on that reception is more than $10, whoever would walk in, if they wanted to partake of a buffet or a drink.

If an elected official goes to that reception and shakes the hands of the constituents who wanted to visit with them, doesn't eat or drink anything, is that a violation of this legislation?

ACTING PRESIDENT BRESLIN:

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Through you, Mr. President, no.

Again, I would urge the Senator that the same set of rules that we've discussed apply. Widely attended events -- and most of these events, 25 people are invited. This only requires invitation, not that they show up. Consumption of food or drink less than $10.

Again, the purpose here is to ensure that improper influence is not brought to bear. There are situations, frankly, in which you're just better off buying your own lunch. And we're not saying that there aren't situations where it's not better to err on the side of declining to accept benefits.

But general run-of-the-mill events where you're meeting constituents and the purpose is to meet constituents, not to meet with people who are attempting to influence you as a legislator through providing you with some benefit, that's not the intention of this

bill.

SENATOR BONACIC: Okay. Would you continue to yield, Mr. Schneiderman?

ACTING PRESIDENT BRESLIN: Senator Schneiderman, do you continue to yield to Senator Bonacic?

SENATOR SCHNEIDERMAN: I will continue to yield, Mr. President.

ACTING PRESIDENT BRESLIN: You may proceed.

SENATOR BONACIC: Senator Schneiderman, you know, I remember that -- and I don't know what they call the school numbers, but it's the School for the Deaf, and they hold a reception here. I think it's a breakfast or a lunch buffet. And they don't have 25 people when they come up here, they might have six, and the value of that breakfast or brunch is more than $10. And they have a lobbyist, which is under the NYSUT umbrella.

Is that a violation for the elected official to go to?

ACTING PRESIDENT BRESLIN:

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Again, through you, Mr. President, the issue is not how many of them there are, but how many people are invited. If they're inviting members of the Legislature generally, it's not a problem.

Again, let me just -- perhaps I can shorten the time span, because the day is late and people have events to attend to back in their districts.

The goal here is to say we don't want to interfere with anyone's practice of their duties as a Senator. If you go to an event with a lot of people, you're going to a charitable event, that's fine.

But quite frankly, the public is not concerned about that. The public is concerned about the fact that there are occasions in which people are out individually with lobbyists, with people who employ lobbyists who are trying to influence the government, and that we want to make it absolutely clear that in those situations,

frankly, you just should buy your own lunch.

General events where you're meeting constituents -- firefighters, people who are coming with groups, inviting lots of us to events -- not covered, not a problem.

But there is an issue that has come up and that the public has raised that requires us, however many exceptions we create, to draw the line somewhere and say that if you are receiving a substantial benefit in a situation in which you can reasonably construe that there's a specific intent to influence just you and your vote, that is now prohibited under the ethics rules.

ACTING PRESIDENT BRESLIN: Senator Bonacic.

SENATOR BONACIC: Senator Schneiderman, thank you for your patience.

On the bill.

SENATOR SCHNEIDERMAN: Thank you.

ACTING PRESIDENT BRESLIN: Senator Bonacic, on the bill.

SENATOR BONACIC: First of all, I think that we're tackling the issue of ethics

is a good thing. And I guess we all agree this is a very small step and much more has to be done.

I'll tell you what's disturbing to me with respect to how we got here today. We spent a year last year, the Temporary Commission on Reform, and -- on Rules and Administration Reform -- and we had public hearings and we had all of the good government groups in. And we said, How can we make our process better?

And what they said -- they said many things. But the one thing that stood out by all the groups -- Common Cause, the Brennan Center, the League of Women Voters, NYPIRG -- you need a stronger committee system. Your committee system is going to become the filter on which to debate, question, have public hearings, bring experts in, before a bill will get voted out on the floor.

And I have to tell you -- and it was six Democrats and three Republicans. And you know what? That committee did good work, because there was a good-faith effort by those

members to improve the system. And we put those rules in place, to your credit and our credit.

Now, we had a Codes meeting at 11:30 yesterday during the Governor's State of the State budget. There are 17 members on the Codes Committee. Five were there. Because they had to make decision, should I blow off the State of the State or should I go to Codes for what I consider very serious legislation -- and complicated. I mean, you read this over and over again to try to extract what's in here to do the right thing. And there were 12 members missing from the Codes Committee.

Now, I thought that was disrespectful to the Governor, it was disrespectful to the other members of the Codes Committee. Because I look forward to their input and interaction on this legislation.

And we probably could have had a petition for a public hearing. This would have been the right way to do it out of the

new rules. And I happen to be here 20 years in the Assembly and Senate. I've served under three governors. I have never seen a committee meeting held during a State of the State of a governor's budget. So that was not done right, that's point number one.

Now, in terms of the legislation itself, I don't believe it was done in a bipartisan manner. We tried to make it -- work together on it, but it was your baby. It was the Democrat's baby. They wanted to get an ethics bill out there.

And, you know, I'm one of those people that feel if you're ethically challenged, if you tend to be corrupt -- I don't care what legislation you pass, you're not going to root out those people that are ethically challenged or corrupt. Okay?

Now, let me say, in conclusion, this bill has been criticized by the Brennan Institute, by Common Cause, by Governor Paterson. There are big legal loopholes in this legislation. And as we know, to the credit of the members here, member empowerment

is what makes government more transparent and does away with the pay-to-play culture. Not in the other house, where the Speaker decides everything. A bill never gets to the floor if he doesn't want it.

But in this house, to your credit, our credit, 38 members can get a bill to the floor and have it debated, regardless of the money of special interests. That's a tribute to you.

And I happen to think most of you, mostly all of you are not dysfunctional, are not corrupt, and are generally honest. And we've all been painted with this brush.

So we do -- and, you know, when you read the newspaper articles, they say this reform bill is a joke, it's window dressing for the elections. And, you know, it's demeaning. It's demeaning to do something that makes everybody proud. All right?

And I will end this by saying we're all going to vote for this, because in today's day and age, if -- if -- one step back.

I just want to talk about the

potential for prosecutorial abuse. That is disturbing here, with the enforcement officer being a Democrat forever. That is very disturbing. And in an age of instant Internet, where they could not only make Republicans target, you have enemies within your own party that want to stain you, it could be done in 24 hours if you have an aggressive enforcer that's partisan, that wants to hurt you. And you won't know what hit you, because in 24 hours everything will be leaked.

And this is supposed to be confidential, a lot of this stuff with the Board of Elections. And if there's a whisper to the press, it says you will take appropriate action. What does that mean? There should be criminal sanctions if someone wants to abuse this office to stain people.

So I have a real problem with this. I think the Governor is against this bill because he says it doesn't go far enough. And I'm disappointed that we allowed this huge legal loophole in the Assembly with attorneys

and clients. We shouldn't have done that.

We could have done this much better had we worked together, because you do have good people here that want to do the right thing, that want to root out corruption and do good ethics. And the bad actors, the public will eventually catch up to them and they'll be gone.

Thank you, Mr. Chairman.

ACTING PRESIDENT BRESLIN: Thank you, Senator Bonacic.

Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: On the bill, Senator Diaz.

SENATOR DIAZ: On the bill.

Today, ladies and gentlemen, damas y caballeros, we are here finally making believe that we are dealing with ethics. We got here in response to those editorial boards -- Times Union, New York Post, Daily News, et cetera, et cetera, et cetera -- El Diario La Prensa, et cetera, et cetera,

et cetera. Mr. President and ladies and gentlemen, they have been pounding us day and night to come up with something credible, something that will end wrong appearance and that give transparency and full disclosure.

And today we are presenting a bill here. Senator Schneiderman said the game is over. Senator Squadron said this is a very difficult bill to swallow by many in this room.

So, ladies and gentlemen, if we are going to deal with this and end all the criticism by the editorial boards, we should bring a bill that gives transparency and that makes us fully disclose everything. Not to do that is a mockery. Not to do that is a joke. Not to do that is a farce.

And, ladies and gentlemen, damas y caballeros, this bill that we are presenting today is creating what we call a privileged class: doctors, lawyers, and clergies. We are in a privileged class that we are protected from disclosing certain clients.

And I'm saying I'm a clergy, and I

don't want to be in a privileged class. I don't want to be part of this. I have no problem with the whole world knowing who my clients are. I have a problem telling the people what is the context of the conversation that I have with my client. But I don't have a problem letting the whole world know who is my client and who I'm talking to.

So why create a privileged class? By the way, the majority of the criticism that we have is because lawyers don't fully disclose their clients. But we are protecting lawyers here.

So if we're going to have transparency, if we are going to have full disclosure, let's have a bill that calls on everyone -- lawyers, doctors, ministers, everyone that wants to be part of this body -- to fully disclose everything. If you don't want to be -- if you don't want to disclose, then don't be part of this body.

But if you want to be part of this body, why, why keeping some people, pushing some of us -- some of you that are not in the

privileged class to fully disclose everything and keeping us, the privileged class, not fully disclosing something? That is wrong. That is unacceptable.

So there is no transparency. There is no full disclosure. And tomorrow I might be criticized by whoever because I am voting no on this bill. I would want me and every one of us to fully disclose our clients. To protect lawyers is wrong. And they are the ones that are every day in the papers, the papers pushing lawyers to disclose everything.

So you want to be a lawyer? That's okay, be a lawyer. But you want to be part of this body? Disclose everything. Disclose all your clients. You don't have to tell us or to tell the whole world what is the duty or the business that you do with your client, but disclose the client. Why being afraid of letting people know who your clients are?

So there is no transparency. Senator Squadron, I repeat, says that this is a very difficult bill to swallow by many in this room. I hope that this bill will also be

very difficult to swallow by the editorial boards of this state.

This bill should not be passed. Let's send this bill back and have them make everyone, every lawyer, every doctor, every minister that are members of this body to fully disclose their clients and to have a real transparency, and then we vote for it.

I want real transparency. I want full disclosure. And I'm asking all of you to vote against this bill. And I'm voting against it.

ACTING PRESIDENT BRESLIN: Thank you, Senator Diaz.

Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

Would Senator Schneiderman yield, please.

ACTING PRESIDENT BRESLIN: Senator Schneiderman, will you yield to Senator Saland?

SENATOR SCHNEIDERMAN: Yes, I'm glad to yield.

SENATOR SALAND: I don't know if this would be helpful; I would ask that he might yield to a series of questions, if that --

ACTING PRESIDENT BRESLIN: If they're short and there's control, I'd be glad to.

SENATOR SALAND: First, if I might, Senator Schneiderman, in the 4201 school example that Senator Bonacic gave a bit earlier, you said something to the effect, I believe, that it would not be problematical because there would be invitations to perhaps the entire legislature. And when you look at lines 47 and 48 and 49 on page 11, it basically says 25 people other than legislators, legislative staff.

So the fact that we might all be invited doesn't rise to the threshold. It's the number of people who were there and who intended to be there at that event that really will control. I say that not to be confrontational but merely to raise that point.

SENATOR SCHNEIDERMAN: Thank you. Through you, Mr. President, I see the line that Senator Saland is talking about, and I understand his point. I think that the -- that is one of the examples. I think the next several provisions also would provide exceptions there.

But do I understand your point. When I made a reference to all of us being invited to attend, that includes people other than legislators --

SENATOR SALAND: It may well be that there are intended to be 50 people from 4201 schools and only 12 showed.

SENATOR SCHNEIDERMAN: Yes. Yes. And I meant to suggest that broad invitation to everyone. Your point is well-taken that this does -- the point here is to say you can't have a couple of individuals seeking to curry favor and the only other people who are invited are the people they're attempting to influence. So the point is well-taken.

However, I would also suggest that there are other exceptions to this

prohibition, including the general exception that if an event is related to our duties and responsibilities --

SENATOR SALAND: I take no issue with your other comments. Please. That's fine.

SENATOR SCHNEIDERMAN: Thank you.

SENATOR SALAND: First, let me thank you. I had the opportunity to speak with you on some of the matters that I am going to probably repeat here today just for purposes of putting them on the record, so to speak.

One of my concerns was alluded to briefly by Senator Bonacic, and that was under both the Executive Ethics Commission and the Legislative Ethics Commission there is a duty to sign a nondisclosure statement. And the penalty for a member of the commission or a member of the staff violating that nondisclosure is that they're subject to appropriate action by the relevant commission.

I find that to be a matter of concern. And I find it to be a matter of

concern because let's assume two weeks before a primary, or two weeks before a general election, somebody leaks something of a dubious or spurious nature that taints you. And obviously, within the limited amount of time, whatever your response is and whatever the resolution may be, you may be, as an elected official or a candidate, fatally damaged. And to leave it in the hands of a commission to take appropriation action, to me, is not enough.

Now, I've looked at the Penal Law. I don't think it rises to the level of official misconduct. I don't think the elements are there.

And what I am asking of you, Senator Schneiderman, is that you very seriously consider and take up with the other house the issue of criminalizing that type of breach. I think it's critically important, and I think there are members here who could well be victimized by somebody who -- of either party, and be it a primary or general election -- could be the victims of that kind

of misconduct for which there would be minimal consequences. And I would make that request of you.

Bear with me. I just want to get to the relevant pages.

Okay, on page 19, there is the reference to the procedure which will be followed by the Legislative Commission on Ethics and Standards. And I'm looking at lines 9 through 14, and it makes specific reference to alleged violations of certain sections of the Public Officers Law and any other matter referred to it by the Assembly or Senate Committee on Ethics or the Joint Legislative Commission on Ethics pursuant to subdivision 3 of this section.

And subdivision 3 makes reference to "any other oversight body." And I'm not quite sure what "any other oversight body" might be and wonder if there's somebody here who might be able to just enlighten me as to what those other oversight bodies might be.

SENATOR SCHNEIDERMAN: I'm sorry. Through you, Mr. President. You're on

page 19?

SENATOR SALAND: I'm looking at page 19, lines 9 through 14. And it describes the procedure under preliminary review. And it says in addition to taking up alleged violations of the Public Officers Law, they can take up any other matter referred to it by either the Assembly or Senate Ethics Committees or the Joint Legislative Commission on Ethics pursuant to subdivision 3.

And subdivision 3 also contains reference to another oversight body. And I don't know what oversight bodies exist other than set forth in this same subparagraph. Who else is there that can issue a complaint that this body would have to take up?

SENATOR SCHNEIDERMAN: I'm sorry. Through you, Mr. President, I'm having a little trouble following along in the text. Where is the reference to other oversight bodies?

SENATOR SALAND: I have to go back to line 3D. Okay, that would be on page 18, starting at line 48.

SENATOR SCHNEIDERMAN: Oh, okay. Through you, Mr. President, this reference to the other ethics entities. Under this legislation there are several oversight bodies created. There is an executive body, there is a legislative body, and there is the Lobbying Commission. So referral from another oversight body refers to those commissions.

And I think this language essentially duplicates what exists in the existing law. I don't think this is really a change functionally.

SENATOR SALAND: So if in fact there's a complaint from the executive commission or the lobbying commission, that matter gets referred to and taken up by the legislative commission?

SENATOR SCHNEIDERMAN: I think that the -- on page 19, line 12, it specifies "matters referred by the Assembly or Senate Standing Committees on Ethics or the Joint Legislative Commission on Ethics Standards." So I think that encompasses the other oversight bodies.

SENATOR SALAND: Again, it refers back to subdivision 3. And that's where the language which I just made reference to is contained.

SENATOR SCHNEIDERMAN: Excuse me. Through you, Mr. President, I'm having a little trouble with the cross-reference. But let me try and satisfy Senator Saland.

But certainly the intention here is only to have reference among the bodies that are involved in regulating ethics in the Legislature, the ethics committees and the oversight bodies created herein. (Pause.)

Through you, Mr. President. Senator Saland, I believe that the parameters are set out in a combination of the language that you have cited -- which refers again to the Assembly or Senate Standing Committees on Ethics or the Joint Legislative Commission on Ethics Standards -- and the language on page 17 of the bill that refers to the cross-referral provisions, again creating the authority to refer violations to the Executive Ethics and Compliance Commission or the Joint

Legislative Commission on Ethics Standards.

The only oversight bodies that are covered in this legislation are the oversight bodies that are created in this legislation and the existing Senate and Assembly Ethics Committees.

SENATOR SALAND: Thank you, Senator.

We had the opportunity, I'm sure you recall, to discuss what I think is probably just a drafting problem dealing with the preliminary review and the secondary or second-phase review where the second-phase review -- and I think we'll find that at page 20 -- specifically provides that the commission will meet in executive session and the preliminary review has no provision to similar effect.

I would hope, by way of technical amendment -- I think in our discussion you indicated that these were all executive-session matters and that there would be an amendment to clarify that preliminary and second phase are in executive session.

SENATOR SCHNEIDERMAN: Yes. Through you, Mr. President, several other Senators have come forward and offered similar observations. We are working on a chapter amendment to correct several technical matters.

Senator Saland called several to our attention, the look-back period with no deadline, and those are matters we're taking up.

I also want to add that the issue that has been raised earlier relating to the existence of an enforcement counsel and a special counsel, one a Democrat and one a Republican, we have attempted to address as well by a chapter amendment, proposed chapter amendment that I discussed with Senator Flanagan, who raised this issue with us last night.

So I do appreciate the input. And subject to our ability to get agreement with the Assembly, many of these points are points well-taken that we are going to attempt to address.

SENATOR SALAND: Thank you, Senator. And I won't go into the look-back. That's fine, your representation is more than satisfactory.

Over on page 29 --

ACTING PRESIDENT BRESLIN: You're continuing to yield, Senator Schneiderman?

SENATOR SCHNEIDERMAN: Yes.

SENATOR SALAND: Oh, thank you, Mr. President. I'm sorry.

Over on page 29 there is language to the effect of after the commission has imposed a penalty, the legislator is still subject to disciplinary action by the appointing authority as otherwise provided by law.

When you say "as otherwise provided by law," is that statutory, constitutional, or does it also apply to the rules, regulations and whatever procedures there may be of each house?

SENATOR SCHNEIDERMAN: I'm sorry, I'm not sure I understand. I think that's a general provision that is carried over from

existing law that indicates that this is not to be an exclusive definition of the authority of the body.

But what was the line?

SENATOR SALAND: I'm on page 29. And if you look at line 3, notwithstanding any other provision of the law to the contrary, no other penalty, civil or criminal, may be imposed for failure to file or for false filing except that the appointing authority may impose disciplinary action as otherwise provided by law. I omitted several things.

SENATOR SCHNEIDERMAN: Right. I mean, I think that's consistent with the rest of this paragraph, which defines the commission as an agency within the meaning of the State Administrative Procedure Act. I think this is a commission and agency. If there's some other area of law that provides them with authority, this is meant to make it clear that we're not revoking that, that this is not an exclusive provision.

But I think that this relates to the question of disciplinary provisions or

disciplinary actions provided by law. It's meant to carry over any other disciplinary provisions that are authorized under current law.

SENATOR SALAND: If I could call your attention to page 35 of the disclosure form. There's new language added to paragraph 5 in the form of a new paragraph (b). And it reads that if a reporting individual did business with or had matters other than ministerial matters before any state or local agency in the course of any employment, trade, business, profession or occupation engaged in by the reporting individual, list name, address, entity, description of activity.

Now, any employment, I would assume, at least at first blush, would mean as a legislator, as a businessperson, as an attorney. So what this would seem to be doing is saying that you have to report any contact you have as a legislator, because it is a form of an employment or occupation, in dealing with any state or local agencies. And if

that's not what's intended --

SENATOR SCHNEIDERMAN: No, no, no. And through you, Mr. President, I think that's covered by the portion of the sentence that refers to doing business, which the Legislative Ethics Commission has defined as -- that does not include your legislative activity. Doing business means something that you're doing to make money outside of your duties as a legislator.

SENATOR SALAND: Senator Schneiderman, just for purposes of the record and peace of mind, could you point out where that in fact is in the law?

SENATOR SCHNEIDERMAN: I will -- I don't have that here with me, but we will identify that for you, Senator Saland.

But it is certainly not the intent of this to include within the language of "employment, trade, business, profession or occupation" your duties as a legislator. This form relates entirely to outside activities and the disclosure of outside activities. So it is clearly not the intent to include that.

SENATOR SALAND: And I appreciate that. And I would hope that if in fact we don't have language in some enabling portion, that it be clarified. Because there's nobody here that doesn't multiple times a week deal with a local agency or, in the case of those outside the City of New York, another level of government.

And lastly, on page 37, again on the disclosure form. And Section 8(a) is amended, there's new language combined with existing language, and it reads: "Additionally, if such an individual practices with a firm or corporation and is a partner or shareholder of the firm or corporation, give a general description of the principal subject areas or matters undertaken by such firm or corporation. If the matters undertaken by such firm or corporation were such that no principal subject areas or matters were undertaken, give a general description of the practice or activities undertaken."

I would assume that it's clear that if you're not a partner or a shareholder, this

provision does not apply to whomever might be filling this application out -- this disclosure form out, excuse me.

SENATOR SCHNEIDERMAN: The disclosure.

SENATOR SALAND: Yes.

SENATOR SCHNEIDERMAN: Yes.

SENATOR SALAND: Thank you very much, Senator Schneiderman.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Saland and Senator Schneiderman, for the collegiality.

We're getting close to the deadline. Hopefully we won't have to exercise strict restraints. We have about 25 minutes left on the appropriate allocation.

Next is Senator Liz Krueger. Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President. I'd like to speak on the bill. I apologize; I have a cold. So I hope I consider can be heard clearly.

This isn't a perfect bill. I have

appreciated all the dialogue back and forth and particularly appreciated Senator Schneiderman's efforts not only in writing this bill and coordinating its movement through both houses but also in the respect that was shown by my colleagues on both sides of the aisle in having serious and substantive questions about what the bill means, what's not there, what is there.

And I'll tell you, I have many agreements with the issues that were raised today by my colleagues on both sides of the aisle. I in fact would prefer it to be a broader bill, to have actually have language included in it that was referenced through several of the hostile amendments. I have bills that I have been carrying for years on ethics-related topics that I would have hoped would have been included in this bill as well. But you know what, they weren't.

It's not a perfect bill. It's not the full loaf of bread. It's not everything I hope we will get to here in the Legislature. But what it is is a bill that can pass both

houses of the Legislature and become law. And I think that that is critical, that even if it's not perfect, it is a good start with important changes.

One of my colleagues referenced that if you're not ethical, there's really not that much we can do about it in changing the laws of New York State. Well, I agree. The perfect system is to only elect perfectly ethical people. The dilemma, of course, is the decision of the voters leads to who ends up in office. And each of us can tell our own stories from a partisan or from a personal perspective or from a geographical perspective as to why we each think the voters made mistakes at some point in time and voted the wrong person into office.

I, to be honest, don't understand how the people of Massachusetts voted for a new U.S. Senator last night who wasn't the Democratic woman. And yet that was the will of the voters.

So we don't control the election of only perfectly ethical people, but what we can

do is not only strengthen but also clarify what the expectations of each other are and of what the public is of us as their elected officials. And in fact this law will go a long way toward that goal.

I've been here since 2002. I didn't see any other bills moving to the floor to actually be passed into law that would significantly improve the laws around ethics and the standards that are applied.

There was a great dialogue that took place about Senator Squadron's bill earlier. It might also not be a perfect bill, but it's clear that it's attempting to clarify what is not okay as far as committing fraud while in office.

We can all argue about the details. We could even talk to Senator Squadron later about chapter amendments to further clarify and improve his law. I look forward to doing that.

I know that I have other bills I wish were in this package today. For example, I think we should go much further on limiting

lobbyist contributions and in requiring improved standards for our campaign finance funds. I've carried a bill for years that would lay out what you could use your campaign funds for, what you couldn't use your funds for, that you couldn't use those for personal purposes. Or, ironically, that you couldn't use them in perpetuity after you had left office or technically, in some cases, after you were deceased. Some campaign committees continue after the named candidate is deceased. I've always been a little confused about that. I think we should deal with that.

I understand the arguments over putting limits on what consultants can do and the differences between campaign consultants and lobbyists and the gray area there. I think New York City's law is a good law, and I would like us to move that as well.

I don't quite understand an overall obsession about the value of food as part of the discussion today. I don't really think the public is as obsessed with which food will you eat or not eat at a not-for-profit event

or other community event. But I think that the public wants to know who are we getting our campaign contributions from and what are the limits.

I, for example, would have a much greater problem with the fact that if you are a person who has twenty LLCs, you can give the maximum amount 20 times to one person, and you're really one entity. If you're a corporation, you have to stop at $5,000 per year. But if you're one person who has 20 LLCs, you can give $9,500 twenty times over to any individual legislator. I have a huge problem with that, and I wish we dealt with that in this bill.

I also carry a bill, and I wish it was included in this package as well, that would deny pensions to public officials convicted of crimes related to their duties. It's a pretty extreme bill, and many of you have shared with me why you have concerns about that. But I would have liked to see that as well.

What I do know is that I can go

home if we pass this bill and tell people that we did provide much more specific transparency to who's doing business with whom, to who is receiving money from whom, to making sure that whether you're a lawyer or a consultant, if your client is doing business with the State of New York, that is going to be recorded, both by the client on their side of the assignment but also by you if you are being hired to represent them as a lawyer or as a consultant in a matter before the state.

I think it would have been fine if we went further on lawyer -- thank you so much. Excuse me. One giant cold in this chamber today.

So I would have liked to see us go further on disclosure, on tracking who was doing what in front of state agencies and whether it was a private business assignment or a function of your office as an Assemblymember or a Senator.

What we create with this bill is three separate entities that each will have the ability to go forward with regulation and

with rules that we will have to live under. So even when I say I wish there were more things in this bill, I know that through the passage of this law and the creation of these oversight entities, in fact I might get my wish through regulation even if it's not explicit in this law.

And I know that I am very open to having other ethics bills come to the floor of this house. I'm very open to having campaign finance law, clean election laws come to the floor of this house.

And despite the frustrations that perhaps each of us has that we don't see this as a perfect bill -- some may think goes too far; some, like me, don't think it goes far enough -- we can make this a law in New York State and we will have to live under it. And the public will also think you didn't go far enough, but we'll be able to tell them we took this significant step, and they will hold us accountable. Not only for this law, but for what we do after this in moving forward with a broader agenda on ethics.

And ultimately, yes, I want to be a member of the New York State Legislature where everyone can say, You don't need any of these laws, you don't need any of these clarifications, because every member of the Senate and the Assembly are perfectly ethical people.

But you know what they talk about democracy, right, it's not such a great system until you look at the alternatives. And so in fact we need ethics legislation, we need to pass this bill today, and we need to not pat ourselves on the back that much because we have further to go.

But again, I've been here since 2002. I sat here when the other side of the aisle was in control of the house and didn't move legislation. And you're right, this isn't a perfect bill and it wasn't a 100 percent bipartisan discussion -- although we've been discussing this for a lot of months, so I'd be surprised if any of my colleagues didn't know some of the things that we were discussing throughout the process.

I vote yes, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Krueger.

Senator DeFrancisco on the bill.

SENATOR DeFRANCISCO: Just in response to Senator Krueger, I don't think anybody on this side of the aisle is obsessing over food and when you can get a $10 lunch or a $20 lunch.

But the problem is I think everybody in this house should be obsessing over the fact that you want to be in compliance with whatever the new rules may be. And this is not something that we're just pulling something out of the air, because if you remember the good State Commission on Public Integrity actually got some records from a couple of lobbyists -- I think one was a lawyer, one was somebody else -- figured out what the total amount of the event was, divided by the number of people there, and attributed a certain amount of money to each legislator that may have showed up and shook hands and got the hell out of there like we

normally want to get out.

So -- but that clouds your integrity if someone interprets the laws that way, so I think that's why Senator Bonacic was very clear in trying to go through that area.

I'd ask Senator Schneiderman -- this is my last area of inquiry -- if he would yield to a question.

ACTING PRESIDENT BRESLIN: Senator Schneiderman, will you yield to a question from Senator DeFrancisco?

SENATOR SCHNEIDERMAN: Yes, Mr. President, I will yield.

SENATOR DeFRANCISCO: Page 25, the first paragraph, paragraph 9, if you'd just read that.

And as you're going through it, it basically -- and this is dealing with financial disclosure -- it basically allows the commission to not require disclosure of a part of a financial statement if they find that -- if it was disclosed it would have no material bearing on the discharge of the reporting person's official duties.

In other words, there's some authority that if you disclose something and it doesn't have to be brought to the public upon application if it's found not to have any bearing on the reporting person's official responsibilities. Is that correct?

SENATOR SCHNEIDERMAN: I believe -- through you, Mr. President, I believe that's correct. Let me just take a moment to confirm it.

And I'm pretty confident this is just carried over from existing law, this is in the existing law relating to our disclosure already.

SENATOR DeFRANCISCO: I understand that. And I agree with you.

SENATOR SCHNEIDERMAN: Yes, Mr. President, I believe that's correct.

SENATOR DeFRANCISCO: And the point I would like to make, and then I have one last question, is that --

ACTING PRESIDENT BRESLIN: Would you yield for one last question, Senator Schneiderman?

SENATOR SCHNEIDERMAN: One last question.

SENATOR DeFRANCISCO: Before I ask that question, I just want to make one point.

I guess what I'm concerned about, we have a public disclosure -- or a disclosure form. And admittedly, even under the existing rules, it doesn't have to be closed upon application if it's found not to have a material bearing on your performance of your duties.

If it doesn't have a material bearing on the performance of the duties, what in God's name do we have to disclose it in the first place for? Why would we have to have an exception to a disclosure requirement if it has no bearing on your duties? If it has no bearing on your duties, it shouldn't be in there in the first place.

So my question, if Senator Schneiderman would yield, is as follows.

ACTING PRESIDENT BRESLIN: Senator Schneiderman has yielded.

SENATOR DeFRANCISCO: The question is as follows. Can you tell me what relevance it is for the general public in the performance of my duties why there's an additional category of how much money somebody makes that's required under this form?

SENATOR SCHNEIDERMAN: Through you, Mr. President. Senator DeFrancisco is -- I believe you're referring to the fact that we've added an additional category of disclosure to narrow the ranges that are being disclosed?

SENATOR DeFRANCISCO: And to require a higher range to be disclosed.

SENATOR SCHNEIDERMAN: Well, through you, Mr. President, one of the complaints that has frequently been made is that our disclosure forms really don't provide much information to the public. First of all, because the categories -- which are, you know, $20,000 to $50,000, $50,000 to $100,000, or whatever -- have actually been redacted up till now. This bill changes that.

And there's an additional category

that is added because of the criticism that at the top end the range was just too vast.

SENATOR DeFRANCISCO: All right. And would you yield to one other question?

ACTING PRESIDENT BRESLIN: This is the absolute last question from Senator DeFrancisco.

SENATOR SCHNEIDERMAN: Thank you. And I appreciate the fact that everyone has allowed Senator DeFrancisco to waive their rights to further questions as well.

SENATOR DeFRANCISCO: Okay, but I didn't waive anything.

My point is simply this. I'm looking for guidance. What relevance does it have as to whether someone makes $10,000 extra a year or a million dollars extra a year? Isn't the real question who you're dealing with, whether you're compromising your public position?

What relevance does it have? It may be nice that the public may want to know, but what relevance does it have in the performance of duties?

SENATOR SCHNEIDERMAN: Well, through you, Mr. President, the goal here is more disclosure and the goal here is more transparency. And with all due respect, I do think that my constituents certainly would be much more interested in the fact that if I was making money because I have holdings in a particular company -- whether I was making $100 a year or $1 million a year -- as far as their assessment of what my concerns might be about that company or about the sector of industry to which that company belonged.

SENATOR DeFRANCISCO: On the bill.

ACTING PRESIDENT BRESLIN: Senator DeFrancisco on the bill.

SENATOR DeFRANCISCO: The point I'm trying to make is it's obviously very relevant as to how you earn your income and whether that income somehow affects your responsibilities as a legislator.

However, the gross amount of income to me is totally irrelevant. The people may want to know a lot of personal information

about someone who might want to be a candidate. If you're making no additional income, does that mean, do you draw the conclusion that you're more susceptible of graft or corruption? Or that you're just incapable of making more money and therefore you're less likely to be a good legislator?

Or if you make a lot of money -- and by the way, this additional category doesn't affect me, just so you know. If you make a lot of money, if you make a lot of money, what does that mean? That you made the money in an irresponsible or an unethical manner? What does it mean? What does it tell the general public?

And I think what it really does, in my judgment, is that it may attempt -- and this is true not only for legislators but people on committees that don't even have an income from those committees, they're doing public service, they have to fill these forms out. Why would I ever want to disclose to the world how successful or unsuccessful I am in my outside endeavors for the luxury of

becoming a nonpaid commission member?

In my judgment, if it's not relevant, it's simply a chilling effect, whether it's too little income or too great an income, for good people to want to get involved in this business, whether it's elected office or appointed office.

So I guess the point is I would hope that when we review these items it shouldn't just be the people want to know. Because it should be is it relevant to the performance of the person's duties and does it help to determine whether the person is acting ethically.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator DeFrancisco.

Senator Craig Johnson on the bill.

SENATOR CRAIG JOHNSON: Thank you very much.

Will the sponsor yield for a couple of very quick questions?

ACTING PRESIDENT BRESLIN: Senator Schneiderman, do you yield to Senator

Johnson?

SENATOR SCHNEIDERMAN: For very quick questions, yes, Mr. President.

SENATOR CRAIG JOHNSON: Thank you very much, Senator Schneiderman.

Senator Saland raised my issues with respect to the proposed new 5(b) in the disclosure form, but I want to address new language on page 37 of the bill. It's a new language in Section 8(a). I'll wait until you just grab it. It's page 37, Section 8(a).

SENATOR SCHNEIDERMAN: Yes, I have that, Senator Johnson.

SENATOR CRAIG JOHNSON: Senator Schneiderman, with respect to the language, the first sentence reads: "If the reporting individual practices law, is licensed by the Department of State as a real estate broker or agent or practices a profession licensed by the Department of Education, give a general description of the principal subject areas or matters undertaken by such an individual."

That's old language, nothing's changed; correct?

SENATOR SCHNEIDERMAN: Correct.

SENATOR CRAIG JOHNSON: Okay. Will the Senator continue to yield for a question?

ACTING PRESIDENT BRESLIN: Do you continue to yield, Senator Schneiderman, to Senator Johnson?

SENATOR SCHNEIDERMAN: Yes.

ACTING PRESIDENT BRESLIN: You may proceed, Senator Johnson.

SENATOR CRAIG JOHNSON: Senator Schneiderman, I focus now on the new language that's being added.

If the nature of the reporting individual's practice or activities were such that -- can I just get a little order? I'm sorry, I can't hear.

ACTING PRESIDENT BRESLIN: May we have a little quiet? Thank you.

SENATOR CRAIG JOHNSON: Thank you, Mr. President.

"If the nature of the reporting individual's practice or activities were such that no principal subject areas or matters

were undertaken, give a general description of the practice or activities undertaken." Can I get a clarification of what that means?

ACTING PRESIDENT BRESLIN: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Through you, Mr. President. This is intended to cover a situation in which the individual is not undertaking -- is not actually engaged in the representation.

So the point here is that the first sentence indicates that you have to specify the principal subject areas of matters undertaken by the individual who is actually practicing law. If that individual is not explicitly performing those activities but is nonetheless compensated for it -- if you are a senior partner and you're not actually performing the activities but the activities are nonetheless being performed by your firm, it's intended to cover that circumstance. Which is admittedly a rare circumstance, but it apparently does come up.

SENATOR CRAIG JOHNSON: Will the

sponsor continue to yield.

SENATOR SCHNEIDERMAN: Yes. Through you, Mr. President, I will continue to yield.

SENATOR CRAIG JOHNSON: Senator Schneiderman, I'm not trying to be difficult, I'm just a little befuddled in the sense that --

ACTING PRESIDENT BRESLIN: Through the chair. Would you like Senator Schneiderman to continue to yield?

SENATOR CRAIG JOHNSON: Oh, we did that already. Yes, Mr. President.

ACTING PRESIDENT BRESLIN: No, you didn't.

SENATOR CRAIG JOHNSON: Of course. Through you, Mr. President.

Senator Schneiderman, again, I'm just a little confused by this. If an individual is a lawyer and they are of counsel or an associate at a law firm, and they are a -- maybe they are a general litigator, they are in the litigation department of a law firm, what are they required under this

section to do?

SENATOR SCHNEIDERMAN: Through you, Mr. President, this sentence was added because of an admittedly unusual circumstance which was not being picked up by the preexisting language. The preexisting language refers to the subject matters of areas undertaken by such individuals. So that's if I'm a lawyer, the things that I am working on.

There are some circumstances in which lawyers are being compensated for work that goes on in their firm but they as individuals are not engaged in that practice. So that particular odd exception is picked up by this sentence.

SENATOR CRAIG JOHNSON: Mr. President, will the sponsor continue to yield?

ACTING PRESIDENT BRESLIN: Senator Schneiderman, will you continue to yield?

SENATOR SCHNEIDERMAN: I will continue to yield.

ACTING PRESIDENT BRESLIN: You may proceed.

SENATOR CRAIG JOHNSON: Through you, Mr. President, so a hypothetical is if I am -- or if a Senator or an Assemblymember who is also a lawyer is a partner in a firm and they're a partner in real estate matters, but a tax matter comes in through that partner, that partner is able to bring in business, does no work related to it, but derives compensation from it, this new sentence, this second sentence that we've read, this requires now the disclosure of that matter?

SENATOR SCHNEIDERMAN: No. Through you, Mr. President. Again, this is a very narrow provision. This is a provision in which no principal subject areas or matters are undertaken by the individual. This is that rare dream job where you actually don't do anything, but you get compensated for the practice of others -- to which we all aspire when we retire from here. But it was not picked up by the previous language.

If you are engaged in any practice,

any subject matter area, you have to show -- you have to disclose what area you practice in. There are some people who apparently are not engaged in any subject matter area or practice. So if you're a litigator, you don't have to disclose the tax stuff, you disclose that you're a litigator.

Apparently there's some people who don't have any subject matter area and yet are receiving compensation for the business of the firm, and that's what this is designed for.

SENATOR CRAIG JOHNSON:

Excellent. Thank you very much.

Mr. President, on the bill.

ACTING PRESIDENT BRESLIN:

Senator Johnson on the bill.

SENATOR CRAIG JOHNSON: I want to thank you, Senator Schneiderman and Senator Squadron and the leader, Senator Sampson, for sponsoring and leading the effort.

Obviously, and hearing the very good questions by my colleagues on both sides of the aisle with respect to this bill, a lot more work has to be done. But you have to

start somewhere. And if you don't start somewhere, the problems are going to continue to pile up.

I'm going to sponsor this piece of legislation. I think we have more ways to go. I look forward to working with both sides of the aisle to craft other pieces of legislation. Clearly, Senator Bonacic, you've indicated that, that we do have places to go, and I look forward to going in those places with you.

But for today, I think it's important to pass this piece of legislation to set an example for New York to see. So I'll be voting aye on the bill.

Thank you very much, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Johnson.

Senator Flanagan.

SENATOR FLANAGAN: Would Senator Schneiderman yield to several questions, please.

ACTING PRESIDENT BRESLIN: Senator Schneiderman, would you yield to

Senator Flanagan?

SENATOR SCHNEIDERMAN: Mr. President, I'll be glad to yield to Senator Flanagan.

ACTING PRESIDENT BRESLIN: Senator Flanagan.

SENATOR FLANAGAN: Thank you.

First, I appreciate the time yesterday and today. I appreciate the dialogue and communication. I do think it's helpful.

And a lot of our colleagues have made comments. I feel, like most people, I think what a lot of us are trying to do is figure out how to do the right thing, how to stay out of trouble, and how to interpret some of these provisions so that nobody does get into trouble.

So specifically, following up on something Senator Saland had mentioned and I think Senator Johnson alluded to it, can you -- on page 35 of the bill, Section 5(b), which you had an extended discussion with Senator Saland on that provision. I want to

take a different tack on that.

If I interpret this correctly, if I do work as an attorney -- or, for that matter, anybody does work as an attorney -- and I don't do anything with the State of New York but I work on a zoning matter or I work on a permit or I work on something, say, in the Surrogate's Court, it appears to me that I would have to list every single thing.

So if you're representing somebody and it's a -- say it's a zoning application and you are dealing with a municipality, you may be dealing with the Health Department, it appears that all of that activity would have to be disclosed.

SENATOR SCHNEIDERMAN: Through you, Mr. President. If you are, again, doing business, which means you're doing this to make money, it's not just to help constituents -- if you're doing business and you are appearing in front of an agency, a zoning board, and being paid to do it, for something other than a ministerial matter -- which means something as to which there's

discretion -- yes, you do have to disclose that. That's a part of your money-making outside activities.

SENATOR FLANAGAN: And that's clearly what you intend.

SENATOR SCHNEIDERMAN: Yes. You have to disclose -- so for example, if you are representing a client before a local zoning board in your district and you're being paid to represent them, yes, that is something you have to disclose it.

SENATOR FLANAGAN: Okay, let me ask this. Going to --

ACTING PRESIDENT BRESLIN: Senator, do you wish Senator Schneiderman to yield?

SENATOR FLANAGAN: I'm sorry. Would Senator Schneiderman continue to yield?

ACTING PRESIDENT BRESLIN: Senator Schneiderman, do you yield?

SENATOR SCHNEIDERMAN: Yes, Mr. President.

SENATOR FLANAGAN: If I am representing -- or it doesn't matter, I'm

using me as a reference. It could be applicable to a lot of different people in both houses.

You're working on a matter in a local government having absolutely nothing to do with the State of New York. What is the relevance of having to make that disclosure? What is achieved by having someone have to do that?

Because I can tell you, for anyone who may actively try and practice, this line here with four or five lines, you're going to need a small volume if you're doing any real work. Because you're now going to have to describe every single thing you do that involves government, period.

SENATOR SCHNEIDERMAN: Mr. President, I don't think you have to describe anything you do that involves government, period.

This has to do with representing someone in matters before a state or local agency. So this means you are actually appearing representing someone. It doesn't

mean you are filing things, which is a ministerial act. It doesn't mean any other interaction.

But yes, Senator Flanagan, if I am representing a client and I am not representing them in front of the state government but in front of the government of the City of New York or of some other local community, I think there is a legitimate concern that those of us who are in positions of authority as public figures should disclose our interactions with local governments of the State of New York as well as with the state government. And that's what this provision requires.

SENATOR FLANAGAN: So that would apply to -- Mr. President, would Senator Schneiderman continue to yield?

SENATOR SCHNEIDERMAN: Yes, I yield.

ACTING PRESIDENT BRESLIN: He continues to yield.

SENATOR FLANAGAN: That would apply to the Health Department?

SENATOR SCHNEIDERMAN: Through you, Mr. President. Again, if you are, as a matter of your business, being paid to represent someone in dealing with the Health Department -- say, for example, you were retained by a major hospital to go in and represent them because the Health Department is subjecting them to disciplinary proceedings -- yes, you would have to disclose that.

SENATOR FLANAGAN: If I could shift gears, Senator Schneiderman.

ACTING PRESIDENT BRESLIN: Would you like Senator Schneiderman to continue to yield?

SENATOR FLANAGAN: Yes, I would, Mr. President.

ACTING PRESIDENT BRESLIN: Senator Schneiderman?

SENATOR SCHNEIDERMAN: I continue to yield, Mr. President.

SENATOR FLANAGAN: Going back to the discussion you had with Senator Bonacic, you used a phrase that I'd like to go back to

just to make sure what your intention was.

Following the disclosure by the client of a relationship if you're doing business, you used the phrase that there would have to be disclosure if you share in the profits of the firm. Now, in --

SENATOR SCHNEIDERMAN: I don't remember the exact context, but yes, one of the principal objectives of the disclosure requirement for those doing business with the state is if I'm being paid directly or if I'm sharing in the profits of the firm, correct.

SENATOR FLANAGAN: But relative to the language of the bill, that's not what the bill says. It references partner, manager, director. It doesn't say anything about one who may share in the profits of the firm.

SENATOR SCHNEIDERMAN: Well, actually -- through you, Mr. President -- on page 13, and I believe this is what I was discussing with Senator Bonacic, the issue of the reportable business relationship does refer specifically to whether or not I or any

of us is a proprietor, partner, director, officer or manager or owns or controls 10 percent or more of the stock of such entity or 1 percent in the case of a corporation whose stock is regularly traded.

So the ownership interest is in fact something that we address directly.

SENATOR FLANAGAN: Okay. But your phrase referencing sharing in the profits of the firm -- and I don't mean to split hairs; I think these are important considerations from a very practical standpoint -- someone could be a working for an entity and not be a manager, not be a director, not be a partner, not have ownership of any stock, and yet share in the profits of the firm.

So if we're looking at legislative intent, I would go to the plain reading of the statute and say that what you said on the floor would not be applicable unless you fit into one of those specific categories.

SENATOR SCHNEIDERMAN: Through you, Mr. President. I guess the -- certainly

the intent of this language -- and I believe it covers everything when you refer to proprietor, partner, owner, control of 10 percent. The point here is that it's a reportable business relationship. If I am hired to do work myself or if I am benefiting from the relationship.

This is intended to exclude situations in which someone is a salaried employee and whether there's more money or less money paid doesn't affect my actual compensation.

And I believe we've covered everything. But if you have a specific suggestion for something we could add to our chapter amendment, I'd be glad to hear it. But that is certainly the intent.

SENATOR FLANAGAN: Mr. President, would Senator Schneiderman continue to yield?

ACTING PRESIDENT BRESLIN: Senator Schneiderman, do you continue to yield?

SENATOR SCHNEIDERMAN: Yes.

ACTING PRESIDENT BRESLIN:

Senator Flanagan.

SENATOR FLANAGAN: Two other areas.

The excess contribution piece -- and we had had a discussion about that. I just want to clarify what that standard is, because we're shifting the burden under this legislation.

Now a campaign committee can have a civil penalty of up to $10,000 and a fine as well -- returning money and civil penalties of up to $10,000.

SENATOR SCHNEIDERMAN: Yes, there are --

SENATOR FLANAGAN: A lot of the members in both houses have periodically gotten letters saying "By the way, we overcontributed, you need to send us money back." Now, we wouldn't know that unless we were informed of it.

So it seems that we're shifting the burden to a campaign committee, and there's no way that we'd know. So how does one protect oneself against that kind of problem?

SENATOR SCHNEIDERMAN: Through you, Mr. President, you can't be subject to any penalty without notice.

In fact, page 53 of the bill, line 42, actually has a mens rea element. If you accept the contribution, it has to be under circumstances evincing an intent to violate such law. So you have to have that intent if you unlawfully accept a contribution in excess of a contribution limitation. Inadvertent, accidental -- not covered here.

And in fact, as we discussed before, there is an opportunity to cure that is provided. In fact, under this law, there is this explicit provision that you need a 60-day period before -- there must be a vote within 60 days to authorize the investigation to go forward, and within that period of time you can deal with the situation.

But it wouldn't matter anyway, because you have to have the intent to violate the law. So if you're not on notice, they can't show you have intent to violate the law.

SENATOR FLANAGAN: Last -- if

Senator Schneiderman would continue to yield.

ACTING PRESIDENT BRESLIN: Senator Schneiderman, do you --

SENATOR SCHNEIDERMAN: Last question, Mr. President. Yes, last question, 5:09, Mr. President.

ACTING PRESIDENT BRESLIN: 5:09.

SENATOR FLANAGAN: 5:09 doesn't really matter to me. The fact is we're doing this bill because we need to.

Going back to what Senator Bonacic had talked about -- and I gave you my specific concerns on the enforcement counsel. I believe it is fair to represent that all candidates, statewide, state officials like us, and all local candidates -- county executives, village mayors, town supervisors -- all of them will be subject to the jurisdiction of this enforcement counsel by virtue of the fact that anything that gets filed with the board, they have jurisdiction.

SENATOR SCHNEIDERMAN: Yes. Any of the local entities are required to file, yes, correct.

SENATOR FLANAGAN: Okay. And I appreciate the potential draft language and the chapter amendment for the enforcement counsel.

I want to be clear, I don't believe that it's a co-enforcement counsel at all. You allow the deputy, maybe, you allow the deputy maybe to comment. So --

ACTING PRESIDENT BRESLIN: Senator Flanagan, are you on the bill now?

SENATOR FLANAGAN: Thank you, Senator Schneiderman.

On the bill.

ACTING PRESIDENT BRESLIN: Senator Flanagan on the bill.

SENATOR FLANAGAN: This is the kind of thing that gets dicey, because everybody gets antsy when you have to get up and talk about these kinds of things. But I John DeFrancisco and others raised some valid points.

By and large, a lot of people, if not the overwhelming majority, are trying to do the right thing. And knowing the rules and

knowing guidelines and getting the interpretations correct is extraordinarily important.

My concern is with the change at the Board of Elections. I don't believe that this is bipartisan at all. I believe that we're taking a body and making it intensely partisan. And now basically you're going to have a member of the Democratic Party -- and I would feel the same by the way it were Republican, because I think it takes away the balance. You're setting up a scenario now where for certainly the foreseeable future, if not in perpetuity, the enforcement arm of the Board of Elections will be completely controlled by the Democrats.

Senator Bonacic talked about potential prosecutorial abuse. I agree. I think the opportunity is there, and I don't think there's enough check and balance.

Take the election that just took place in Massachusetts. It wouldn't be beyond the realm of possibility to suggest that somehow in the last couple of weeks of the

campaign an investigation comes out, and there's nothing in this bill that prevents the release of all that information. An investigation can be started, it can take a long time, not bear any fruit and just be left hanging out there, and damage not only sitting elected officials but people who are candidates.

I think it is setting up a system that is way more partisan than it should be. And if there's going to be any further discussions about this, that's the kind of fundamental change that we should be making.

ACTING PRESIDENT BRESLIN: Thank you, Senator Flanagan.

Senator Foley on the bill.

SENATOR FOLEY: Thank you, Mr. President.

I stand here this evening in strong support for this proposed legislation. And coming from a background, Mr. President, as supervisor in the past and also as county legislator, this Senator over a period of years has been part of efforts at the local

governmental level to greatly strengthen those local ethics laws.

And in so doing, when we strengthen these laws, we regain the public's confidence in those local governments. And by regaining that particular confidence, we then regain people's confidence in the system of governing and in politics in general.

I know where I speak from. Prior to being a State Senator, I was the supervisor of the Town of Brookhaven. Brookhaven had a shameful nickname, a shameful nickname that rhymed with Brookhaven. And it was earned over a period of decades where, among other things, the politically favored few received multi-million-dollar no-bid insurance contracts. That did not change until this Senator became the supervisor. And when we went into that particular office, not only did we clean house but we changed the ethics laws of that particular level of government, and in so doing helped to restore the confidence in that particular level of government where today it is once again called Brookhaven.

That's what we're doing today here in Albany. When I was elected over a year ago, there was a crisis of confidence in this particular Capitol. We heard about dysfunctionality. We heard about the culture of corruption that afflicted some elements -- not all, but some -- in this particular Capitol.

Today's passage of this legislation is not a minor step, it's not a step at all. It is a major achievement to have this approved today, full well knowing that more needs to be done in the future.

But I can stand here tonight, strongly support this legislation, and say to those cynics who believed that nothing would ever change in this Capitol that within the first year of taking the majority of this particular house, that we are bringing meaningful change to this Capitol, we're bringing substantial change to this Capitol, and I think the proof of the pudding, if you will, will be the fact that this will receive wide bipartisan support tonight.

So I stand here this evening strongly supporting this legislation. It is in keeping with this Senator's let's say fight over a period of decades now, first in the county legislature, then in the Town of Brookhaven, and now at the state governmental level, to bring ethics reforms that will restore confidence.

And I think after tonight's vote we are starting to restore confidence so the public can once again believe again in our democratic, small D, in our democratic institutions.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Foley.

And can we have some quiet. We only have a couple more speakers.

Senator Griffo.

SENATOR GRIFFO: Mr. President, would Senator Schneiderman yield for a quick question or clarification?

ACTING PRESIDENT BRESLIN: Will you yield to a question for clarification from

Senator Griffo?

SENATOR SCHNEIDERMAN: Yes, Mr. President, I will yield for either a quick question or a clarification.

SENATOR GRIFFO: Thank you, Senator.

We've discussed a number of illustrations here relative to the standards portion on page 11, on what's governed by the bill. And as you know, I would think that Legislative Law Article 1A would apply to this bill.

So the question is, who else, if you look at that, is governed by this bill? Like for instance under Legislative Law 1A, going down through all of them, it says municipal officers. So the question would be would all local government officials like mayors, town supervisors, county legislators, county execs, also have to comply particularly with the standards portion?

SENATOR SCHNEIDERMAN: Through you, Mr. President. I'm sorry, what line are you on? What page are you on?

SENATOR GRIFFO: I'm talking about page 11, the standards portion of the bill, but then talking about Legislative Law Article 1A, which describes the term of "public official," which I think would apply to this particular piece of legislation. It outlines a public official, such as a member of the State Legislature, Governor, Lieutenant Governor, officers or employees of statewide elected offices, officers or employees of state agencies. Then it talks about municipal officials. Now, that is Legislative Law Article 1A.

SENATOR SCHNEIDERMAN: I'm sorry, Mr. President, I'm looking at page 11 and I don't know where we are. Could you give me a line?

SENATOR GRIFFO: No, no, not specifically on page 11. I'm saying that Legislative Law 1A, which describes the term "public official," would apply to a bill that we're passing like this because it deals with public officials.

So I guess the question is, would

everything that we have listed here under the standards portion specifically apply to local officials? That's the question. Would they be bound by this too, such as all of the standards provisions that are listed on page 11 that start on line 30 and go all the way through?

SENATOR SCHNEIDERMAN: Well, excuse me. Through you, Mr. President, this is a big piece of legislation. Certainly as far as the ethics portion goes, the ethics oversight bodies only have jurisdiction over state officials.

SENATOR GRIFFO: Understood.

SENATOR SCHNEIDERMAN: But I'm not quite -- if that's the question, then the answer is no.

SENATOR GRIFFO: And on the standards portion, such as what event they could attend, the widely attended events, the specific aspects that we talked about, nominal gifts, things like that, would that all apply, then, to local officials also?

SENATOR SCHNEIDERMAN: Through

you, Mr. President, no. The legislative ethics rules regulate the Legislature. The executive ethics rules regulate the executive branch of the state government.

Unless there's something very explicit which I'm missing, this is -- the ethics portion of this relates to the state government.

SENATOR GRIFFO: Okay. Thank you.

ACTING PRESIDENT BRESLIN: Thank you, Senator Griffo.

Senator McDonald.

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

ACTING PRESIDENT BRESLIN: Senator McDonald on the bill.

SENATOR McDONALD: I want to thank the people who brought the bill before us. I wish it was stronger. I wish we got to vote on it last year.

It's the beginning. It's necessary. But we cannot allow people to be exempt from participating. There's no special

classes. I'm going to vote for it. I was going to vote for it last year. I was new, I wanted to make sure I worked within the process. It should not be exempt for any occupation, any region, anybody. And that's in the ethics portion.

Additionally, I think we've got to start addressing the fundraising portion. One of the creeping realities in American society is it's become a rich person's game: Politics, government, elected officials. If you don't come from a rich family, you don't get to play.

I don't like that. I think we should be restricting personal money coming into campaigns just like we do raising money. This is not going to be the House of Lords, like in England. This is for people. Times have got to change.

I'm willing to work across the aisle -- many good people over there working with us -- to look at the exemptions, to look at the fundraising, to look at the special category of people. I was told that of the

100 U.S. Senators, they're all millionaires, or close to. What has this country become? Everything we're against.

I live in Saratoga County, where the Battle of Saratoga was fought so elitists don't rule -- and now we're slipping into it.

So I ask with great passion that we start making this a populist house. Not because of a particular occupation -- a person's occupation should have nothing to do with it -- but to let everybody in here, and to stop controlling politically incorrect people from participating. Working-class people can come in here. And not to wink when somebody comes from that wealthy family, that politically powerful family who can take care of it behind the scenes. Which is becoming so relevant.

So there's a lot of challenges. Let's really do it. We've been talking about it for a long time. This is a good beginning, but we've got a very long ways to go. Something is better than nothing right now, but don't applaud too much, because we haven't

got to the red meat. When we do that, then you can applaud.

And I'll be happy to show people where I think the red meat is, whether it's ethics or whether it's disclosure or whether it's the whole let's not make this the elitist house that it seems to be becoming.

Thank you.

ACTING PRESIDENT BRESLIN: Thank you, Senator McDonald.

Are there any other Senators wishing to be heard?

Hearing none, the debate is closed.

Please ring the bells. The Secretary will ring the bells.

Read the last section.

THE SECRETARY: Section 37. This act shall take effect July 31, 2010.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

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

SENATOR SCHNEIDERMAN: Thank you,

Mr. President.

I am pleased, ladies and gentlemen -- shhh, shhh, shhh, shhh, shhh. We're done here tonight. I'm pleased we're done here tonight. I'm pleased what we're passing what I think in retrospect will prove to be a truly historic bill to expand ethics, to improve our campaign finance laws, to make this a more transparent and really more effective and efficient Legislature.

Let's never forget that in trying times, as in all times, we to spend every taxpayer dollar wisely. Bad government, pay to play, corrupt government costs our constituents money.

I'm pleased that everyone -- with everyone's comments tonight, really, even those who have raised concerns about the bill -- and I especially want to note that a lot of my colleagues from the other side of the aisle have spoken with me, have pointed out problems that we have to correct, have offered solutions to the problems. And I hope that this is indicative of what will come this

year.

I am confident that virtually everyone in this room on both sides of the aisle wants this to become a more ethical state, a state in which the public has more confidence in this Legislature and in all elected officials. And I really am honored by the fact that a lot of my colleagues on the other side of the aisle are continuing, even as we speak tonight, to point out issues, problems, and raise concerns.

I look forward to working with all of you to move to the next stage, pass further reforms to our campaign finance laws, to other aspects of our ethics laws, and to moving this state forward to return to its prior state as really a model for all of America.

Thank you, Mr. President. I vote yes.

ACTING PRESIDENT BRESLIN: Thank you, Senator Schneiderman.

Announce the results.

THE SECRETARY: Ayes, 59. Nays, 1. Senator Diaz recorded in the negative.

ACTING PRESIDENT BRESLIN: The bill is passed.

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

SENATOR KLEIN: Mr. President, may we please return to motions and resolutions. I have a motion on behalf of Senator Huntley.

ACTING PRESIDENT BRESLIN: Returning to motions and resolutions.

Senator Klein.

SENATOR KLEIN: I move that the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause: Senate Numbers 1175 and 1646.

ACTING PRESIDENT BRESLIN: So ordered.

Senator Klein.

SENATOR KLEIN: Would you please recognize Senator Padavan.

ACTING PRESIDENT BRESLIN: Senator Padavan.

SENATOR PADAVAN: Yes, thank you,

Mr. President.

I move that the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause. That's Senate Bill 1505, by Senator DeFrancisco, and 2658, by Senator Volker.

ACTING PRESIDENT BRESLIN: So ordered.

Senator Klein.

SENATOR KLEIN: Mr. President, I just want to announce after session there will be an Elections Committee Meeting in Room 332, followed by an Environmental Conservation Committee meeting.

ACTING PRESIDENT BRESLIN: Immediately after session there will be a meeting of the Elections Committee in Room 332, followed by a meeting of the Environmental Conservation Committee thereafter.

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

ACTING PRESIDENT BRESLIN: There

is no further business at the desk,
Senator Klein.

SENATOR KLEIN: There being none, Mr. President, I move we adjourn until Monday, January 25th, at 3:00 p.m., intervening days to be legislative days.

ACTING PRESIDENT BRESLIN: There being no further business to come before the Senate, on motion, the Senate stands adjourned until Monday, January 25th, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 5:31 p.m., the Senate adjourned.)