

1 NEW YORK STATE SENATE

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3
4 THE STENOGRAPHIC RECORD

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8
9 ALBANY, NEW YORK

10 April 20, 2010

11 4:35 p.m.

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13
14 REGULAR SESSION

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18 SENATOR NEIL D. BRESLIN, Acting President

19 ANGELO J. APONTE, Secretary

1 P R O C E E D I N G S

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

4 I ask all to rise and repeat with
5 me the Pledge of Allegiance.

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

8 ACTING PRESIDENT BRESLIN: The
9 invocation today will be given by the Reverend
10 Peter G. Young, of Mother Teresa Church in
11 Albany, New York.

12 Father Young.

13 REVEREND YOUNG: Let us pray.

14 As we experience the awesome
15 volcano and the effects on all our nations, we
16 must acknowledge Your creation with awareness
17 and thanks that whatever legislative efforts
18 we accomplish is beyond our control, and that
19 in that prayer, then, of serenity that we must
20 gather and say: God grant me the serenity to
21 change the things that we can, to accept those
22 that we can't, and the wisdom to know the
23 difference.

24 As we present these efforts today
25 and resolutions on Earth Day and in the

1 preparation for Earth Day, may we again admit

2 You, O God, are our answer and our wisdom.

3 Amen.

4 ACTING PRESIDENT BRESLIN: The
5 reading of the Journal.

6 The Secretary will read.

7 THE SECRETARY: In Senate,
8 Monday, April 19, the Senate met pursuant to
9 adjournment. The Journal of Sunday, April 18,
10 was read and approved. On motion, Senate
11 adjourned.

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

15 Presentation of petitions.

16 Messages from the Assembly.

17 Messages from the Governor.

18 Reports of standing committees.

19 Senator Klein.

20 SENATOR KLEIN: Mr. President, I
21 believe there's a report of the Finance
22 Committee at the desk.

23 ACTING PRESIDENT BRESLIN:
24 Senator Klein, there is a report of the
25 Finance Committee at the desk.

1 The Secretary will read.

2 THE SECRETARY: Senator C.

3 Kruger, from the Committee on Finance, reports
4 the following nominations.

5 As members of the Advisory Council
6 on Alcoholism and Substance Abuse Services:
7 Carlos Blanco, of New York City; Sharon
8 Gillette, of Plattsburgh; and William Magwood,
9 of Newburgh.

10 As director of the New York
11 Convention Center Operating Corporation:
12 Robert Azeke, of New York City.

13 As a member of the Board of
14 Visitors of the Capital District Developmental
15 Disabilities Services Office: Patricia K.
16 Wright, of Waterford.

17 As a member of the Board of
18 Visitors of the Hudson River Psychiatric
19 Center: Dean H. Poorman, of Poughkeepsie.

20 As a member of the Board of
21 Visitors of the Staten Island Developmental
22 Disabilities Services Office: Edward J.
23 Checkett, of Staten Island.

24 And as a member of the Board of
25 Visitors of the Sunmount Developmental

1 Disabilities Services Office: Gilbert A.
2 Duken, of Plattsburgh.

3 ACTING PRESIDENT BRESLIN:
4 Senator Kruger.

5 SENATOR CARL KRUGER: Mr.
6 President, can we please move the nominations.

7 ACTING PRESIDENT BRESLIN: Are
8 there any Senators wishing to be heard on the
9 nominations?

10 The question, then, is on the
11 nominations. All those in favor please
12 signify by saying aye.

13 (Response of "Aye.")

14 ACTING PRESIDENT BRESLIN:
15 Opposed, nay.

16 (No response.)

17 ACTING PRESIDENT BRESLIN: The
18 motion carries. The nominations are
19 confirmed.

20 Returning to the regular order of
21 business, reports of select committees.

22 Communications and reports from
23 state officers.

24 Motions and resolutions.

25 Senator Klein.

1 SENATOR KLEIN: Mr. President, I
2 think there are substitutions at the desk. I
3 ask that we make the substitutions at this
4 time.

5 ACTING PRESIDENT BRESLIN: The
6 Secretary will read.

7 THE SECRETARY: On page 20,
8 Senator Maziarz moves to discharge, from the
9 Committee on Energy and Telecommunications,
10 Assembly Bill Number 5800B and substitute it
11 for the identical Senate Bill Number 7084,
12 Third Reading Calendar 352.

13 ACTING PRESIDENT BRESLIN:
14 Substitution ordered.

15 THE SECRETARY: On page 20,
16 Senator Foley moves to discharge, from the
17 Committee on Local Government, Assembly Bill
18 Number 2731 and substitute it for the
19 identical Senate Bill Number 4660, Third
20 Reading Calendar 355.

21 ACTING PRESIDENT BRESLIN:
22 Substitution ordered.

23 THE SECRETARY: On page 21,
24 Senator Duane moves to discharge, from the
25 Committee on Health, Assembly Bill Number

1 5894A and substitute it for the identical
2 Senate Bill Number 5590, Third Reading
3 Calendar 357.

4 ACTING PRESIDENT BRESLIN:
5 Substitution ordered.

6 THE SECRETARY: On page 22,
7 Senator Little moves to discharge, from the
8 Committee on Codes, Assembly Bill Number 7203C
9 and substitute it for the identical Senate
10 Bill Number 285C, Third Reading Calendar 373.

11 ACTING PRESIDENT BRESLIN:
12 Substitution ordered.

13 THE SECRETARY: And on page 23,
14 Senator Sampson moves to discharge, from the
15 Committee on Codes, Assembly Bill Number 4300
16 and substitute it for the identical Senate
17 Bill Number 5445, Third Reading Calendar 377.

18 ACTING PRESIDENT BRESLIN:
19 Substitution ordered.

20 Senator Klein.

21 SENATOR KLEIN: Mr. President, I
22 believe there's a resolution at the desk by
23 Senator Ruth Hassell-Thompson. I ask that the
24 resolution be read in its entirety and move
25 for its immediate adoption.

1 ACTING PRESIDENT BRESLIN:
2 Senator Klein, has this resolution been deemed
3 privileged and submitted by the office of the
4 Temporary President?

5 SENATOR KLEIN: Yes, it has,
6 Mr. President.

7 ACTING PRESIDENT BRESLIN: The
8 Secretary will read.

9 THE SECRETARY: By Senator
10 Hassell-Thompson, legislative resolution
11 memorializing Governor David A. Paterson to
12 proclaim April 21, 2010 as Denim Day in the
13 State of New York.

14 "WHEREAS, It is the custom of this
15 Legislative Body to recognize official days
16 that are set aside to increase awareness of
17 serious issues that affect the lives of
18 citizens of New York State; and

19 "WHEREAS, The United States
20 government has declared April as Sexual
21 Assault Awareness Month, and Start Strong
22 Bronx has proclaimed April 21, 2010, as Denim
23 Day in New York State. These two events are
24 intended to draw much-needed attention to the
25 fact that both rape and sexual assault remain

1 serious issues in our society today; and

2 "WHEREAS, Harmful attitudes about
3 rape and sexual assault allow these crimes to
4 persist and allow victim survivors to be
5 revictimized; and

6 "WHEREAS, Sexual Assault Awareness
7 Month and Denim Day were also instituted to
8 call attention to misconceptions and
9 misinformation about rape and sexual assault
10 and the prevalence of sexual assault in
11 abusive dating relationships, a problem that
12 many in society, including adolescents, remain
13 disturbingly uninformed with respect to issues
14 of assault and forceable rape; and

15 "WHEREAS, Every two minutes,
16 someone in America is sexually assaulted.
17 Approximately one in six women are raped
18 during their lifetime; youth under 18 account
19 for 44 percent of all sexual assaults
20 reported; 8.3 percent of New York City teens
21 say they have been forced to have sexual
22 intercourse; and over 90 percent of the
23 perpetrators are known to the victim; and

24 "WHEREAS, With proper education on
25 the matter, there is compelling evidence that

1 we can be successful in reducing incidents of
2 this alarming and psychologically damaging
3 crime; and

4 "WHEREAS, Start Strong Bronx
5 promotes healthy relationship skills among
6 11-to-14-year-olds and the adults in their
7 lives; and

8 "WHEREAS, Denim Day was coined
9 after an Italian judge overturned a rape
10 verdict on the basis that the woman was
11 wearing skinny jeans that required two people
12 to remove; and

13 "WHEREAS, This year's theme of
14 Denim Day is 'Sexual Assault is as Common As
15 Wearing Jeans' or 'Sexual Assault is a Rite of
16 Passage as Common as Wearing Jeans'; and

17 "WHEREAS, This Legislative Body
18 strongly supports the efforts of Start Strong
19 Bronx to educate persons in our community
20 about the true impact of rape and sexual
21 assault in New York City; now, therefore, be
22 it

23 "RESOLVED, That this Legislative
24 Body pause in its deliberations to memorialize
25 Governor David A. Paterson to proclaim

1 April 21, 2010, as Denim Day in the State of
2 New York, and be it further

3 "RESOLVED, That copies of this
4 resolution, suitably engrossed, be transmitted
5 to the Honorable David A. Paterson, Governor
6 of the State of New York, and Start Strong
7 Bronx."

8 ACTING PRESIDENT BRESLIN:
9 Senator Hassell-Thompson.

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

12 I didn't anticipate that the
13 resolution was going to be read in its
14 entirety, but I do appreciate the Secretary
15 doing so.

16 Let me just say that there is just
17 a slight history, I think, which you have just
18 heard as to why we would commemorate Denim
19 Day.

20 In Italy, on July 12, 1992, an
21 18-year-old student reported to the police
22 that her 45-year-old driving instructor had
23 raped her the previous day during a driving
24 lesson. She recounted that the man had driven
25 her to a secluded pathway outside the

1 inhabited area where, after flinging her down
2 on the ground and slipping off her blue jeans
3 from one leg, he brutally raped her.

4 A different version of the facts
5 was reported to the police by the driving
6 instructor once he was arrested. Indeed, he
7 confirmed in having had sexual intercourse
8 with the student at the time, but claimed it
9 had been consensual.

10 The Italian supreme court rebutted
11 the appellate court's decision ruling in favor
12 of the victim that had evaluated the partial
13 removal of the blue jeans as evidence of the
14 victim's lack of consent, stating on the
15 contrary that it would have been peculiar for
16 a girl to undress in the middle of the day
17 even if she had consented.

18 Moreover, the supreme court pointed
19 out that it is a fact of common experience
20 that it is nearly impossible to slip off tight
21 jeans, even partially, without the active
22 collaboration of the person who is wearing
23 such. Considering this, the supreme court
24 conclusively squashed the previous conviction
25 and remanded the case to the court of appeals

1 of Naples, which ultimately acquitted the man.

2 Every two minutes, someone in
3 America is sexually assaulted. Approximately
4 one in six women are raped during their
5 lifetime. Youth under 18 account for
6 44 percent of all sexual assaults reported.
7 8.3 percent of New York City teens say that
8 they have been forced to have sexual
9 intercourse. Over 90 percent of their
10 perpetrators are known to the victims.

11 The consequences of sexual violence
12 are far-ranging, causing long-term physical
13 and emotional damage. Sexual violence does
14 not always manifest itself in physical form.
15 It also involves coercion, threats and
16 intimidation. Sexual violence does not
17 discriminate. There is no single race,
18 religion or socioeconomic status associated
19 with this violent act.

20 In order to successfully educate
21 all people, both young and old, about the
22 devastating consequences of violence and
23 abuse, we must take the scourge and fear away
24 from discussions involving sexual violence and
25 abuse.

1 Mr. President, I would like to hope
2 that those of my colleagues in this chamber
3 would understand the importance of this act of
4 violence and commemorate with me tomorrow
5 Denim Awareness Day, and break the dress code
6 and wear denim in commemoration of this act.

7 Thank you, Mr. President.

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

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

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

15 (Response of "Aye.")

16 ACTING PRESIDENT BRESLIN:
17 Opposed, nay.

18 (No response.)

19 ACTING PRESIDENT BRESLIN: The
20 resolution is adopted.

21 Senator Hassell-Thompson has
22 indicated that she would like to open up the
23 resolution for cosponsorship by the entire
24 house. Any Senator wishing not to be on the
25 resolution please signify by coming to the

1 desk.

2 Senator --

3 SENATOR MARCELLINO: It's
4 Marcellino.

5 ACTING PRESIDENT BRESLIN: Yes, I
6 know who it is.

7 SENATOR MARCELLINO: It's been a
8 while.

9 ACTING PRESIDENT BRESLIN: Why do
10 you rise?

11 SENATOR MARCELLINO: On Senator
12 Hassell-Thompson's bill -- or resolution,
13 rather -- I would love to be in absolute
14 support but unfortunately did not bring the
15 kind of clothes you're asking for with me.
16 And I don't want that to be perceived as a
17 lack of support for the issue.

18 So I will be happy to be of
19 support, but I cannot with the dress code that
20 you're asking for. Please forgive.

21 ACTING PRESIDENT BRESLIN: Thank
22 you, Senator Marcellino.

23 Senator Klein.

24 SENATOR KLEIN: Mr. President, at
25 this time I move that we pass the Resolution

1 Calendar in its entirety, with the exception
2 of Resolutions 4727 and 4503.

3 ACTING PRESIDENT BRESLIN: All
4 those in favor of adopting the Resolution
5 Calendar in its entirety, with the exception
6 of Senate Resolutions 4727 and 4503, please
7 signify by saying aye.

8 (Response of "Aye.")

9 ACTING PRESIDENT BRESLIN:
10 Opposed, nay.

11 (No response.)

12 ACTING PRESIDENT BRESLIN: The
13 Resolution Calendar is adopted.
14 Senator Klein.

15 SENATOR KLEIN: Mr. President, at
16 this time I move to take up Senate Resolution
17 Number 4727, by Senator Antoine Thompson. I
18 ask that the title of the resolution be read
19 and move for its immediate adoption.

20 ACTING PRESIDENT BRESLIN: The
21 Secretary will read.

22 THE SECRETARY: By Senator
23 Thompson, Legislative Resolution Number 4727,
24 commemorating the 40th Anniversary of Earth
25 Day on April 22, 2010.

1 ACTING PRESIDENT BRESLIN:

2 Senator Thompson.

3 SENATOR THOMPSON: Yes, sir,
4 Mr. President. I won't be long, because I'm
5 sure the debate on many bills today will be
6 long.

7 But I want to just thank you first
8 for recognizing me. And I also would like to
9 say that this Thursday we will celebrate the
10 40th Earth Day in the United States of
11 America.

12 And Earth Day has grown, and many
13 people are becoming more and more aware about
14 environmental policy. And it really
15 represents not only the growth of America but
16 also it represents the growth of the world as
17 well.

18 In fact, because of the extreme
19 changes in our weather patterns -- in places
20 that never received snow, now they're
21 receiving snow on a regular basis. In fact, I
22 often tease my colleagues here on both sides
23 of the aisle that, you know, New York City and
24 Long Island got a lot of snow this year. So
25 that's part of, I believe, climate change.

1 But also, the reality is that years
2 ago we had a place in Niagara County called
3 Niagara Falls, and there was a little
4 community within Niagara Falls out in La Salle
5 they were impacted by a place and they called
6 it the Love Canal. And because of a young
7 lady named Lois Gibbs and some committed
8 residents from Niagara County, they spawned an
9 entire environmental justice movement because
10 they refused to accept what local government
11 officials and corporate people said, that
12 nothing was wrong related to the chemical
13 pollution in their community.

14 They fought back. It wasn't easy.
15 People said they were crazy. They thought
16 that were from Mars or from the moon. But it
17 turned out that those committed group of
18 residents were right.

19 And because of people like Lois
20 Gibbs and all the folks out in the La Salle
21 community of Niagara Falls, now we have more
22 environmental protection in the United States
23 of America and particularly in New York State.

24 We know that we must protect not
25 only our current residents but future

1 generations as well. And so on Earth Day, on
2 our 40th Earth Day, I hope that today that we
3 will pass a number of good bills that have
4 been debated. Some of these bills are on
5 G print. And as all the more experienced
6 members know -- I'm only in my second term --
7 G print means that we made a number of
8 revisions listening to the concerns of various
9 people.

10 So I'm glad that we are celebrating
11 the 40th Earth Day, and let's get down to the
12 people's business so we can pass some good
13 bills today.

14 Thank you.

15 (Applause from the gallery.)

16 ACTING PRESIDENT BRESLIN:

17 Senator Marcellino.

18 SENATOR MARCELLINO: It's not
19 often we get applauded for it before we act.

20 Senator Thompson, thank you for
21 putting the resolution up. I appreciate the
22 fact this is Earth Day and it is a day we
23 should be celebrating the earth.

24 Frankly, it bothers me that we
25 relegate it to one day; 365 days a year should

1 be Earth Day. There should be no day when it
2 isn't Earth Day. There's no such thing as a
3 Republican Clean Water Act, there's no such
4 thing as a Democrat Clean Air Act. We all
5 breathe the same air, we all drink the same
6 water, and we all live on the same planet.
7 And the last time I looked, they ain't making
8 any more of them.

9 So we've got to protect the one
10 that we live on so that we can pass it on in
11 better form than we have found it so that our
12 grandchildren and their children's children
13 can live on this planet in safety, with clean
14 air and clean water and plenty of open space
15 and lots of critters to look at and to have
16 some fun with.

17 Unfortunately, in some cases we
18 have a bit of revisionist history that has
19 come out. And it comes to my attention in a
20 memo put out in support of the resolution and
21 in support of some of the legislation that has
22 come out today. And I'll read just a bit of
23 it.

24 It says, "We are delighted" -- and
25 this comes from one of the organizations in

1 support, and I won't name it because I don't
2 want to get personal. But "We are delighted
3 that the Senate is moving a package of
4 environmental bills on Earth Day this year.
5 This could be the first time in the 20-year
6 history of Earth Day that both houses bring
7 key priority bills of New York's environmental
8 community to the floor for a vote, such as
9 e-waste and restoring the public's right to
10 enforce the SEQRA law."

11 It's interesting because, as you
12 know on this floor, in this house, I chaired
13 the committee from 1996 to 2008. And during
14 those years we passed what I consider to be a
15 number of very powerful and very strong
16 environmental laws -- not only on Earth Day,
17 but on other days during the year.

18 Senator Thompson spoke about Love
19 Canal, one of the driving forces behind the
20 brownfields Superfund Reform Act, which was
21 Chapter 1 of 2003, a bill that I was
22 privileged to be one of the prime sponsors of.
23 We passed a whole host of bills: The
24 pesticide notification law, something we'll be
25 talking about perhaps a little bit later. The

1 nation's first law phasing out the groundwater
2 contaminant MTBE from gasoline. The Clean Air
3 Clean Water Bond Act in 1996. The law
4 enacting tax credits for alternative-fuel
5 vehicles.

6 These bills, by the way, for the
7 most part passed unanimously in this chamber
8 and in the other chamber as well. So these
9 are bipartisan bills. You know, I'm not
10 looking to take sole credit for this, but this
11 is bipartisan behavior that has occurred in
12 this chamber and in this Legislature.

13 And I think it's worth noting that
14 this is not the first time in 20 years we've
15 done this kind of stuff; we've been doing it
16 all along. And I think credit should be given
17 where credit is due.

18 The Net Electric Metering Act to
19 encourage solar power, done in 1997. The
20 emissions testing for heavy-duty diesel
21 vehicles in 1998. The ban on lead sinkers.
22 The Acid Rain Prevention Act. I could go on
23 and read a bunch of other bills, all of which
24 I consider significant improvements to the
25 environment, that were passed between 1996 and

1 2008.

2 I look forward to helping and being
3 there and working with my colleagues on the
4 other side of the aisle so we can add to that
5 long list of illustrious laws that this
6 Legislature, led by this chamber, has passed.
7 And I think I am very proud of this set of
8 bills -- I am very proud of this set of laws.
9 Because these were not just bills, these were
10 all laws, signed into law. Over 112 during
11 that same period of time that I just
12 mentioned, passed into law. Laws. Not
13 one-house bills, laws.

14 So, ladies and gentlemen, we have a
15 lot to be proud of in this state on
16 environmental issues. I've been proud to be
17 part of it. Look forward to being part of it
18 for a long time to come. I intend to be here
19 for a long time to come.

20 Thank you, Senator. And I
21 appreciate the attention to the environment.

22 ACTING PRESIDENT BRESLIN: Thank
23 you, Senator Marcellino.

24 Senator Foley.

25 SENATOR FOLEY: Thank you,

1 Mr. President.

2 And I stand also to commend the
3 chair of the Environmental Conservation
4 Committee on this anniversary for Earth Day.
5 It's a very important anniversary. And also
6 with a series of bills which we will be
7 reviewing and hopefully approving today that
8 also speak to the nexus between public health
9 and our environment.

10 So while we do celebrate Earth Day
11 and all that that means, I think it's also a
12 way for us to reemphasize, if you will, the
13 very basic proposition of how a healthy earth
14 and environment and how public health and
15 environment are intertwined, and today's bills
16 will in fact emphasize and amplify that
17 particular point.

18 So again, I want to thank Senator
19 Thompson for putting this bill forward. This
20 is perhaps one of the most successful areas of
21 public policy. And as Senator Marcellino said
22 a short while back, that over a period of
23 years both Republicans and Democrats have
24 supported environmental initiatives, although
25 there's been an ebb and flow to those kinds of

1 initiatives over these past number of years,
2 particularly at the federal level.

3 But let's just say that today we
4 hope we can find common ground in the, let's
5 say, twin pursuit of protecting the
6 environment and protecting public health.

7 Thank you, Mr. President.

8 ACTING PRESIDENT BRESLIN: Thank
9 you, Senator Foley.

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

12 Hearing none, the question is on
13 the resolution. All those in favor please
14 signify by saying aye.

15 (Response of "Aye.")

16 ACTING PRESIDENT BRESLIN:
17 Opposed nay.

18 (No response.)

19 ACTING PRESIDENT BRESLIN: The
20 resolution is adopted.

21 Senator Thompson has indicated that
22 he would like to open the resolution up for
23 cosponsorship by the entire house. Any
24 Senator wishing not to be on the resolution
25 please notify the desk.

1 Senator Klein.

2 SENATOR KLEIN: Mr. President, at
3 this time can we take up Resolution Number
4 4503, by Senator Thompson. I ask that the
5 title of the resolution be read and move for
6 its immediate adoption.

7 ACTING PRESIDENT BRESLIN: The
8 Secretary will read.

9 THE SECRETARY: By Senator
10 Thompson, Legislative Resolution Number 4503,
11 urging the New York State Congressional
12 delegation to address the problem of shipping
13 electronic waste to developing countries,
14 including consideration of legislation similar
15 to HR2595.

16 ACTING PRESIDENT BRESLIN: Are
17 there any Senators wishing to speak on the
18 resolution?

19 Hearing none, the question is on
20 the resolution. All those in favor please
21 signify by saying aye.

22 (Response of "Aye.")

23 ACTING PRESIDENT BRESLIN:
24 Opposed, nay.

25 (No response.)

1 ACTING PRESIDENT BRESLIN: The
2 resolution is adopted.

3 Senator Klein.

4 SENATOR KLEIN: Mr. President,
5 there will be an immediate meeting of the
6 Rules Committee in the Majority Conference
7 Room.

8 Pending the return of the Rules
9 Committee, can we please stand at ease.

10 ACTING PRESIDENT BRESLIN: There
11 will be an immediate meeting of the Rules
12 Committee in Room 332.

13 Pending the return of the Rules
14 Committee, the Senate will stand at ease.

15 (Whereupon, the Senate stood at
16 ease at 5:02 p.m.)

17 (Whereupon, the Senate reconvened
18 at 5:42 p.m.)

19 ACTING PRESIDENT BRESLIN:
20 Senator Klein.

21 SENATOR KLEIN: Mr. President, at
22 this time can we go to a reading of the
23 calendar.

24 ACTING PRESIDENT BRESLIN: Yes.
25 The Secretary will read.

1 THE SECRETARY: Calendar Number
2 29, by Senator Thompson, Senate Print 1635, an
3 act to amend the Environmental Conservation
4 Law.

5 SENATOR LIBOUS: Lay it aside.

6 ACTING PRESIDENT BRESLIN: The
7 bill is laid aside.

8 THE SECRETARY: Calendar Number
9 82, by Senator Thompson, Senate Print 3777A,
10 an act to amend the Environmental Conservation
11 Law.

12 ACTING PRESIDENT BRESLIN: Read
13 the last section.

14 THE SECRETARY: Section 3. This
15 act shall --

16 SENATOR LIBOUS: Lay it aside.

17 ACTING PRESIDENT BRESLIN: The
18 bill is laid aside.

19 THE SECRETARY: Calendar Number
20 133, by Senator Squadron, Senate Print 6141B,
21 an act to amend the Environmental Conservation
22 Law.

23 ACTING PRESIDENT BRESLIN: Read
24 the last section.

25 SENATOR LIBOUS: Lay it aside.

1 ACTING PRESIDENT BRESLIN: The
2 bill is laid aside.

3 THE SECRETARY: Calendar Number
4 160, by Senator Stewart-Cousins, Senate Print
5 5119, an act to amend the State Finance Law.

6 ACTING PRESIDENT BRESLIN: Read
7 the last section.

8 SENATOR LIBOUS: Lay it aside.

9 ACTING PRESIDENT BRESLIN: The
10 bill is laid aside.

11 THE SECRETARY: Calendar Number
12 297, by Senator L. Krueger, Senate Print
13 3593B, an act to amend the Environmental
14 Conservation Law.

15 ACTING PRESIDENT BRESLIN: Read
16 the last section.

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

19 ACTING PRESIDENT BRESLIN: Call
20 the roll.

21 (The Secretary called the roll.)

22 ACTING PRESIDENT BRESLIN:
23 Announce the results.

24 THE SECRETARY: In relation to
25 Calendar Number 297: Ayes, 58. Nays, 2.

1 Senators Flanagan and Little recorded in the
2 negative.

3 ACTING PRESIDENT BRESLIN: The
4 bill is passed.

5 THE SECRETARY: Calendar Number
6 330, by Senator Foley, Senate Print 4983C, an
7 act to amend the Environmental Conservation
8 Law.

9 SENATOR LIBOUS: Lay it aside.

10 ACTING PRESIDENT BRESLIN: The
11 bill is laid aside.

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

14 SENATOR KLEIN: Mr. President, on
15 Calendar Number 82, Senate Number 3777A,
16 Senator Thompson's bill, can we please lay
17 that bill aside for the day.

18 ACTING PRESIDENT BRESLIN: The
19 bill is laid aside for the day.

20 Senator Klein.

21 SENATOR KLEIN: Mr. President,
22 upon unanimous consent, I ask that the
23 calendar be opened so that Senator Savino and
24 Senator Schneiderman can vote on the bills.

25 SENATOR LIBOUS: Agreed.

1 ACTING PRESIDENT BRESLIN: The
2 Secretary will open the roll for each of the
3 bills.

4 THE SECRETARY: Calendar Number
5 29, by Senator Thompson, Senate Print 1635, an
6 act to amend the Environmental Conservation
7 Law.

8 ACTING PRESIDENT BRESLIN: Read
9 the last section.

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

12 ACTING PRESIDENT BRESLIN: Call
13 the roll.

14 (The Secretary called the roll.)

15 ACTING PRESIDENT BRESLIN:
16 Senator Savino.

17 SENATOR SAVINO: Yes.

18 THE SECRETARY: Senator
19 Schneiderman.

20 SENATOR SCHNEIDERMAN: Yes.

21 ACTING PRESIDENT BRESLIN: The
22 roll is withdrawn, and the bill is laid aside.

23 THE SECRETARY: Calendar Number
24 133, by Senator Squadron, Senate Print 6141B,
25 an act to amend the Environmental Conservation

1 Law.

2 ACTING PRESIDENT BRESLIN: Read
3 the last section.

4 THE SECRETARY: Section 3. This
5 act shall take effect on the first of January
6 next succeeding.

7 ACTING PRESIDENT BRESLIN: Call
8 the roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT BRESLIN:
11 Senator Savino.

12 SENATOR SAVINO: Yes.

13 ACTING PRESIDENT BRESLIN:
14 Senator Schneiderman.

15 SENATOR SCHNEIDERMAN: Yes.

16 ACTING PRESIDENT BRESLIN: The
17 roll is withdrawn, and the bill is laid aside.

18 The Secretary will continue to
19 read.

20 THE SECRETARY: Calendar Number
21 160, by Senator Stewart-Cousins, Senate Print
22 5119, an act to amend the State Finance Law.

23 ACTING PRESIDENT BRESLIN: Read
24 the last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT BRESLIN: Call
3 the roll.

4 (The Secretary called the roll.)

5 ACTING PRESIDENT BRESLIN:
6 Senator Savino.

7 SENATOR SAVINO: Yes.

8 THE SECRETARY: Senator
9 Schneiderman.

10 SENATOR SCHNEIDERMAN: Yes.

11 ACTING PRESIDENT BRESLIN: The
12 roll is withdrawn, and the bill is laid aside.

13 THE SECRETARY: Calendar Number
14 330, by Senator Foley, Senate Print 4983C, an
15 act to amend the Environmental Conservation
16 Law.

17 ACTING PRESIDENT BRESLIN: Read
18 the last section.

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

21 ACTING PRESIDENT BRESLIN: Call
22 the roll.

23 (The Secretary called the roll.)

24 ACTING PRESIDENT BRESLIN:
25 Senator Savino.

1 SENATOR SAVINO: Yes.

2 ACTING PRESIDENT BRESLIN:

3 Senator Schneiderman.

4 SENATOR SCHNEIDERMAN: Yes.

5 ACTING PRESIDENT BRESLIN: The
6 roll is withdrawn, and the bill is laid aside.

7 Senator Klein.

8 SENATOR KLEIN: Mr. President, I
9 believe there's a report of the Rules
10 Committee at the desk. I move we adopt the
11 report at this time.

12 ACTING PRESIDENT BRESLIN: The
13 Secretary will read.

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

17 Senate Print 3296G, by Senator
18 Thompson, an act to amend the Environmental
19 Conservation Law;

20 3788C, by Senator Libous, an act to
21 amend the Environmental Conservation Law and
22 the Public Health Law;

23 And Senate Print 6047A, by Senator
24 Thompson, an act to amend the Environmental
25 Conservation Law.

1 All bills ordered direct to third
2 reading.

3 ACTING PRESIDENT BRESLIN: All
4 those in favor of adopting the Rules Committee
5 report please signify by saying aye.

6 (Response of "Aye.")

7 ACTING PRESIDENT BRESLIN:
8 Opposed, nay.

9 (No response.)

10 ACTING PRESIDENT BRESLIN: The
11 Rules Committee report is adopted.

12 Senator Klein.

13 SENATOR KLEIN: Mr. President, at
14 this time can we please go to a
15 noncontroversial reading of Supplemental
16 Calendar Number 37A.

17 ACTING PRESIDENT BRESLIN: The
18 Secretary will read.

19 THE SECRETARY: Calendar Number
20 399, by Senator Thompson, Senate Print --

21 SENATOR LIBOUS: Lay it aside.

22 ACTING PRESIDENT BRESLIN: Excuse
23 me, Senator Libous.

24 Senator Winner, why do you rise?

25 SENATOR WINNER: Mr. President, I

1 do not have a copy of the supplemental
2 calendar.

3 ACTING PRESIDENT BRESLIN: I
4 certainly will make sure that we hold all
5 proceedings until you are afforded a chance to
6 have a copy.

7 SENATOR WINNER: Thank you.

8 ACTING PRESIDENT BRESLIN: The
9 bill is laid aside, and the Secretary will
10 continue to read.

11 THE SECRETARY: Calendar Number
12 400, by Senator Libous, Senate Print 3788C, an
13 act to amend the Environmental Conservation
14 Law and the Public Health Law.

15 ACTING PRESIDENT BRESLIN: Read
16 the last section.

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

19 ACTING PRESIDENT BRESLIN: Call
20 the roll.

21 (The Secretary called the roll.)

22 ACTING PRESIDENT BRESLIN:
23 Announce the results.

24 THE SECRETARY: Ayes, 60.

25 ACTING PRESIDENT BRESLIN: The

1 bill is passed.

2 THE SECRETARY: Calendar Number
3 401, by Senator Thompson, Senate Print 6047A,
4 an act to amend the Environmental Conservation
5 Law.

6 ACTING PRESIDENT BRESLIN: Read
7 the last section.

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

10 ACTING PRESIDENT BRESLIN: Call
11 the roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT BRESLIN:
14 Senator Craig Johnson, to explain his vote.

15 SENATOR CRAIG JOHNSON: Thank you
16 very much, Mr. President. I rise today to
17 support this piece of legislation.

18 First, I want to thank the sponsor,
19 Senator Thompson. Last year we had a very
20 vigorous debate on the floor of this house
21 concerning this legislation involving e-waste
22 recycling. And at that time, myself and
23 others had expressed significant concerns
24 about the bill. Notwithstanding our support
25 of the concept of e-waste, we had trouble with

1 the bill language and in particular had hoped
2 to see particular amendments.

3 Today we've seen that amended bill.
4 And I want to thank Senator Thompson for
5 working with my office and others to make sure
6 that some of these concerns were addressed.

7 There are -- I think we can go a
8 little bit farther. But right now there is
9 such a need to finally address the issue
10 statewide when it comes to e-waste recycling
11 that this a good first start.

12 And so, Senator Thompson, I want to
13 thank you again for your stringent advocacy,
14 but also, more importantly, sitting down and
15 working with myself and others who did express
16 concerns about the scope of the bill.

17 So today I'm proud to say that I
18 will be voting yes for this piece of
19 legislation.

20 ACTING PRESIDENT BRESLIN: Thank
21 you, Senator Johnson.

22 Senator Marcellino, to explain his
23 vote.

24 SENATOR MARCELLINO: Yes, thank
25 you, Mr. President. To explain my vote.

1 Again, I also would like to add my
2 voice to the thank-yous because this bill was
3 a pet of mine for some seven or eight years
4 prior, bringing this bill first up to the
5 state so that we could get it negotiated,
6 going through an awful lot of negotiations
7 throughout the Northeast to try to bring this
8 bill in concert with the Northeast region.

9 This bill is a good bill. It is a
10 bill that addresses an issue that must be
11 addressed now. If we don't address this bill
12 now and the recycling of e-waste, we end up
13 with another tire problem. Where we had
14 mountains of tires all over the place, we'll
15 have more than mountains. The mountains of
16 electronic waste substances will make the
17 mountains of tires that used to be around the
18 state look like, you know, the Catskills
19 compared to the Alps.

20 This is an important bill. This
21 bill is timely. I hope the other house takes
22 it up. I don't believe there's at this point
23 in time a same-as, but we have hopes. And I
24 hope that it does get through and does pass,
25 because it's a worthy bill and a worthy cause.

1 I will be voting aye and am very
2 proud to do so.

3 ACTING PRESIDENT BRESLIN:
4 Senator Marcellino will be recorded in the
5 affirmative.

6 Senator Thompson, to explain his
7 vote.

8 SENATOR THOMPSON: Thank you,
9 Mr. Chairperson. I won't be long.

10 I want to thank my colleagues for
11 supporting this bill. We've put a lot of time
12 and effort into this. Most of the major
13 computer companies across the state and that
14 do business in the state are supporting the
15 bill. And we look forward to moving this bill
16 forward as well.

17 Thank you for your support.

18 ACTING PRESIDENT BRESLIN: Thank
19 you, Senator Thompson. Senator Thompson will
20 be recorded in the affirmative.

21 Announce the results.

22 THE SECRETARY: Ayes, 60. Nays,
23 0.

24 ACTING PRESIDENT BRESLIN: The
25 bill is passed.

1 Senator Klein, that completes the
2 reading of the noncontroversial portion of the
3 supplemental calendar.

4 SENATOR KLEIN: Mr. President,
5 upon unanimous consent, I ask that the
6 supplemental calendar be opened so that
7 Senator Savino and Senator Schneiderman can
8 vote on each of the bills.

9 ACTING PRESIDENT BRESLIN: The
10 Secretary will read.

11 THE SECRETARY: Calendar Number
12 399, by Senator Thompson, Senate Print 3296G,
13 an act to amend the Environmental Conservation
14 Law.

15 ACTING PRESIDENT BRESLIN: Read
16 the last section.

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

19 ACTING PRESIDENT BRESLIN: Call
20 the roll.

21 (The Secretary called the roll.)

22 ACTING PRESIDENT BRESLIN:
23 Senator Savino.

24 SENATOR SAVINO: Yes.

25 ACTING PRESIDENT BRESLIN:

1 Senator Schneiderman.

2 SENATOR SCHNEIDERMAN: Yes.

3 ACTING PRESIDENT BRESLIN: The
4 roll is withdrawn, and the bill is laid aside.
5 Senator Klein.

6 SENATOR KLEIN: Mr. President, at
7 this time can we please go to the reading of
8 the controversial calendar.

9 ACTING PRESIDENT BRESLIN: The
10 Secretary will read.

11 THE SECRETARY: Calendar Number
12 29, by Senator Thompson, Senate Print 1635, an
13 act to amend the Environmental Conservation
14 Law.

15 SENATOR LIBOUS: Explanation.

16 ACTING PRESIDENT BRESLIN: An
17 explanation has been requested, Senator
18 Thompson.

19 SENATOR THOMPSON: First let me
20 thank you for the opportunity to speak on this
21 very important piece of legislation.

22 The SEQRA bill is something that
23 many of us have been working on for some time.
24 And some individuals may cast negative
25 thoughts about the bill, but it simply gives

1 people in various communities an opportunity
2 to sue when they think that they have been
3 done wrong by an institution or an
4 organization.

5 This is not what some people have
6 tried to display or demonstrate or
7 characterize as a citizens' suit bill. It is
8 not an opportunity where anyone who believes
9 that they are -- one of the things that people
10 have tried to suggest that, well, that you can
11 live in one part of the state and go to
12 another part and sue for a case in another
13 part of the state and actually slow down
14 projects. We would never, ever, and I would
15 never support a type of bill that would allow
16 that to happen.

17 This bill simply removes barriers
18 to the courts for plaintiffs in controversies
19 around SEQRA, New York's time-honored
20 environmental review mechanism for
21 community-based development, restoring the
22 injury in fact/zones of interest. It provides
23 standing tests for SEQRA claims which served
24 the state well for many years.

25 SEQRA is virtually unenforceable in

1 many cases if not most cases. One of the
2 issues that has been brought forward is that
3 this will clog up the courts. And I want you
4 to know that the New York Bar Association and
5 others have provided documentation. Since
6 1990 -- they gave us a nice report -- since
7 1990, over 300,000 cases have been settled in
8 State Supreme Court, and less than 100 every
9 year are settled based on SEQRA. So to
10 suggest that this will tie up the courts is
11 simply not true.

12 And we know that hiring attorneys
13 is not a cheap endeavor. We also know that
14 courts today take many cases seriously, but
15 they also throw out frivolous cases as well.

16 And so I believe that this is a
17 good bill. I believe that it will protect
18 people. But also, we don't go to the extreme
19 of making it possible for just anyone who
20 wants to clog up the courts. I would never
21 support that type of endeavor.

22 ACTING PRESIDENT BRESLIN: Why do
23 you rise, Senator Flanagan?

24 SENATOR FLANAGAN: Mr. President,
25 would Senator Thompson yield to several

1 questions, please.

2 ACTING PRESIDENT BRESLIN:

3 Senator Thompson, will you yield to several
4 questions from Senator Flanagan?

5 SENATOR THOMPSON: Yes, sir.

6 ACTING PRESIDENT BRESLIN: You
7 may proceed, Senator Flanagan.

8 SENATOR FLANAGAN: Thank you.

9 Senator Thompson, I listened to
10 your comments, and it covers part of what I
11 wanted to ask you about. But let me just
12 start off by talking about the DEC for a
13 moment, because you characterized this that
14 SEQRA actions are virtually unenforceable or
15 completely unenforceable.

16 Do you have any reports or facts or
17 statistics that can back up the claim?
18 Because it sounds like you're saying that the
19 DEC is simply not doing their job.

20 SENATOR THOMPSON: I'm not
21 suggesting that. What I am suggesting, sir,
22 is that the issue of determining special harm
23 sometimes can be challenging.

24 What I'm also suggesting is that
25 whether at the local level or -- at the local

1 level, you really don't have -- or at the
2 court level you really don't have a lot of
3 these cases being tied up in the courts, which
4 has been one of the bones of contention.

5 I think the DEC does a very good
6 job. However, in terms of when it comes down
7 to SEQRA, you really need a little more teeth.
8 But I don't think we're giving them, you know,
9 a thousand extra teeth.

10 SENATOR FLANAGAN: I would
11 assume, based on your work on this --

12 ACTING PRESIDENT BRESLIN:
13 Senator Flanagan, do you wish to ask another
14 question?

15 SENATOR FLANAGAN: Yes,
16 Mr. President.

17 ACTING PRESIDENT BRESLIN:
18 Continue.

19 SENATOR FLANAGAN: Would Senator
20 Thompson yield?

21 SENATOR THOMPSON: Yes,
22 absolutely. Yes, sir. I got all day.

23 SENATOR FLANAGAN: I would assume
24 that based on your work on this issue that you
25 are familiar with the Pine Bush Court of

1 Appeals case.

2 SENATOR THOMPSON: Yes.

3 SENATOR FLANAGAN: Is it your
4 belief that this legislation codifies that
5 case, or does it lessen that case, or does it
6 go beyond that case?

7 It's a three-part question,
8 Mr. President.

9 ACTING PRESIDENT BRESLIN:
10 Senator Thompson.

11 SENATOR THOMPSON: Yes, I believe
12 that under the -- this particular bill will
13 not only codify it but also clarify it as well
14 in terms of what the -- it would also clarify
15 it.

16 SENATOR FLANAGAN: Mr. President,
17 through you. Senator Thompson, how would you
18 suggest that this bill provides clarification
19 beyond what the Court of Appeals decided?

20 Because in my reading, right in the
21 beginning of the case it says: "We hold that
22 a person who can prove that her or she uses
23 and enjoys a natural resource more than most
24 other members of the public has standing under
25 SEQRA to challenge government actions that

1 threaten that resource." That seems pretty
2 clear to me.

3 What does your legislation -- how
4 does it provide more clarity?

5 SENATOR THOMPSON: I would
6 suggest that people would be able to bring a
7 suit in a particular situation.

8 It also would allow, for example,
9 if there were parents who were impacted by a
10 particular project, they would be able to
11 bring -- it would allow the parents of the
12 children to bring a suit against a particular
13 company for air pollution or other things that
14 they can prove that they have been impacted
15 by, whether it's asthma, cancer, or something
16 of that nature.

17 I don't believe it's a situation
18 where someone is driving down the street and
19 they happen to drive past a factory that has
20 black smoke coming out of the factory and then
21 they can then say "I happened to be driving
22 down the street this day and I believe I
23 inhaled fumes, and now I can sue." I think
24 that's the more extreme measure that some
25 people have tried to suggest.

1 So I think this bill simply allows
2 folks who believe that they have been harmed,
3 they have to, one, plea and be able to
4 demonstrate that they've been harmed and then
5 take that to court.

6 ACTING PRESIDENT BRESLIN:
7 Senator Flanagan.

8 SENATOR FLANAGAN: Mr. President,
9 through you. Senator Thompson, can you point
10 to me -- this is a relatively short bill.
11 Point to me in the bill where that says that.
12 Because I don't see at all.

13 SENATOR THOMPSON: Excuse me?

14 SENATOR FLANAGAN: Can you point
15 to the portion of the bill that clearly
16 delineates what you're suggesting? Because I
17 don't see that at all.

18 SENATOR THOMPSON: Yeah. It
19 simply says that -- let me find the bill. It
20 simply says in the bill that they do not have
21 to show special harm.

22 It basically goes back to the
23 original bill. But it just simply says if a
24 person institutes a proceeding under
25 Article 78 of the Civil Practice Law and Rules

1 alleging violations of this article, such
2 persons shall not be denied standing solely on
3 the grounds that the injury alleged by such
4 person does not differ in kind or degree from
5 injury that would be suffered by the public at
6 large.

7 ACTING PRESIDENT BRESLIN:

8 Senator Flanagan.

9 SENATOR FLANAGAN: Mr. President,
10 on the bill.

11 Thank you, Senator Thompson.

12 ACTING PRESIDENT BRESLIN:

13 Senator Flanagan, on the bill.

14 SENATOR FLANAGAN: I respectfully
15 completely disagree with what the sponsor just
16 said. And I think a fair reading of this, you
17 have to look at the backdrop prior to the
18 Court of Appeals case and some of the cases
19 that had preceded that. In my reading, and
20 I've spoken to a number of different people
21 and read a lot of the memos, there are
22 certainly some in favor, but there are plenty
23 in opposition.

24 This takes what was an expansion of
25 the law by the Court of Appeals and takes it

1 way down the road. It goes far beyond what
2 the Court of Appeals decided. The Court of
3 Appeals, to repeat, said that a person who can
4 prove that he or she uses and enjoys a natural
5 resource more than most other members has
6 standing to challenge government actions. And
7 that was an expansion from the existing law.

8 Now, we can quibble about whether
9 or not the Court of Appeals decision was
10 decided correctly or not. But your
11 legislation is actually very helpful, because
12 it is concise, because it focuses in right on
13 what that issue is.

14 You go on to say, as you just did,
15 that you can't be denied standing solely on
16 the grounds that the injury alleged by such
17 person does not differ in kind or degree from
18 the injury that would suffered by the public
19 at large.

20 This would be great fodder for
21 lawyers. And I listened to what you said
22 about the idea that there are 300,000 cases
23 and only a hundred of them or so were
24 SEQRA-related. That's under the old law.
25 Under the new law, I absolutely believe and I

1 think there are plenty of people who would say
2 I could come up to your community and work
3 myself or work with other people and bring an
4 action.

5 Now, I may not win. And in fact,
6 in the Pine Bush case, that's what happened.
7 They got the standing to sue, but they lost on
8 the merits.

9 But I look at this and think, all
10 right, somebody wants to stop a project.
11 Plaintiff A goes in and brings an action.
12 That starts to wind its way through the
13 courts. As that starts to finish up,
14 Plaintiff B comes in. Or Plaintiff C, an
15 organization. There's no limit on who can
16 bring these kinds of actions. This, to me, is
17 indicative of many of the problems that we
18 have here in the State of New York.

19 You represented that the DEC is
20 doing a good job. If they are doing a good
21 job, then we shouldn't have to be dealing with
22 issues like this.

23 And I'm going to just close on this
24 point. And I have a number of memos, but I'm
25 going to read a portion of a memo that you

1 will clearly understand because this is more
2 in your backyard than it is in mine.

3 "Unshackle Upstate strongly
4 believes that the Legislature should be
5 mindful of the high cost of doing business in
6 the State of New York before this legislation
7 is advanced. By allowing any individual to
8 bring a SEQRA claim, this bill will lead to
9 uncertainty and delays in construction of new
10 homes, facilities or businesses because of
11 concerns raised by unrelated third parties.

12 "This type of situation could occur
13 when a local developer with an excellent
14 working relationship with the local community
15 advances a project subject to SEQRA and that
16 project is then opposed by outside interests
17 due to their claims that the project is not
18 consistent with what those outside interests
19 believe are in the best interests of the host
20 municipality.

21 "And private projects are not the
22 only ones that could become hostage to outside
23 interests. A municipality looking to build a
24 simple salt shortage shed could be exposed to
25 litigation because of concerns by

1 singular-minded opposition groups, resulting
2 in an increased tax burden."

3 Now, I know that there were
4 amendments brought to you for your
5 consideration that would have made it tighter
6 and would have asked that the person have to
7 have some legitimate nexus with the project.
8 You have every right to bring the legislation
9 as you deem fit. You chose not to include
10 that. And by doing that, you've made this a
11 much worse bill and went way beyond what the
12 Court of Appeals decided.

13 I think this is going to be
14 extremely detrimental to all communities
15 across the State of New York, and it will
16 really undermine any efforts that we may be
17 making towards enhanced economic development.

18 Thank you, Mr. President.

19 ACTING PRESIDENT BRESLIN: Thank
20 you, Senator Flanagan.

21 Senator Oppenheimer.

22 SENATOR OPPENHEIMER: I would
23 yield to the sponsor.

24 ACTING PRESIDENT BRESLIN:
25 Senator Thompson, have you completed your

1 presentation?

2 SENATOR THOMPSON: Yes.

3 ACTING PRESIDENT BRESLIN: Any
4 other Senators wishing to speak on the bill?

5 Senator Marcellino.

6 SENATOR MARCELLINO: Mr.
7 President, I will yield to Senator
8 Oppenheimer, who stood up before I did. I'll
9 speak after she does.

10 ACTING PRESIDENT BRESLIN:
11 Senator Oppenheimer, on the bill.

12 SENATOR OPPENHEIMER: We look
13 like jack-in-the-boxes.

14 Well, I want to speak in favor of
15 the bill. Because as I see it -- and I was
16 here when the legislation was originated --
17 this act returns the test for standing under
18 SEQRA to what was originally intended, to what
19 we had originally meant.

20 And I see the nature of
21 environmental harms, such as air and water
22 pollution or loss of our wild habitat, I think
23 they are experienced by everyone. And
24 everyone should have a voice in this equally.
25 I think without this bill, citizens are only

1 eligible for standing if they can prove an
2 injury different from that experienced by
3 people generally.

4 And I feel that DEC has been
5 strapped and does not have the kind of staff
6 it did have a year or two ago and therefore it
7 is difficult for them to pursue every
8 violation, and they need our eyes on the job.
9 They need people that live locally in the
10 region looking at these issues, because they
11 cannot be everywhere with their decreased
12 staff.

13 So I think it is up to those of us,
14 the environmental activists, to bring these
15 lawsuits on behalf of the public at large in
16 order to require that DEC's environmental
17 enforcement voice will be heard.

18 So I think this is a very important
19 bill, as we're all witnessing environmental
20 degradation, hoping to do something about it.
21 It affects every one of us. I'll be voting
22 yes.

23 ACTING PRESIDENT BRESLIN: Thank
24 you, Senator Oppenheimer.

25 Senator Marcellino, on the bill.

1 SENATOR MARCELLINO: Thank you,
2 Mr. President. I appreciate being recognized
3 on the bill.

4 Senator Oppenheimer just made the
5 point that I'm going to make. And that is the
6 SEQRA bill, the SEQRA law was never designed
7 to prevent development, economic change, usage
8 of land, whatever. It wasn't designed to
9 prevent these things, it was designed to
10 discover problems. It came out of the old
11 NEPA act, passed in 1970 or '71, in that
12 range. The idea, go through an open process
13 where those involved have input.

14 Any developer knows that you go
15 through the SEQRA process, it could take,
16 minimum, nine months. Maximum, it could take
17 two years -- in some cases longer, depending
18 upon the complexity of the project involved
19 because of the public hearings, the
20 rehearings, the adoptions of the book that's
21 produced, the answering all of the suggestions
22 and recommendations. This process can go on
23 and on and on and on.

24 But SEQRA was designed to cover and
25 expose potential difficulties, potential

1 problems. Air pollution problems, water
2 pollution problems, traffic problems that
3 might be created as a result of some
4 development that's going in in a particular
5 area.

6 It's also designed to pose
7 solutions. And that's the key element here.
8 It's designed to provide and produce solutions
9 to those problems. The developer has the
10 responsibility to come up with answers to the
11 questions raised by the affected community.
12 And that affected community could be defined
13 in a lot of different ways. But an affected
14 community.

15 I could define an affected
16 community, for example, with the drilling of
17 Marcellus Shale, up in the regions upstate
18 where the shale is located, you might have an
19 affected community in the City of New York,
20 because it could impact their water quality if
21 there was drilling in the watershed. They
22 could be defined as an affected community
23 relative to drilling several hundred miles
24 away from the city itself. So there's a SEQRA
25 definition that could be brought here.

1 But the idea is to provide
2 solutions, not just create obstacles to
3 development. I could see, for example, a
4 developer come in, want to put in a project --
5 and we have one in my own district going on
6 right now, two powerful mall-developing
7 companies are fighting over a piece of land.
8 One wants to stop the other one from building
9 on it. And the lawsuits have been going on
10 for five years. Five years. Nothing's
11 happened. The land is still sitting there and
12 nothing's going on. It's been in a lot of
13 courts. Lawyers have made livings, sent their
14 children to college. Their grandchildren
15 already are putting in accounts for this
16 particular litigation. It's going on and on
17 and on.

18 It can be used as a tool to
19 obstruct. We have the Article 10 siting bill.
20 We can't get an Article 10 siting bill agreed
21 upon here because there's no way. If you open
22 this bill up, you would never site anything
23 relative to a power plant anywhere in this
24 state, anywhere. It just wouldn't exist, it
25 just wouldn't be permitted. Any group could

1 come in and say, I object, I raise an
2 objection, I file an Article 78 -- and they
3 can't be denied. Defense has to brought up,
4 lawyers have to be hired, and the process goes
5 on. And then, as Senator Flanagan rightly
6 pointed out, you finish that one, the next one
7 jumps in.

8 It can be used and abused here.
9 There's too much opportunity for abuse. A
10 project that the local community wants and the
11 SEQRA process is carried out and the
12 objections are raised, the problems are
13 identified, solutions proposed, everyone
14 accepts it, it's adopted and someone someplace
15 else from outside the district can say, We
16 know better than you, local community, we're
17 going to stop that project. And they can do
18 it, under this law. Under this expanded
19 ability of this law.

20 That, ladies and gentlemen, is
21 dangerous. That's not what SEQRA is all
22 about. That's not what it's for. That's why
23 you have a process. If those people had
24 objections, they should have come in during
25 the hearings and be heard. File briefs, file

1 reports, show studies. Encourage the process,
2 but on-site during the original process, not
3 coming in from the outside after facts and
4 then bringing up objections to stall and stall
5 and stall and stall.

6 If this bill becomes law, economic
7 development in this state will be put into
8 sincere question. Maybe not initially. And I
9 don't believe that Senator Thompson's desire.
10 Let me say that upfront, I do not believe that
11 is Senator Thompson's wish. I don't think he
12 wants to do that. I don't think that what's
13 he intends to do. But that's the language in
14 the bill would permit.

15 Ladies and gentlemen, as we all
16 know, we make our living with words. Words
17 mean things. The way you construct them, the
18 way you put them together, they mean things.
19 That's why we have people called lawyers and
20 other people called judges, to decide what
21 words mean when there are conflicting
22 decisions and conflicting opinions.

23 I would suggest to you this opens
24 the door for too many conflicting opinions.
25 This would make New York State, which already

1 has a record and a history of being hostile to
2 economic development -- to say the least --
3 even more so. It would put a crimp in
4 anyone's attempt to bring development,
5 positive development of any kind into a
6 community.

7 Why would banks lend money? Why
8 would they throw money into these communities?
9 Why would they throw money behind these
10 projects if anybody from anywhere, without any
11 warning, who doesn't live anywhere near the
12 project can raise an objection? That's what
13 that bill allows. It may not be Senator
14 Thompson's intention, but that's what the bill
15 allows.

16 Read the words. Read the words.
17 You cannot point out a place in the language
18 of the bill where it says that can't happen,
19 because they don't exist. Senator Flanagan
20 pointed it out. And if you read the bill, it
21 doesn't provide any relief.

22 This is a dangerous bill. It needs
23 to be fixed. If you want to fix it and want
24 to put something up like Senator Oppenheimer
25 talked about, this bill needs serious

1 amending. This bill needs serious work and
2 rework. As is, it's a danger and a threat.
3 And I don't see it as being anything effective
4 in the environmental community. I don't think
5 it would impact or improve our environment in
6 any way, shape or form.

7 So, ladies and gentlemen, I would
8 urge a no vote on this particular piece of
9 legislation. And hopefully the bill goes back
10 to committee and gets reworked and amended so
11 that it can produce and do what it's supposed
12 to do, what it's intended to do, not what
13 someone thinks it might intend itself to do.
14 Read the bill.

15 ACTING PRESIDENT BRESLIN: Thank
16 you, Senator Marcellino.

17 Senator Ranzenhofer, on the bill.

18 SENATOR RANZENHOFER: Thank you,
19 Mr. President.

20 I'd like to echo some of the
21 thoughts and the comments made by my
22 colleagues. And probably the main issue up in
23 my neck of the woods is economic development
24 and job creation. In other words, in upstate
25 New York, in Western New York and throughout

1 much of the state it's very hard to conduct
2 business under the regulations and the rules
3 that we have right now.

4 I think that the passage of this
5 bill will put up a sign that New York State is
6 now closed for business. And I know that
7 Senator Marcellino had used the word -- I
8 think you had said that this would put a crimp
9 in economic development and business. I
10 actually think it goes even a little bit
11 further from that. I think this will be
12 devastating for my community.

13 I understand -- and there's
14 actually a lot of opinions on both sides of
15 the issue. But if you have to make a choice
16 and you have to make a decision, one of the
17 things that's happening in this state is that
18 we are continuing to bleed people and
19 businesses. And I think this will be one of
20 the final nails in the coffin to trying to
21 create jobs, to try to create economic
22 development, to try to create prosperity in
23 New York State and upstate New York.

24 I just want to read from some of
25 the memos that we have here about different

1 people who are involved in economic
2 development and who are involved in business,
3 what their opinions are.

4 They say that "For the building and
5 development industries, construction projects
6 will be completely shut down and local
7 community taxpayers will be the ones that
8 ultimately pay the price." They go on to say
9 that "Providing individuals with standing in
10 actions alleging violations of ECL will only
11 solicit uncertainty on behalf of investors and
12 developers, making New York State even less
13 attractive for economic development."

14 In other words, right now New York
15 State is very unattractive for doing business.
16 That's why the growth areas are not in
17 New York State. They're in Tennessee, they're
18 in North Carolina, they're in Florida, they're
19 in other areas where taxes are lower, where
20 regulations are less burdensome. They're
21 where people are moving to, not from.

22 Another opinion that was expressed
23 in some of the memos that we received, that
24 "This will discourage new investment and job
25 creation in the state as well as create

1 competitive disadvantages."

2 And finally, in a third memo, it
3 talks about "Our primary opposition to this
4 legislation is that it will encourage
5 additional litigation without significantly
6 enhancing environmental protection in
7 New York."

8 If this bill actually helped the
9 residents of my community and the taxpayers of
10 my community, I would be all for it. But it
11 doesn't help. The only thing it does is it
12 continues to chase them away, where we see, on
13 Main Street in Buffalo, we see boarded-up
14 building after building after building where
15 people are trying to rehab, people want to do
16 economic development.

17 You know, they don't want to,
18 because it's just -- it's too expensive, it's
19 too burdensome, it's too costly, there are too
20 many mandates. This will shut down the
21 remaining buildings on Main Street in Buffalo
22 and other areas, not only in upstate New York
23 and Western New York, but throughout the
24 state.

25 Because as some of my colleagues

1 have said, people are not going to want to
2 lend money. The uncertainty of being able to
3 get development projects on board will just be
4 totally out of hand, even much more difficult
5 than it is now.

6 So while the intentions may have
7 been pure, I think the unintended consequences
8 will be devastating for my community. And for
9 that reason, I will not be supporting the
10 legislation when it comes for a vote.

11 Thank you, Mr. President.

12 ACTING PRESIDENT BRESLIN: Thank
13 you, Senator Ranzenhofer.

14 Senator DeFrancisco, on the bill.

15 SENATOR DeFRANCISCO: Yes. You
16 know, we have public institutions to protect
17 the public at large. For example, if there's
18 some group of companies that are causing
19 problems generally to the public, on consumer
20 issues we have the Attorney General enforcing
21 the laws to make sure that the general public
22 is protected from some companies doing fraud
23 to the general public.

24 I think everyone in this room would
25 think it would be pretty absurd for John Jones

1 to go in to protect the general public because
2 they see a danger that's to the general public
3 about some company that's committing fraud to
4 the general public. Not to them individually,
5 but to the general public.

6 We have situations where the county
7 attorneys or the city counselors that
8 represent the city, the attorneys, bring cases
9 because of housing violations that affect the
10 general public. We would think it would be
11 sort of ridiculous for John Jones two streets
12 away to say "I don't like the way this house
13 looks, I'm going to bring a lawsuit because it
14 affects me and the general public." Because
15 it's so costly otherwise to they have every
16 individual running around being the police
17 officer for all the laws of the State of
18 New York. It makes sense.

19 That's what's happening in this
20 bill, however. I just hope people really read
21 this and understand it. Senator Oppenheimer
22 says we've got to give it back to the people.
23 Well, we have a DEC to protect the public
24 interest from these types of situations that
25 this bill attempts to present.

1 Can you imagine if a developer
2 wants to build a house, housing project --

3 ACTING PRESIDENT BRESLIN: Excuse
4 me, Senator Thompson. Why do you rise?

5 SENATOR THOMPSON: I just wanted
6 to state for the record that the DEC currently
7 is not charged with enforcement of SEQRA. I
8 didn't say that my colleague was suggesting
9 that, I just wanted to make sure that was
10 clear.

11 ACTING PRESIDENT BRESLIN:
12 Senator DeFrancisco, I apologize. You may
13 continue.

14 SENATOR DeFRANCISCO: Okay, thank
15 you.

16 The point simply is the process
17 that's in effect is a process that protects
18 the general public. And we're all public
19 officials. Has anyone in this room ever gone
20 to a public meeting where everybody's
21 satisfied? There's always going to be one
22 person or two people or a group of three
23 people that claim they're some organization
24 that decide they don't want this in their
25 neighborhood.

1 You know, this is a very, very
2 dangerous bill. And I happen to be a lawyer
3 who tries cases. And if you want -- I'm
4 sometimes accused of supporting trial lawyers'
5 bills. This is the lawyers' full employment
6 act, because any individual can bring a
7 lawsuit to stop a project. My God, we're
8 hemorrhaging jobs in this state.

9 And it seems to me that if your
10 only interest is that you're harmed as the a
11 general public is, and you don't have any
12 special harm, this is a dangerous bill. I'm
13 calling upon people not to think about a
14 party-line position in this. Think of what
15 it's going to mean to your contractors in your
16 jurisdiction if this bill, God forbid, ever
17 passed.

18 There are ways to protect the
19 environment, but you don't have to stop
20 projects by one individual who happens to
21 think that they're going to be the sheriff of
22 their neighborhood. And that individual, if
23 that individual has a lot of money, that
24 sheriff will be the individual to impose his
25 or her will over the will of the community and

1 the general public.

2 So this is a no vote as far as I'm
3 concerned and should be not even on the floor
4 for discussion, quite frankly.

5 Thank you.

6 ACTING PRESIDENT BRESLIN: Thank
7 you, Senator DeFrancisco.

8 Senator LaValle, on the bill.

9 SENATOR LaVALLE: Thank you very
10 much, Mr. President.

11 I want to congratulate my colleague
12 Senator Flanagan for very artfully putting
13 forth the legal discussion on this bill. And
14 the first paragraph of the Pine Bush decision
15 has the holding, and he read right from the
16 decision.

17 Senator Marcellino talked about the
18 SEQRA process. And many of us understand that
19 process in our community in terms of the air,
20 water, traffic. As a matter of fact, in a
21 project in my district I was able to show that
22 the traffic impact was far greater than what
23 the developer put forth.

24 It's a very good process. The
25 issue that we're -- we're not talking here

1 about the SEQRA act or process, we're talking
2 about the standing here. And this decision
3 was enacted about six months ago, October of
4 2009. Here we are, after a significant
5 decision, we are saying, Well, we want to
6 change it, we want to go further, we want to
7 go a place other than where the Court of
8 Appeals went.

9 This was not a four-three decision
10 by the Court of Appeals. It was not a
11 four-three decision. So it was a very
12 thoughtful decision.

13 And the point I want to make here
14 is that the court created a balancing act. It
15 talked about not setting the standard too high
16 or too low. And the court said, "Even
17 good-faith environmental challenges like the
18 one brought by these petitioners can be very
19 burdensome. Striking the right balance in
20 these cases will often be difficult, but we
21 believe that our rule requiring a
22 demonstration that a plaintiff's use of a
23 resource is more than that of the general
24 public will accomplish that task better than
25 the alternatives."

1 Now, Senator Thompson, if this bill
2 that you have on the floor were brought a year
3 ago, prior to, and we had a vote on this
4 before the Pine Bush decision, you might have
5 had a different result. Timing on legislation
6 is so critical.

7 This bill, after the Pine Bush
8 decision, really doesn't give us an
9 opportunity to see whether the balancing act
10 that the court has established works. And so
11 I think that's a key element here. And I
12 think that a lot of the individuals speaking
13 on the bill are expressing that frustration.

14 Let's give the court's decision a
15 chance to work, see whether we need to tweak
16 it down the road. But we really need time to
17 really demonstrate what we need to do. Six
18 months to come in with a bill like this, I
19 think is premature.

20 ACTING PRESIDENT BRESLIN: Thank
21 you, Senator LaValle.

22 Senator Saland, on the bill.

23 SENATOR SALAND: Thank you,
24 Mr. President.

25 Would Senator Thompson yield to a

1 question, please?

2 ACTING PRESIDENT BRESLIN:

3 Senator Thompson, would you yield for a
4 question from Senator Saland?

5 SENATOR THOMPSON: Yes.

6 ACTING PRESIDENT BRESLIN: You
7 may proceed, Senator Saland.

8 SENATOR SALAND: Thank you,
9 Senator Thompson.

10 Senator Thompson, in your bill you
11 talk in terms of a person. And I'm sure that
12 a person is expanded, by definition, to
13 include more than a mere individual. Am I
14 correct?

15 SENATOR THOMPSON: Can you repeat
16 your question?

17 SENATOR SALAND: Your bill, on
18 line 6, refers to a person, a person
19 instituting a proceeding.

20 SENATOR THOMPSON: Yes.

21 SENATOR SALAND: Routinely -- and
22 we can take a look at the Environmental
23 Conservation Law -- "person" is generally
24 defined as not merely an individual but a
25 corporate entity and a host of others that for

1 purposes of brevity are included under the
2 term "person." And I assume that is the case
3 here, is it not?

4 SENATOR THOMPSON: Yes, that
5 would be correct.

6 SENATOR SALAND: Thank you. I
7 have no further questions.

8 On the bill.

9 ACTING PRESIDENT BRESLIN:
10 Senator Saland, on the bill.

11 SENATOR SALAND: Mr. President, I
12 believe on at least one and perhaps more
13 occasions I have said that government doesn't
14 have the ability, whether it be national
15 government or state government, to control the
16 economy. If we did, regardless of which party
17 was in power, Republican or Democrat, the
18 economy would never go south because nobody on
19 their watch would want the economy to be bad.

20 But the reality is is government is
21 limited in what it can do. It can incentivize
22 through means of legislation and regulation,
23 or it can impede economic development. In
24 this case, this is not merely impeding, this
25 is almost like putting up a stone wall.

1 The reality is is that any
2 entity -- for example, let's assume that
3 there's an organization or an individual with
4 deep pockets in Manhattan who doesn't
5 particularly like the idea of some project
6 that may be occurring in Central New York, in
7 Western New York, in the Adirondacks or the
8 Hudson Valley. They now have standing,
9 despite the fact -- under this proposal --
10 that they don't live within a hundred miles of
11 the project and have absolutely no bearing
12 whatsoever on the community other than their
13 ability to interfere in the actions of the
14 community.

15 What this bill does, it says that
16 if you are competing with somebody for a
17 contract to do some sort of development,
18 whether it be waterfront development, whether
19 it be residential development, whether it be
20 commercial development, if in fact you're not
21 happy with the results, you, as a private
22 enterprise, have now been given the
23 opportunity to prevent that project from going
24 forward by just grinding it out. And people
25 with deep pockets who have particular missions

1 in life have the ability to grind out their
2 opposition.

3 We are living through some
4 extraordinarily difficult financial times. We
5 are sending signal after signal that New York
6 is closing down for business, whether it be
7 tax increases, whether it be regulations,
8 whether it be excessive spending.

9 And now what we want to say is
10 anybody in any community, regardless of the
11 fact that they have absolutely no nexus
12 whatsoever, and despite the Pine Bush decision
13 that says there are a class of people
14 apparently, under the Court of Appeals
15 decision, who do have greater standing than
16 the general public even if they're not part of
17 the general public, we are saying here that
18 anybody, any Tom, Dick and Harry, any
19 organization that is so inclined has the
20 ability to prevent development or delay it
21 long enough so that it becomes financially
22 imprudent to go any further.

23 Now, I live in the Hudson Valley.
24 It's a wonderful part of the state. It's a
25 wonderful part of the world. We've had the

1 good fortune to have some riverfront
2 development in one of the cities in the Hudson
3 Valley, and there's some other in another
4 city, in my district. And I'm talking about
5 the City of Poughkeepsie, I'm talking about
6 the City of Beacon. Many of the Hudson Valley
7 communities look to the riverfront as a means
8 by which to revitalize their communities, to
9 improve their quality of life, to bring on
10 economic development.

11 I have no doubt whatsoever that
12 these projects would have been either
13 blackmailed, extorted, or simply held up if
14 there were people who had the ability that
15 Senator Thompson proposes to give them under
16 this bill.

17 We're really saying that New York
18 doesn't give a damn about economic
19 development. This is yet another instance of
20 our spitting in the face of those who might
21 otherwise be willing to spend money to create
22 jobs here and develop economically here in
23 New York.

24 Thank you, Mr. President.

25 ACTING PRESIDENT BRESLIN: Thank

1 you, Senator Saland.

2 Senator Liz Krueger, on the bill.

3 SENATOR LIZ KRUEGER: Thank you,
4 Mr. President.

5 I found the debate very
6 interesting. And I was reading the bill, as
7 was suggested by my colleagues during the
8 course of the discussion. And I feel like
9 we've magically imagined this bill to be so
10 much more than it is.

11 This bill would bring us back to
12 original intent of the legislation when it
13 passed in 1975. It would bring us back to a
14 model that in fact seemed to have worked
15 between '75 and '91. I don't believe there
16 was any end of development in the State of
17 New York at that time. In fact, I think we
18 were doing better during most of that time
19 period.

20 It would bring us back consistent
21 with our federal counterpart legislation, the
22 National Environmental Policy Act, NEPA.

23 It wouldn't provide for anyone in
24 the world to have standing and to get a court
25 to stop everything forever. In fact, the

1 courts are pretty good about not giving
2 standing to people who don't have a serious
3 case to bring and move through the courts.

4 I appreciate one of my colleague's
5 arguments that would you want to have this
6 type of standing available for any consumer
7 complaint. Well, some people might say yes.
8 One colleague just did. It would be an
9 interesting question, given what just happened
10 to the economy of the world based on
11 interpretation of what is safe financial
12 investments and derivative pooling. I might
13 argue it would have been really handy to have
14 something like this bill apply to actions that
15 took place in the investment world, because
16 maybe we wouldn't be dealing with a trillions
17 and trillions of dollars crisis that we still
18 cannot get out of.

19 But this bill has nothing to do
20 with that. Maybe somebody wants to write one
21 of those bills. This bill is specific to
22 environmental issues.

23 And I have to say when it comes to
24 the environment, we are supposed to have a
25 broader interpretation about people's ability

1 to raise their hand and say "There's a really
2 big risk here that everyone hasn't perhaps
3 thought about."

4 Because as my colleague from Long
5 Island mentioned when he used the analogy
6 about the Marcellus Shale, that in fact if
7 something goes wrong with fracking far, far
8 away, New York City's water could be
9 destroyed. And therefore there's, I think, an
10 understandable concern about things that
11 impact the watershed.

12 Well, the environment -- clean air,
13 clean water, protection of our land,
14 stewardship of our environment, stewardship of
15 the nature around us -- it isn't just
16 personal, it actually impacts all of us even
17 if it's a personal act. It impacts the
18 children, it impacts the great-grandchildren.

19 And so I think it makes sense to
20 have laws that affect decisions that impact
21 the environment actually have a bit of a
22 standard that have to be tested. But again,
23 it's not an untested set of questions. It's
24 not even a new idea for New York State. All
25 this bill is doing is bringing us back to the

1 original legislation as passed and as we lived
2 under in New York State for 16 years. No
3 more, no less.

4 So a lot of times we try to make
5 things more complicated. I want to say thank
6 you, Senator Thompson, for drafting and moving
7 this bill to the floor. I know that it's
8 controversial. I hear all my colleagues. I
9 don't know how they'll vote.

10 I think when you ask yourself the
11 question should a little more protection be
12 built in, just in case when a major change of
13 the use of land is going to be involved, when
14 potentially something serious could go wrong,
15 to even admit that your local government, your
16 state government might be wrong when they make
17 the determination that they think it's okay --
18 there's lots of things you can fix afterwards
19 when you get it wrong. Thank goodness, for
20 most of us, there's lots of things you can fix
21 afterwards when you get it wrong. But as we
22 all know, if you make a big mistake impacting
23 the environment, you very often don't really
24 get a chance to fix it.

25 So I'm very appreciative that this

1 bill is on the floor of the Senate, that we
2 are debating it, and I'll be voting yes,
3 Mr. President. Thank you.

4 ACTING PRESIDENT BRESLIN: Thank
5 you, Senator Krueger.

6 Senator Farley, on the bill.

7 SENATOR FARLEY: I'm going to
8 keep it brief and I'm going to keep it simple.
9 There isn't a poll that has been done in this
10 state that hasn't said the issues important to
11 our people are jobs and the economy. Jobs and
12 the economy. People are leaving this state.
13 If we've got an Achilles heel here, it's that
14 we're anti-business.

15 And the state is absolutely
16 bleeding because of this image that we're
17 creating. And this bill is very, very clearly
18 anti-business, anti-development.

19 And I'll tell you what. Every
20 district in this house speaks to this issue:
21 Jobs and the economy. If you've got a
22 political death wish, this is the bill to vote
23 for. I'll tell you what, I'm voting no.

24 ACTING PRESIDENT BRESLIN: Thank
25 you, Senator Farley.

1 Senator Volker, on the bill.

2 SENATOR VOLKER: Mr. President, I
3 will try to be brief.

4 Senator Thompson, I am certain that
5 your intentions are good with this bill. But
6 I have to tell you that there is a project
7 that is in your district that many people
8 believe is the most important project in
9 upstate New York, that has now been held up
10 for somewhere between 12 and 15 years. It's
11 the Peace Bridge. It started out when it when
12 a group of preservationists decided to oppose
13 it. A judge issued an order -- a judge, by
14 the way, whose wife was a big preservationist.
15 You know, that's the way it is.

16 It started a series of orders on
17 environmental issues. Several of those
18 environmental issues have basically been
19 thrown out. A fellow claimed, a doctor
20 claimed that he had this big study that showed
21 there were a lot of sick people. And that
22 disappeared years ago.

23 But the problem is that that Peace
24 Bridge now, which was supposed to cost
25 somewhere between \$200 million and

1 \$300 million, is probably up around a billion
2 dollars now at least.

3 And the City of New York is
4 complaining that that Peace Bridge, because it
5 was not developed -- that is, the expanded
6 Peace Bridge and the double bridge -- is
7 hurting the City of New York, it is holding up
8 the entire Northeastern roadway, including
9 Canada. Canada was going to build a -- was
10 going to widen the QEW and decided not to do
11 it because of the Peace Bridge.

12 Why do I mention it in regards to
13 this bill? Because this bill -- and I think I
14 know a little bit about tort law and about
15 that. I was chairman of Codes for many years.
16 I led the attempts to reform tort law. And we
17 did, I think, some pretty good things. But
18 this bill -- and when you heard from the
19 Senator to my friend on the right here that
20 this is a lawyer's bill, he knows. Because
21 he's one of the best trial lawyers in this
22 state.

23 The trouble is that we have to be
24 very careful. We have been trying to limit,
25 wherever possible, the hold of lawyers and

1 environmentalists on projects all over the
2 state. In our region there are projects that
3 have been held up for one to two years because
4 of various reasons, some that have to do with
5 the fact that people tried to claim that, oh,
6 wetlands are really wetlands and all kinds of
7 things.

8 This bill, as I see it, is one of
9 the greatest expanses of lawyers' ability to
10 hold up -- not just hold up projects, but to
11 dictate how the development of this state is
12 going to go. And, you know, the
13 environmentalists, they don't think that
14 that's happening. They don't understand.
15 They have never really understood how
16 dangerous some of these things could be.

17 I say to you and I know that you
18 never intended this to be. But as my friend
19 Senator DeFrancisco said, this is the "Full
20 Employment for Lawyers Act." In fact, we may
21 lose a couple of lawyers in this Legislature
22 if this bill passes and becomes law. You
23 know, I mean, hanging around here and not
24 making a lot of money is something that some
25 lawyers have some problems with. And it's one

1 reason, by the way, why there are fewer
2 lawyers than at any time in the history of
3 this Legislature.

4 But the big thing about this bill,
5 Senator, is that it will create new havoc in
6 the real estate area, I believe, and in the
7 development area. And if this is not dealt
8 with some way, it will create a situation
9 where we will rue the day that this bill
10 became law.

11 And I know you don't want to do
12 that. I'm convinced of that. But I say to
13 you, coming from Buffalo, coming from an area
14 that needs more housing, needs more
15 development, and certainly needs to expand
16 that Peace Bridge and get the development that
17 we so desperately need and that the state so
18 desperately needs, I just don't think this is
19 the bill that fits the bill. This is a bill
20 that will create, I believe, environmental
21 havoc.

22 ACTING PRESIDENT BRESLIN: Thank
23 you, Senator Volker.

24 Senator Padavan, on the bill.

25 SENATOR PADAVAN: Thank you,

1 Mr. President. Would the sponsor yield to one
2 or two questions?

3 ACTING PRESIDENT BRESLIN:
4 Senator Thompson, will you yield to Senator
5 Padavan?

6 SENATOR THOMPSON: Yes.

7 SENATOR PADAVAN: Senator, under
8 the presumption that virtually every bill that
9 we deal with, every proposal in legislative
10 form is intended to correct existing law,
11 improve upon it in some fashion, with that in
12 mind I have in front of me an article that
13 appeared in the New York Law Journal. And the
14 title of it is "Court of Appeals Expands
15 SEQRA, SEQRA Standing After an 18-Year
16 Detour." And it goes on at some length making
17 reference to the case that we've heard here
18 frequently, the Pine Bush case.

19 "The court explicitly addressed one
20 of the two major scenarios in which the old
21 ruling was seen to have created an obstacle,
22 and it showed the path to pleading around the
23 obstacle in the other scenario.

24 "It is now easier than it has been
25 for 18 years. Standing in New York has been

1 so confusing, but since they still had a shot
2 at prevailing under this new case, it will
3 allow more suits to stay in court, especially
4 if they're carefully pled."

5 Now, the essence of this very
6 lengthy article is that the SEQRA law, as the
7 recent Court of Appeals decision revealed, is
8 now working rather well and can work in the
9 future.

10 And therefore, this bill that you
11 proposed may have some unintended
12 consequences. Yet based on this latest
13 decision by our highest court, it would
14 interfere, potentially, with now what is
15 considered to be an effective vehicle for
16 pleadings in areas where individuals or groups
17 of individuals would have a concern.

18 Now, do you take issue with this
19 article? Which, by the way, was written by
20 Professor Gerrard, who is director of the
21 Center for Climate Change Law at Columbia Law
22 School, an environmental lawyer by any means.
23 This is his decision -- or his conclusion, I
24 should say, based on that decision. Do you
25 take issue with this?

1 ACTING PRESIDENT BRESLIN:

2 Senator Thompson.

3 SENATOR THOMPSON: First, let me
4 thank Senator Padavan for his reference to
5 Mr. Gerrard's article.

6 And I have talked with him. In
7 fact, last June we were going to have him come
8 up on June 8th, but we had a little
9 disturbance. So we pulled the bill that day.

10 What I would say is that his
11 article does talk about that there will be
12 some expansion. However, his article also
13 says that "A potential difficulty arises from
14 the court's new rule requiring a demonstration
15 that a plaintiff's use of a resource is more
16 than that of the general public. This rule is
17 directly aimed at the first scenario and not
18 the second. It remains to be seen how
19 narrowly or broadly this rule will be
20 interpreted in future decisions."

21 And what I want to emphasize is
22 that if there were a situation, as some have
23 suggested, that there was some massive
24 explosion of frivolous cases in the courts,
25 then clearly, as someone who's involved with

1 development initiatives at the local level and
2 currently at the state level, I would support
3 some amending if we saw some massive spike.

4 And that has not happened in the
5 past. I don't believe it will happen in the
6 future. We have less than 100 cases
7 currently. And I don't believe we're going to
8 have some massive expansion.

9 In addition to that, I think his
10 article also looks at another issue that you
11 have to -- as I've stated earlier, you have to
12 show that you have been affected. You have to
13 plead harm, you have to prove harm. So that's
14 what -- and if you don't, the court should
15 throw it out.

16 And bad lawyers will get
17 sanctioned, they'll get fined, they'll get
18 disciplined if they bring frivolous cases
19 before judges.

20 So to say that this is like, you
21 know, the -- I don't know what somebody said,
22 the Lawyers Employment Act, I think is -- it's
23 a little overgenerous in terms of explaining
24 the bill. And I know you didn't say that.
25 I'm not saying you said that, Senator. Yes.

1 SENATOR PADAVAN: You know, I
2 heard your answer, Senator, and I'm not going
3 to quarrel with it --

4 ACTING PRESIDENT BRESLIN:
5 Senator Padavan.

6 SENATOR PADAVAN: If I may,
7 Mr. President.

8 ACTING PRESIDENT BRESLIN:
9 Certainly.
10 Senator Thompson, do you yield to
11 another question?

12 SENATOR THOMPSON: Absolutely.
13 Absolutely.

14 ACTING PRESIDENT BRESLIN: You
15 may proceed.

16 SENATOR PADAVAN: As I started to
17 say, I don't quarrel with your answer. But
18 again, I draw your attention that this
19 article, which is a very well constructed one,
20 says it will allow more suits to stay in
21 court. So I would assume it's an improvement.

22 Are you aware of the fact, Senator,
23 that the City of New York is opposed to this
24 legislation?

25 SENATOR THOMPSON: I heard that

1 late today. That was news to me. But I did
2 hear that late today.

3 SENATOR PADAVAN: Well, if you
4 will further yield, I -- Mr. President.

5 SENATOR THOMPSON: Yes.

6 SENATOR PADAVAN: Now, the City
7 of New York obviously has a great deal -- if
8 you'd yield again. I think the President is
9 busy, but I'm sure you'll yield.

10 The city has a great deal at stake
11 with regard to environmental issues, our
12 watersheds in the Catskills and so on. Why
13 would they be opposed to this legislation if
14 it had a positive aspect or connotation
15 regarding environmental issues in our state?

16 SENATOR THOMPSON: I cannot speak
17 for New York City on this particular bill. I
18 do know that on other bills they have
19 contacted us and, when appropriate, we've
20 addressed them. I also know that we had a
21 civil rights bill last year that got vetoed by
22 the Governor as a result of New York City,
23 which it passed the Senate for the first time
24 ever.

25 So I can't speak for New York City.

1 If they had contacted me about it, I'm certain
2 that we would have responded and tried to
3 address that particular issue.

4 SENATOR PADAVAN: Well,
5 Mr. President, if the Senator would yield.
6 Wouldn't it be --

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

9 SENATOR PADAVAN: Wouldn't it be
10 a good idea --

11 SENATOR THOMPSON: Absolutely.

12 ACTING PRESIDENT BRESLIN: Excuse
13 me, Senator Padavan. Let me ask Senator
14 Thompson --

15 SENATOR PADAVAN: I did already.

16 ACTING PRESIDENT BRESLIN: I will
17 ask him, Senator, if he --

18 SENATOR PADAVAN: I thought you
19 did.

20 ACTING PRESIDENT BRESLIN: I was
21 in the process of asking. Excuse me.

22 SENATOR PADAVAN: Okay.

23 ACTING PRESIDENT BRESLIN: Will
24 you yield, Senator Thompson?

25 SENATOR THOMPSON: Yes,

1 absolutely.

2 ACTING PRESIDENT BRESLIN: You
3 may proceed, Senator Padavan.

4 SENATOR PADAVAN: Thank you,
5 Mr. President. You're very kind.

6 In view of that fact, that you've
7 just learned of the city's opposition,
8 wouldn't it be a good idea to find out what
9 their problems are and, if possible, address
10 them?

11 SENATOR THOMPSON: Through you,
12 Mr. Chair. First, I just learned about this
13 probably around 2 o'clock today.

14 SENATOR PADAVAN: I understand
15 that.

16 SENATOR THOMPSON: And because
17 there's been enormous debate about a number of
18 bills, whether they were sponsored by me or
19 not sponsored by me, I have been trying to
20 assist on a number of the particular bills.
21 So that is why I have not had the opportunity
22 to contact them.

23 In addition to that, I am not
24 certain whether or not they contacted me
25 directly. But as I stated before, we have a

1 very good relationship with their
2 environmental policy department and their
3 government affairs folks. And so if there's
4 something that they want to have addressed in
5 the future, we'll definitely, as always, keep
6 that door open.

7 ACTING PRESIDENT BRESLIN:
8 Senator Padavan.

9 SENATOR PADAVAN: Well, would the
10 Senator yield again.

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

13 SENATOR THOMPSON: Sure.

14 SENATOR PADAVAN: I respect fully
15 your point of view, and I don't quarrel with
16 it at all.

17 But it would seem that we are very
18 early in the session; we're going to be here
19 for a long time. Wouldn't it be a good idea
20 just to lay this aside temporarily until we
21 found out what the city's problem is and if we
22 can possibly address it without dealing in any
23 negative way with your goal?

24 ACTING PRESIDENT BRESLIN:
25 Senator Thompson.

1 SENATOR THOMPSON: Yes, through
2 you, Mr. Chairman. First -- Mr. President.

3 ACTING PRESIDENT BRESLIN: Either
4 way.

5 SENATOR THOMPSON: The State
6 Assembly has passed this bill today. And I
7 know that they have a disproportionate number
8 of members from New York City.

9 And in addition to that, as I've
10 stated, this has been out there for a great
11 number of months. It's been on the third
12 reading of the Senate for at least 60 days,
13 and I have not heard from them.

14 And as I previously stated, I
15 believe we have an open door. I meet with
16 groups all the time from all over the state.
17 I have a stack of letters here before me on
18 crossbow hunting. I've never gone hunting,
19 but I have a lot of friends that do hunt. So
20 I read letters, I respond to letters from
21 people from all over the state. Sometimes I
22 even hand-write the letters. In fact, I even
23 call people that are in my district or not.

24 So if they had contacted me prior
25 to today, I am certain that being the people

1 person and the nice guy that I tend to be
2 99.9 percent of the time, I would have
3 responded to them.

4 SENATOR PADAVAN: Thank you.

5 One more question, Mr. President.

6 ACTING PRESIDENT BRESLIN:

7 Senator Thompson, do you yield for one more
8 question from Senator Padavan?

9 SENATOR THOMPSON: Absolutely.

10 ACTING PRESIDENT BRESLIN: You
11 may proceed, Senator Padavan.

12 SENATOR PADAVAN: And now in a
13 completely different venue.

14 If an organization were to acquire
15 a sizable piece of property and wished to
16 build a group of homes for physically and
17 mental disabled individuals in a given
18 community, would your bill expand upon the
19 prerogative of some individual or group of
20 individuals for initiating an action that
21 currently would not be appropriate under
22 existing law, SEQRA law, as currently defined
23 by the courts?

24 SENATOR THOMPSON: Through you,
25 Mr. Chair -- Mr. President.

1 I would state that whether it's
2 this law or any -- this proposed law, the
3 current law or local zoning laws as well, that
4 they can always have an impact, the potential
5 of slowing down development projects.

6 As someone who has lots of friends
7 that are developers and builders, many of the
8 top builders in Western New York's phone
9 number are in my cellphone, so I'm not
10 opposed -- I'm not suggesting that we want to
11 make it so onerous that no one wants to build
12 a house.

13 And in conclusion, I would just
14 state that yes, it will create a potential for
15 a problem, but I don't believe it's that
16 extreme compared to existing zoning laws for
17 people who want to build supermarkets,
18 drugstores, big box retailers. As you know
19 and many people in this room, whether they're
20 from upstate or downstate, know, there are
21 currently lots of laws on the books that make
22 it difficult for development that will be more
23 extreme than this particular issue right now
24 as we speak.

25 SENATOR PADAVAN: Thank you.

1 You've been very kind.

2 Mr. President, on the bill.

3 ACTING PRESIDENT BRESLIN:

4 Senator Padavan, on the bill.

5 SENATOR PADAVAN: The answer to
6 my last question was yes, it would. It would
7 make it more difficult, potentially a problem
8 for some organization that was seeking to
9 establish a group of community residences for
10 the disabled, whether they be young or old or
11 seniors.

12 And that is not a hypothetical
13 situation. I have one such development going
14 on in my district right now. We have dealt
15 with existing zoning. We have precluded
16 zoning from being a preventer from such
17 facilities from opening up in this state. And
18 it's under the site selection law which we put
19 in place back in the late '70s.

20 But what I am concerned about is
21 that this bill -- and the sponsor agrees --
22 would expand the opportunity for the NIMBY
23 persons in our state, those individuals who
24 have their own agenda, from initiating legal
25 actions that would be detrimental to the

1 establishment of this type of facility.

2 I think that's something we should
3 be very concerned about, and I would urge
4 everyone in this chamber to consider it when
5 they vote on this bill.

6 ACTING PRESIDENT BRESLIN: Thank
7 you, Senator Padavan.

8 Senator Thompson.

9 SENATOR THOMPSON: Yeah, before
10 I -- I'll explain my vote later. I just
11 wanted to make sure it was clear. I'm just
12 told by staff although this bill has passed
13 the Assembly on numerous occasions, they have
14 not technically voted on it today, but they
15 intend on passing it again today as they have.

16 So I just wanted to make sure that
17 was stated for the record.

18 ACTING PRESIDENT BRESLIN: Thank
19 you, Senator Thompson.

20 Are there any other Senators
21 wishing to be heard?

22 Hearing none, the debate is closed.
23 The Secretary will ring the bells.

24 Read the last section.

25 THE SECRETARY: Section 3. This

1 act shall take effect immediately.

2 ACTING PRESIDENT BRESLIN: Call
3 the roll.

4 (The Secretary called the roll.)

5 ACTING PRESIDENT BRESLIN:
6 Senator Thompson, to explain his vote.

7 SENATOR THOMPSON: First,
8 Mr. President, I want to thank you for
9 recognizing me.

10 We've had a very spirited debate
11 about this particular issue. But I want to
12 emphasize that first, in order to get this
13 bill passed, we spent a lot of time listening
14 to a number of groups.

15 One of my colleagues talked about
16 Michael Gerrard, who wrote a very good expert
17 analysis in the New York Law Journal that
18 talks about this particular piece of
19 legislation. And he also states in his
20 article that there was a lot of momentum going
21 towards passing this particular legislation,
22 and it was slowed down last year for a variety
23 of reasons.

24 He also states that because of the
25 Pine Bush decision, that it will not lead to

1 more lawsuits being filed, that there's still
2 other work to be done. So this particular
3 issue that people raised, according to the
4 expert, he already says that this will not
5 lead to more cases in the state, or the
6 floodgates, as some people have suggested.

7 Thank you.

8 ACTING PRESIDENT BRESLIN: Thank
9 you, Senator Thompson. You will be recorded
10 in the affirmative.

11 Announce the results.

12 THE SECRETARY: Ayes, 29. Nays,
13 32.

14 ACTING PRESIDENT BRESLIN: The
15 bill fails.

16 The Secretary will continue to
17 read.

18 THE SECRETARY: Calendar Number
19 133, by Senator Squadron, Senate Print 6141B,
20 an act to amend the Environmental Conservation
21 Law.

22 SENATOR LIBOUS: Explanation.

23 ACTING PRESIDENT BRESLIN: An
24 explanation has been requested, Senator
25 Squadron.

1 SENATOR SQUADRON: Thank you,
2 Mr. President.

3 This bill would create a -- would
4 put on the table for the first time in the
5 nation a gallons-per-mile standard for
6 consumers to make use of when considering what
7 car to purchase. Gallons per mile is a much
8 better standard than miles per gallon for
9 consumers who are conscious about the effect
10 on the environment or the effect on their
11 wallets of different cars they might be
12 choosing and trying to find the most efficient
13 one.

14 It does so with the very modest
15 requirement that every auto dealer selling new
16 cars put up a single poster in the auto
17 dealership that explains the gallons per mile
18 relative to miles per gallon and to the amount
19 of relative savings, in increments of 5 miles
20 per gallon, from 5 to 50, for each level. So
21 that you can really see that, for example,
22 you're much better off going from a car -- if
23 you're choosing between a car that goes 10
24 miles per gallon and 15, you save a lot more
25 gas over 1,000 miles than if you take a car

1 from 25 to 45 miles per gallon.

2 Gallons per mile has been shown in
3 studies to really drive consumers to choose
4 vehicles that use less gas. Less gas is great
5 for the environment and great for wallets.
6 This bill will put New York on the cutting
7 edge of how to really think about fuel
8 efficiency in the 21st century. It's great
9 for the 40th Earth Day that we are going to be
10 starting to think about how we consider fuel
11 efficiency and making good choices on fuel
12 efficiency for the next hundred Earth Days.

13 ACTING PRESIDENT BRESLIN: Thank
14 you, Senator Squadron.

15 Senator DeFrancisco.

16 SENATOR DeFRANCISCO: Would
17 Senator Squadron yield --

18 ACTING PRESIDENT BRESLIN: Excuse
19 me, Senator DeFrancisco.

20 Can we have some quiet, please.

21 SENATOR DeFRANCISCO: Would
22 Senator Squadron please yield to a question?

23 ACTING PRESIDENT BRESLIN: Do you
24 yield to a question, Senator Squadron, from
25 Senator DeFrancisco?

1 SENATOR SQUADRON: Happy to.

2 ACTING PRESIDENT BRESLIN: You
3 may proceed.

4 SENATOR DeFRANCISCO: Can you
5 tell me what additional information a consumer
6 gets by learning the gallons per mile versus
7 miles per gallon?

8 ACTING PRESIDENT BRESLIN:
9 Senator Squadron.

10 SENATOR SQUADRON: Well,
11 comparatively, when you have the miles per
12 gallon number in front of you, what you learn
13 is the relative gallon per mile of -- or
14 gallon per thousand miles, in the case of this
15 bill -- of different vehicles. You don't have
16 that in a miles-per-gallon standard. It is a
17 relatively simple calculation, but it's not
18 one that consumers normally do.

19 And it's -- frankly, the
20 gallon-per-mile standard isn't one that most
21 consumers are aware of. So the other thing
22 they learn through this bill is about the
23 gallons-per-mile standard and why it's so
24 important.

25 ACTING PRESIDENT BRESLIN:

1 Senator DeFrancisco.

2 SENATOR DeFRANCISCO: Would
3 Senator Squadron answer another question?

4 ACTING PRESIDENT BRESLIN: Would
5 you continue to yield, Senator Squadron,
6 through the President?

7 SENATOR SQUADRON: Yes, I'll
8 yield.

9 SENATOR DeFRANCISCO: I know the
10 miles per gallon. Are you saying we get
11 additional information if you require a
12 signage reversing that as to gallons per mile?
13 What additional information do we get?

14 SENATOR SQUADRON: Through you,
15 Mr. President --

16 SENATOR DeFRANCISCO: Can't you
17 easily convert that by a simple mathematical
18 formula?

19 ACTING PRESIDENT BRESLIN:
20 Senator Squadron.

21 SENATOR SQUADRON: Through you,
22 Mr. President. And someone had mentioned that
23 it was the inverse.

24 This bill, the information that you
25 get out of this bill is twofold. First, you

1 get the existence of the gallons-per-mile
2 standard and why it's so important. And
3 secondly, you do get a nice side-by-side
4 comparison of miles per gallon and gallons per
5 thousand miles, in fact, and the relative
6 savings as you sort of climb the ladder on
7 miles per gallon.

8 So it is information that would be
9 available to a savvy consumer who was
10 considering it. But as we well know, gallons
11 per mile is probably a new concept to most
12 people in this room today.

13 ACTING PRESIDENT BRESLIN:
14 Senator DeFrancisco.

15 SENATOR DeFRANCISCO: I'd just
16 like to speak on the bill.

17 ACTING PRESIDENT BRESLIN:
18 Senator DeFrancisco, on the bill.

19 SENATOR DeFRANCISCO: I think I
20 just discovered the reason why no other state
21 has this bill.

22 (Laughter.)

23 SENATOR DeFRANCISCO: Every new
24 car in every dealership posts miles per
25 gallon. And it's a simple conversion of

1 numbers to make a simple calculation as to
2 what gallons per mile are.

3 We're going to require our auto
4 dealers in our state to be less competitive to
5 talk about gallons per mile rather than miles
6 per gallon, when the federal government
7 already requires this disclosure -- it's on
8 every place.

9 In addition, this bill, believe it
10 or not -- I didn't ask about this. I was
11 afraid of the answer. Because you have to
12 also post the cost of fuel per 1,000 miles
13 based upon the most recent United States
14 Environmental Protection Agency's Fuel Economy
15 Guide price of gas. Guide price of gas.

16 So I guess the dealer's going to
17 have to go out periodically, see what the
18 price of gas is, put up all new signs. And if
19 you don't have the sign up, you get a free
20 pass the first time, then it's a hundred
21 dollar per car. I mean, are we trying to be
22 business-unfriendly?

23 There's absolutely no additional
24 value to what is being required to be provided
25 by our auto dealers than any other auto

1 dealers.

2 This is not -- does nothing for the
3 environment. It does a lot for making our
4 auto dealers noncompetitive. I urge a
5 unanimous no vote.

6 ACTING PRESIDENT BRESLIN: Thank
7 you, Senator DeFrancisco. You will be
8 recorded in the negative.

9 Senator Fuschillo, on the bill.

10 SENATOR FUSCHILLO: Would the
11 sponsor yield for a few questions?

12 ACTING PRESIDENT BRESLIN:
13 Senator Squadron, do you yield for questions
14 from Senator Fuschillo?

15 SENATOR SQUADRON: I'd be happy
16 to.

17 SENATOR FUSCHILLO: Senator
18 Squadron, this is for every model that the
19 dealership would have? If they have 10
20 different models, they have to post 10
21 different signs?

22 SENATOR SQUADRON: Through you,
23 Mr. President, no, it's not.

24 A couple of points of fact just on
25 the previous speaker, very briefly. There's a

1 standard EPA that comes out annually. It says
2 "based on," so it wouldn't have to be exactly
3 what it is if there were slight shifts, so it
4 wouldn't have to be sort of regularly putting
5 up new posters. It's a \$50 fine the second
6 time, not a hundred-dollar time.

7 But to answer this question, no,
8 it's a single poster. And in fact the
9 legislation would require DEC to create a
10 model poster that would be exactly what you
11 would use. It would be posted on the website
12 and could therefore be printed out by any of
13 the dealers. It would be a single standard
14 one based on, as I say, miles per gallon
15 increments of 5 from 5 to 50.

16 ACTING PRESIDENT BRESLIN:
17 Senator Fuschillo.

18 SENATOR FUSCHILLO: Would the
19 sponsor yield for one more question?

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

22 SENATOR SQUADRON: Yes.

23 ACTING PRESIDENT BRESLIN: You
24 may proceed, Senator.

25 SENATOR FUSCHILLO: Senator, one

1 of the things that concerns me is the way it's
2 written, the bill. You just said the DEC, but
3 in the legislation you write "the Department
4 shall develop a model sign which provides
5 consumer fuel consumption information."
6 Nowhere in the bill do you reference what
7 department.

8 Now, I've read this bill multiple
9 times, and I don't know if it's the Department
10 of Consumer Protection, Environmental
11 Conservation or DEC. Because if this becomes
12 law, the law will not specify which department
13 has the responsibility to do exactly what
14 you're asking them to do.

15 SENATOR SQUADRON: Through you,
16 Mr. President. In answer to that question,
17 this language was drafted in coordination with
18 DEC. It exists in Section 3 of the
19 Environmental Conservation Law, which is the
20 section that lays out the responsibilities of
21 the commissioner of DEC.

22 ACTING PRESIDENT BRESLIN:
23 Senator Fuschillo.

24 SENATOR FUSCHILLO: Thank you,
25 Senator.

1 ACTING PRESIDENT BRESLIN:

2 Senator Larkin, on the bill.

3 SENATOR LARKIN: Would Senator
4 Squadron respond to one question?

5 ACTING PRESIDENT BRESLIN:
6 Senator Squadron, would you yield for one
7 question from Senator Larkin?

8 SENATOR SQUADRON: I will yield
9 for one to begin and then a second if needed.

10 SENATOR LARKIN: Daniel, who's
11 going to hire all these inspectors to see that
12 this is done?

13 ACTING PRESIDENT BRESLIN:
14 Senator Squadron.

15 SENATOR SQUADRON: Through you,
16 Mr. President. There are, as I'm sure many of
17 the Senators in the room know, any number of
18 requirements put on auto dealers and others in
19 the State of New York. Some, in fact, under
20 the ECL that have to deal with auto dealers.
21 And presumably this would be enforced the way
22 other laws are enforced.

23 ACTING PRESIDENT BRESLIN:
24 Senator Larkin.

25 SENATOR LARKIN: On the bill.

1 ACTING PRESIDENT BRESLIN: On the
2 bill, Senator Larkin.

3 SENATOR LARKIN: You know, every
4 one of us have automobile dealers. I hope
5 you've all gone home and asked them about
6 this.

7 And one fellow said to me, "Are you
8 crazy? We're having a hard time selling cars
9 as it is. Why don't you stop punishing us?"

10 Gentlemen, ladies and gentlemen,
11 think of what you did yesterday. You stuck a
12 knife into the contractors and cut them loose.
13 A few minutes ago we wanted to cut out the
14 industry for jobs. And I hear this from
15 Washington to here: Jobs, jobs, jobs. What
16 we ought to be starting to say is, How much
17 can we do to you so we'll get you to move out
18 of New York?

19 When are we going to wake up and
20 start to remember that this is our state? As
21 we look at it, everybody is looking at us as a
22 bunch of jerks. You know what they said?
23 Dan, just for your information, they said,
24 "Why don't you guys sit down and do the budget
25 instead of the nonsense?"

1 ACTING PRESIDENT BRESLIN: Are
2 there any other Senators wishing to be heard?

3 Hearing none, the debate is closed.
4 The Secretary will ring the bells.

5 Read the last section.

6 THE SECRETARY: Section 3. This
7 act shall take effect on the first of January
8 next succeeding.

9 ACTING PRESIDENT BRESLIN: Call
10 the roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT BRESLIN:
13 Senator Saland, to explain his vote.

14 SENATOR SALAND: Thank you,
15 Mr. President.

16 Mr. President, this just flies in
17 the face of common sense. If you want to talk
18 about extraneous, superfluous legislation,
19 this one takes the prize.

20 If I'm interested in buying a car
21 and gas mileage is my concern, I don't need to
22 figure out another way to calibrate or compute
23 whatever it's going to be. If I want to buy a
24 car, I look at the sticker that comes with the
25 car and it says so much per miles per gallon

1 for city driving, so much for highway driving,
2 whatever the average may be.

3 If I'm concerned about fuel
4 efficiency, I don't look at the model that
5 gives me 15 miles to the gallon, I look at the
6 model that gives me 25 to 30 miles to the
7 gallon.

8 Purely extraneous, superfluous, and
9 a hardship on an already struggling industry
10 that's been through the most difficult
11 challenges of any industry that we have seen
12 in our state.

13 Mr. President, I vote in the
14 negative.

15 ACTING PRESIDENT BRESLIN:
16 Senator Saland will be recorded in the
17 negative.

18 Senator Squadron, to explain his
19 vote.

20 SENATOR SQUADRON: Thank you,
21 Mr. President.

22 You know, it's really a shame that
23 the idea of giving consumers better
24 information that research that shows again and
25 again that different kinds of information

1 presented to consumers lead to different
2 conclusions is considered quite so absurd in
3 this chamber.

4 You know, it's sometimes said that
5 doing something for the environment and doing
6 something for the economy are in conflict.
7 This bill actually proves that doing something
8 for the environment and doing something for
9 consumers' wallets in the State of New York,
10 so they have the information in front of them
11 to make better choices in purchasing -- it's
12 right there for them in a way that it wouldn't
13 be in any other state -- is such a ridiculous
14 concept in this chamber.

15 The fact is miles per gallon is a
16 standard that was created many, many years ago
17 when folks were not nearly as interested in
18 actually comparison shopping around
19 efficiency, when gas didn't cost nearly as
20 much as it does today.

21 And I think that frankly it's only
22 a matter of time before the gallons-per-mile
23 standard is used. And I'm very pleased that
24 as part of the Earth Day package, the Senate
25 has taken it up today. I'll be voting yes.

1 Thank you, Mr. President.

2 ACTING PRESIDENT BRESLIN: Thank
3 you, Senator Squadron.

4 Senator Libous, excuse me, but if
5 we could see the show of hands of those voting
6 in the negative while Senator Libous is
7 explaining his vote.

8 SENATOR LIBOUS: Thank you,
9 Mr. President.

10 Senator Squadron, in all due
11 respect, obviously your constituents in
12 Brooklyn, am I correct -- in lower Manhattan,
13 I apologize -- must take a very different
14 approach than those in Binghamton. Because if
15 I vote for this bill, they'll run me over with
16 their cars.

17 (Laughter.)

18 SENATOR LIBOUS: I mean, we sit
19 here on what, is today the 20th? And no state
20 budget. And if I vote for this bill and go
21 back home and tell them I did it --
22 Mr. President, I vote no. This is just not
23 something that's needed.

24 ACTING PRESIDENT BRESLIN:
25 Senator Libous will be recorded in the

1 negative.

2 Senator DeFrancisco, to explain his
3 vote.

4 SENATOR DeFRANCISCO: If this
5 bill provided consumers more information and
6 helped them to make an environmentally sound
7 decision on what car to buy, I would consider
8 voting for it.

9 But you're getting no more
10 information by getting gallons-per-mile
11 information as opposed to miles-per-gallons.
12 You compare apples to apples. You compare
13 miles per gallon to miles per gallon, no
14 matter what the price of the gasoline is.

15 The only effect this has on the
16 environment is all the placards that are going
17 to be on the thousands and hundreds of
18 thousands of cars in the State of New York
19 will result in destruction of trees in the
20 Adirondacks or someplace else.

21 There's no additional information.
22 It can't possibly benefit the environment, and
23 it just puts us, our car dealers, at a
24 competitive disadvantage. I vote no.

25 ACTING PRESIDENT BRESLIN:

1 Senator DeFrancisco will be recorded in the
2 negative.

3 Senator Libous, why do you rise?

4 SENATOR LIBOUS: Mr. President,
5 on the roll call, I thought members had to be
6 in their seats for a vote. I thought that's
7 what the rule said.

8 ACTING PRESIDENT BRESLIN: I
9 believe that's correct, Senator Libous.

10 SENATOR LIBOUS: And I see a lot
11 of empty seats in the chamber, Mr. President.

12 ACTING PRESIDENT BRESLIN:
13 Pardon?

14 SENATOR LIBOUS: I see a lot of
15 empty seats in the chamber.

16 ACTING PRESIDENT BRESLIN:
17 Senator Libous, the vote was recorded more
18 than 10 --

19 SENATOR LIBOUS: Well, if the
20 seat is empty, I mean -- no, no. No, no.
21 Hang on. Mr. President --

22 ACTING PRESIDENT BRESLIN: We
23 recorded the vote probably six or seven
24 minutes ago, Senator Libous.

25 SENATOR LIBOUS: They were empty

1 six or seven minutes ago, Mr. President.

2 ACTING PRESIDENT BRESLIN: No,
3 they weren't.

4 SENATOR LIBOUS: Listen, I know
5 the hour is late. I'm not trying to give a
6 hard time. But the Senate rules are pretty
7 specific that you have to be in your seat for
8 a roll call.

9 ACTING PRESIDENT BRESLIN: Duly
10 noted, Senator Libous. And we'll enforce it
11 for both sides.

12 SENATOR LIBOUS: We would
13 appreciate it if you do that, Mr. President.
14 Thank you, and we'll be anxious to see what
15 happens on the next vote, sir.

16 ACTING PRESIDENT BRESLIN: Thank
17 you, Senator Libous.

18 Announce the results.

19 THE SECRETARY: Those recorded in
20 the negative on Calendar Number 133 are
21 Senators Alesi, Bonacic, DeFrancisco, Farley,
22 Flanagan, Fuschillo, Golden, Griffio, Hannon,
23 O. Johnson, Larkin, Leibell, Libous, Little,
24 Marcellino, Maziarz, McDonald, Nozzolio,
25 Ranzenhofer, Robach, Saland, Seward, Skelos,

1 Volker, Winner and Young.

2 Ayes, 35. Nays, 26.

3 ACTING PRESIDENT BRESLIN: The
4 bill is passed.

5 The Secretary will continue to
6 read.

7 THE SECRETARY: Calendar Number
8 160, by Senator Stewart-Cousins, Senate Print
9 5119, an act to amend the State Finance Law.

10 SENATOR LITTLE: Explanation,
11 please.

12 ACTING PRESIDENT BRESLIN: An
13 explanation has been requested by Senator
14 Little. Senator Stewart-Cousins, for the
15 explanation.

16 SENATOR STEWART-COUSINS: Yes,
17 thank you, Mr. President.

18 This bill would move us a little
19 bit farther along in our efforts as a state to
20 practice what we preach. Just recently the
21 DEC, in their executive summary, talked about
22 solid waste management, talked about how as
23 New York State moves forward it has to address
24 the different ways to reduce the amount of
25 waste generated, and talked about how we can

1 help the general public to be more conscious
2 about what they use and whether or not it can
3 be recycled to reduce the waste.

4 This bill asks us to do the same
5 thing in our own house. We are looking at
6 having our state agencies not use paper that
7 cannot be recycled. It's very simple. In
8 2008, the Governor did an executive order
9 asking for all the state agencies to work as
10 he had established a state green procurement
11 and agency sustainability program. That was,
12 I suppose, to celebrate Earth Day in 2008.
13 And what this would do would encourage our
14 various agencies to develop programs that
15 would again reduce the level of products we
16 use that cannot be recycled.

17 So we've done that in many areas --
18 napkins, paper in our restroom facilities, and
19 even everyday papers, but we haven't done it
20 with envelopes. So what this would do is take
21 a look at what we use in the way of envelopes,
22 specifically goldenrod, which is for all
23 intents and purposes not recyclable, and move
24 as a state to using even envelopes that we can
25 recycle.

1 It is very simply what Montana does
2 when they say they lead by example. And of
3 course, among the things that they say they
4 don't use is goldenrod. There's another list,
5 but the first thing actually is goldenrod.

6 So I think that we can be as smart
7 about our products as Montana or Kansas or any
8 of the other states that understand that we
9 have a responsibility to lead by example.

10 ACTING PRESIDENT BRESLIN:
11 Senator Little.

12 SENATOR LITTLE: Thank you,
13 Mr. President. And thank you, Senator
14 Stewart-Cousins.

15 I'd like to begin by saying that I
16 served on the county board of supervisors in
17 Warren County, and one of the first things I
18 did as a supervisor there was establish a
19 recycling program. And so I am a recycling
20 advocate. As a matter of fact, my father tore
21 down houses and resold all the materials from
22 them. The house I live in has lot of
23 materials from other old homes.

24 However, this particular bill I
25 have some concerns about. And certainly one

1 of the major concerns I have is how it affects
2 a corporation, International Paper, which has
3 a paper plant in my district. And so that's a
4 major concern.

5 But the second one is really how
6 this would be implemented. And I have a
7 series of questions I would like to ask
8 Senator Stewart-Cousins.

9 ACTING PRESIDENT BRESLIN:
10 Senator Stewart-Cousins, do you yield?

11 SENATOR STEWART-COUSINS:
12 Absolutely.

13 ACTING PRESIDENT BRESLIN: You
14 may proceed, Senator Little.

15 SENATOR LITTLE: All right.
16 Senator Stewart-Cousins, the bill talks
17 about -- it identifies what nonrecyclable
18 materials are that we are going to prohibit
19 being purchased. And these nonrecyclable
20 materials are materials that cannot be sorted,
21 cleansed and reconstituted using available
22 recycling collection programs.

23 If there is not an available
24 recycling program in that municipality or that
25 community, is this bill going to still be

1 effective?

2 ACTING PRESIDENT BRESLIN:

3 Senator Stewart-Cousins.

4 SENATOR STEWART-COUSINS: Well,
5 again, this bill impacts what we do in our
6 state government. So from what I understand
7 from DEC and OGS, the movement has been and
8 continues to be to make sure that we use paper
9 we can recycle. So this is inner-directed.
10 This is for us.

11 SENATOR LITTLE: Well, if I may,
12 Senator Stewart-Cousins, I should have begun
13 with the first question. But the bill
14 prohibits the purchase of nonrecyclable paper
15 products, and the state and any governmental
16 agency or political subdivision or public
17 benefit corporation of the state shall not
18 purchase or obtain nonrecyclable paper
19 products.

20 That would include napkins, paper
21 towels, and things that I do not really think
22 could be sorted, cleansed, or reconstituted --
23 and certainly not in any recycling program of
24 any of the six counties that I represent.

25 So the municipalities -- my

1 question is according to the bill every
2 municipality would be affected by this bill.

3 ACTING PRESIDENT BRESLIN:
4 Senator Stewart-Cousins.

5 SENATOR STEWART-COUSINS: Yes,
6 I'm just wondering in terms of the local
7 municipalities. And again, I certainly
8 welcome this discussion. But is there no
9 ability to recycle paper in the local
10 municipalities in your area, Senator Little?
11 I mean, is there no recycling of napkins or
12 paper?

13 SENATOR LITTLE: Oh, no, we have
14 plenty of recycling. And we try to have
15 recycling where we have markets. But this
16 would be a mandate, basically, upon
17 communities that did not have a recycling
18 program that does napkins, paper towels and
19 all of that kind of paper, which I'm not
20 certain -- I don't know of a program -- maybe
21 you do, Senator -- where they do recycle
22 napkins and paper towels, et cetera.

23 ACTING PRESIDENT BRESLIN:
24 Senator Stewart-Cousins.

25 SENATOR STEWART-COUSINS: Well, I

1 know that we have here, within our government,
2 state government, the ability to purchase
3 products that are recyclable. So I think that
4 talking about purchasing products that are
5 recyclable is really what the issue here is.

6 If we continue to promote or to
7 suggest that there are no alternatives to
8 products that actually are not of any value to
9 the earth after they're used, then people will
10 continue to create them.

11 So the issue here is whether we can
12 make a conscious decision to actually promote
13 products that can be recycled.

14 SENATOR LITTLE: Thank you. If I
15 may, Mr. President.

16 ACTING PRESIDENT BRESLIN: Do you
17 yield continue to yield, Senator
18 Stewart-Cousins?

19 SENATOR STEWART-COUSINS: Yes.

20 SENATOR LITTLE: But in answer to
21 the other question, Senator Stewart-Cousins,
22 aren't we making a decision in this bill that
23 will affect every municipality, I would assume
24 every political distinction, and every public
25 benefit corporation in the State of New York,

1 prohibiting them from purchasing anything of
2 this category that doesn't have a recycling
3 program?

4 ACTING PRESIDENT BRESLIN:
5 Senator Stewart-Cousins.

6 SENATOR STEWART-COUSINS: Again,
7 I hope that most municipalities, most local
8 municipalities, not only do have a recycling
9 program but understand the importance of a
10 recycling program.

11 But what, again, we are in this
12 bill trying to do is to create the reality
13 that there are options, that one need not
14 purchase paper that has such a level of
15 metallic dye that it cannot be recycled
16 whether you had a program or not. There are
17 options. And this bill suggests strongly that
18 those options be used.

19 SENATOR LITTLE: If I may,
20 Mr. President, wouldn't one of the options be
21 a better educational program rather than a
22 prohibition and a mandate upon all of these
23 municipalities and government entities?

24 ACTING PRESIDENT BRESLIN:
25 Senator Stewart-Cousins.

1 SENATOR STEWART-COUSINS: I must
2 apologize, would you repeat your question?

3 SENATOR LITTLE: Wouldn't it be
4 better to have an educational program for this
5 kind of thing rather than a prohibition and
6 actually a mandate upon all of these
7 municipalities, public benefit corporations,
8 government entities?

9 SENATOR STEWART-COUSINS: Well, I
10 do believe that all of this is part of an
11 education program, Senator Little. I mean,
12 we're celebrating the 40th Earth Day. There
13 is, perpetual education, that goes on even in
14 this chamber as we've discussed so many of the
15 bills that we've discussed.

16 The opportunity to purchase goods
17 that are recyclable is ever-present. And I
18 think that as municipalities, if we move in
19 that direction, we will see that we will be
20 teaching and we will be preserving the
21 environment, which is what we need to do.

22 So this really has to do with
23 interoffice -- this is the discussion that we
24 were having. This really has to do with the
25 interoffice things. Not napkins and other

1 sorts of paper goods, but the interoffice
2 products that we use.

3 ACTING PRESIDENT BRESLIN:
4 Senator Little.

5 SENATOR LITTLE: Thank you. If I
6 may, Mr. President. But it is far more
7 extensive --

8 ACTING PRESIDENT BRESLIN:
9 Senator Stewart-Cousins, will you yield for an
10 additional question?

11 SENATOR STEWART-COUSINS: I do.

12 ACTING PRESIDENT BRESLIN:
13 Senator Little.

14 SENATOR LITTLE: I think my point
15 is this is far more extensive than any kind of
16 just interoffice prohibition that we're
17 talking about.

18 How would this affect existing
19 state contracts and contracts that
20 municipalities, the state agencies, the state
21 itself, the school districts, libraries and
22 all of those have in the purchase of paper
23 products?

24 ACTING PRESIDENT BRESLIN:
25 Senator Stewart-Cousins.

1 SENATOR STEWART-COUSINS: We had
2 made that inquiry, Senator Little, and we were
3 told that in terms of paper products they
4 generally don't enter into long-term
5 contracts, that it's generally a pay as -- a
6 buy as they go, pay as they go.

7 ACTING PRESIDENT BRESLIN:
8 Senator Little.

9 SENATOR LITTLE: Thank you. If I
10 may --

11 ACTING PRESIDENT BRESLIN: Would
12 you continue to yield?

13 SENATOR STEWART-COUSINS: Of
14 course.

15 SENATOR LITTLE: Then I would
16 assume that the contracts that are in
17 existence should be sent a notice that you can
18 no longer purchase them from that company
19 again.

20 ACTING PRESIDENT BRESLIN:
21 Senator Stewart-Cousins.

22 SENATOR STEWART-COUSINS: Well,
23 again, I don't think that people are
24 suggesting that they can't purchase from a
25 company. What the suggestion is is that the

1 purchase that they make be of recyclable
2 paper.

3 There are a number of options in
4 terms of the types of paper that can be used,
5 the types of envelopes that can be used. And
6 you know, so I think it's not about not using
7 certain people, it's about what it is that's
8 being bought.

9 SENATOR LITTLE: Thank you. If
10 you may, though, Mr. President --

11 ACTING PRESIDENT BRESLIN:
12 Senator Little, do you wish Senator
13 Stewart-Cousins to continue to yield?

14 SENATOR LITTLE: So if they're
15 purchasing this product and they can no longer
16 purchase this product and that company no
17 longer has any other product, then that's it
18 for that company. So how do they break the
19 contract, or how do they stop? Your bill says
20 this act shall take effect immediately.

21 SENATOR STEWART-COUSINS: Well,
22 again, from what I understand, there isn't a
23 contract. So what would happen -- and I'm
24 sure that most paper companies have more than
25 one paper product or type of paper available.

1 So I have -- you know, I mean, I certainly can
2 talk about what's available, moss and okra --
3 even different colors. It just so happens
4 that this goldenrod is goldenrod because of
5 the level of dyeing that happens, heavy
6 metallic dyes that happen to make it that
7 color.

8 So again, we have an opportunity to
9 move to something that would be a little less
10 toxic for the environment and still, you know,
11 serve the purpose.

12 SENATOR LITTLE: Thank you. If I
13 may, though --

14 ACTING PRESIDENT BRESLIN:
15 Senator Stewart-Cousins, will you continue to
16 yield to Senator Little?

17 SENATOR STEWART-COUSINS:
18 Absolutely.

19 ACTING PRESIDENT BRESLIN: You
20 may proceed, Senator Little.

21 SENATOR LITTLE: However,
22 Senator, are you aware that goldenrod and
23 kraft papers are recyclable?

24 ACTING PRESIDENT BRESLIN:
25 Senator Stewart-Cousins.

1 SENATOR STEWART-COUSINS: Well,
2 again, I -- you know, you say that. I have a
3 report here called Winners and Sinners in
4 Recycling. And this was a report of a
5 not-for-profit coalition of universities, and
6 this included Cornell, NYU, SUNY Albany: The
7 top three villains in deskside recycling,
8 number one being goldenrod.

9 I had, as I began my description of
10 some of the research that we've done, talked
11 about Montana. Emory University in Georgia
12 seems to feel that goldenrod isn't recyclable.
13 You know, there's a number of different places
14 that I can tell you that actually disagrees
15 with what you just asserted. So it seems the
16 general -- California is another one, I have a
17 number of them here: "Avoid fluorescents and
18 goldenrod papers."

19 So I think it's pretty nationally
20 proclaimed that goldenrod is probably the
21 least desirable. And again, there are
22 alternatives. It's not like we won't be using
23 envelopes anymore.

24 ACTING PRESIDENT BRESLIN:
25 Senator Little.

1 SENATOR LITTLE: Mr. President,
2 yes, please.

3 ACTING PRESIDENT BRESLIN: Would
4 you like Senator Stewart-Cousins to continue?

5 SENATOR LITTLE: Yes, if I may,
6 to continue.

7 ACTING PRESIDENT BRESLIN: Would
8 you continue to yield, Senator
9 Stewart-Cousins?

10 SENATOR STEWART-COUSINS: Yes,
11 certainly.

12 SENATOR LITTLE: Well,
13 International Paper makes these goldenrod
14 envelopes. And according to them, it is a
15 coating -- it is not a coating, on the bill,
16 as your bill says it is a coating.
17 International Paper also says these are
18 recyclable, as are the brown kraft materials.

19 Now, they're not recyclable -- they
20 can't be made into white paper. But they are
21 recyclable into cardboard and to other means,
22 darker kind of materials.

23 I also have a note from DEC that
24 says that goldenrod paper and kraft stationery
25 are recyclable. So it would seem that, you

1 know, maybe we ought to, you know, relook at
2 this again.

3 SENATOR STEWART-COUSINS: I think
4 the reality is that if the paper is
5 recyclable, then this wouldn't impact the
6 paper that you're talking about. So if
7 whatever -- as you're saying, International
8 Paper, if the goldenrod paper that they are
9 putting forth is indeed recyclable, then this
10 wouldn't apply to them.

11 SENATOR LITTLE: Thank you.

12 If I may, Mr. President, to Senator
13 Stewart-Cousins.

14 ACTING PRESIDENT BRESLIN: Will
15 you continue to yield, Senator
16 Stewart-Cousins, to Senator Little?

17 SENATOR STEWART-COUSINS:
18 Absolutely.

19 SENATOR LITTLE: However, the
20 bill mentions goldenrod papers coated with a
21 dye found on masking paper commonly used for
22 interoffice mailing envelopes and kraft
23 stationery and paper products, that they would
24 be affected this because they are listed as
25 being nonrecyclable.

1 SENATOR STEWART-COUSINS: Well, I
2 think that the specificity here is the
3 goldenrod paper is coated with a dye. So
4 again, if what is being produced does not fit
5 that description, then it would not be
6 applicable.

7 SENATOR LITTLE: However,
8 Mr. President, if I may, again, Senator --

9 ACTING PRESIDENT BRESLIN:
10 Senator Stewart-Cousins, will you continue to
11 yield?

12 SENATOR STEWART-COUSINS:
13 Certainly.

14 ACTING PRESIDENT BRESLIN: You
15 may proceed, Senator Little.

16 SENATOR LITTLE: But anyone who
17 looks at this piece of legislation and sees
18 that goldenrod and kraft papers are
19 nonrecyclable would assume that that's
20 correct. And yet we are hearing from the
21 company that manufactures it, they use it.
22 And corrugated paper can be recycled to that,
23 it can be recycled to cardboard. And DEC
24 itself is saying that these products are
25 recyclable.

1 SENATOR STEWART-COUSINS: Well,
2 you know, again, I think it's very clear that
3 this bill is targeting nonrecyclable paper.
4 And again, the description that was given with
5 regard to the goldenrod paper was that it was
6 coated with a dye. So I think that the
7 entity, the manufacturer, they will be able to
8 prove if they're recyclable. And that is
9 fine; then this does not apply.

10 What we are trying to do -- and I'm
11 sure you clearly know what we're trying to
12 do -- is, again, move to the next level.
13 There are many ways that we can do our
14 interoffice correspondence. There are many
15 ways that we can deliver our proclamations or
16 whatever in envelopes that indeed are
17 friendlier to the environment.

18 ACTING PRESIDENT BRESLIN:
19 Senator Little.

20 SENATOR LITTLE: If I may,
21 Mr. President.

22 Senator, would you consider
23 amending the bill to take out --

24 ACTING PRESIDENT BRESLIN: Would
25 you continue to yield, Senator

1 Stewart-Cousins?

2 SENATOR STEWART-COUSINS: Of
3 course.

4 SENATOR LITTLE: Thank you.
5 Senator, would you consider amending the bill
6 to take out those materials, goldenrod papers
7 and the things -- kraft stationery, so that
8 there is not misleading information in the
9 legislation?

10 ACTING PRESIDENT BRESLIN:
11 Senator Stewart-Cousins.

12 SENATOR STEWART-COUSINS: If I
13 thought that it indeed was misleading, I would
14 take it out. But as I'm saying to you, it is
15 universally and certainly nationally accepted
16 that goldenrod paper is problematic.

17 Now, if your particular industry --
18 or, rather, if your particular corporation
19 uses paper that they call goldenrod that
20 indeed is recyclable, then this does not
21 apply. And so therefore there's not a need to
22 amend. Because if we -- if I take out
23 goldenrod, then we would be flying in the face
24 of all of the data and the research that has
25 led states all over the nation to say that

1 goldenrod is not the thing that we want to do
2 because of the way that it becomes goldenrod.

3 If they have a different way of
4 doing that which is recyclable, then I think
5 that that's good, and it would not impact
6 them.

7 ACTING PRESIDENT BRESLIN:
8 Senator Little.

9 SENATOR LITTLE: Thank you,
10 Mr. President. If I may, Senator, another
11 question?

12 ACTING PRESIDENT BRESLIN: Would
13 you continue to yield, Senator
14 Stewart-Cousins?

15 SENATOR STEWART-COUSINS: Yes, of
16 course.

17 ACTING PRESIDENT BRESLIN: You
18 may continue, Senator Little.

19 SENATOR LITTLE: Thank you. I
20 will get you material from International Paper
21 in regard to goldenrod.

22 But, Senator, you mentioned
23 Montana. And are there other states that
24 prohibit the purchase of these non-recyclable
25 paper products?

1 SENATOR STEWART-COUSINS: Well, I
2 can tell you that there is an awful lot of
3 research that's done that has asked people to
4 not use, to recycle and to really, again, for
5 the sake of the legacy that we want to leave,
6 to move away from those things that will leave
7 the kind of legacy that we don't want.

8 So offhand, I could not tell you
9 the pieces of legislation that have led to
10 states and localities deciding that they're
11 not using these products. But clearly, we
12 have executive orders that tell us what kinds
13 of products to use, and we have DEC and other
14 entities that are asking everyone else to do
15 the right thing. And I think that it's only
16 fitting that we ourselves start moving in that
17 direction.

18 ACTING PRESIDENT BRESLIN:
19 Senator Little.

20 SENATOR LITTLE: Thank you.
21 Thank you, Senator Stewart-Cousins.

22 If I can, on the bill.

23 ACTING PRESIDENT BRESLIN: On the
24 bill. Senator Little on the bill.

25 SENATOR LITTLE: Thank you.

1 I just want to say that there's a
2 difference between education and prohibition.
3 And this bill prohibits the use of these
4 materials if -- or whatever, being in an
5 available recycling collection program. And
6 it also lists materials that actually are
7 recyclable and lists them as being
8 nonrecyclable.

9 Now, obviously I have a concern
10 about this because of International Paper,
11 which is in my district. I have a plant.
12 They do not make that type of paper there, but
13 they certainly would be affected. And they
14 employ 600 employees, 600-plus. So they are
15 an important company.

16 They also have what's called Xpedx,
17 and that is a warehouse and distributing
18 facility in Western New York, Rochester,
19 Syracuse, in the Capital Region, in New York
20 City and on Long Island. And they are an
21 office supply outfit that is part of
22 International Paper. And they would be
23 seriously affected by this bill and that
24 prohibition.

25 So I would ask that we not pass

1 this bill today, because I thought that we
2 were involved and working on job growth, not
3 job reduction in New York State. And I am
4 sincerely afraid that this type of prohibition
5 of these products at this time would cause job
6 reduction, the loss of jobs in New York State,
7 and certainly would affect an important
8 employer in New York State, International
9 Paper. And I'm sure there are other companies
10 that make these paper products that we need to
11 have some consideration of.

12 Education, yes. Prohibition, I
13 would vote no. And I would encourage my
14 colleagues at this time to vote no.

15 Thank you.

16 ACTING PRESIDENT BRESLIN: Thank
17 you, Senator Little.

18 Are there any other Senators
19 wishing to be heard?

20 Senator Marcellino.

21 SENATOR MARCELLINO: Would the
22 Senator yield just for one question?

23 ACTING PRESIDENT BRESLIN: Do you
24 yield for one question to Senator Marcellino,
25 Senator Stewart-Cousins?

1 SENATOR STEWART-COUSINS: Yes.

2 SENATOR MARCELLINO: Senator
3 Cousins, is there a fiscal note on this bill?

4 SENATOR STEWART-COUSINS: No,
5 actually. No. We had talked to OGS about it,
6 and again, because it's not a contractual
7 thing, it's as you need it, so they had no
8 fiscal implications that they could share with
9 me.

10 SENATOR MARCELLINO: Thank you.

11 SENATOR STEWART-COUSINS: You're
12 welcome.

13 ACTING PRESIDENT BRESLIN: Thank
14 you, Senator Marcellino.

15 Are there any other Senators
16 wishing to be heard?

17 SENATOR LIBOUS: Read the last
18 section.

19 ACTING PRESIDENT BRESLIN:
20 Hearing none, the debate is closed. The
21 Secretary will ring the bells.

22 Read the last section.

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

25 ACTING PRESIDENT BRESLIN: Call

1 the roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT BRESLIN: I
4 would also like to say for the record that
5 upon the call of the roll, Senators are to be
6 in their seats and voting in the order
7 recorded.

8 And we'll take notice that you're
9 one removed from yours, Senator Libous.

10 (Laughter.)

11 SENATOR LIBOUS: I appreciate the
12 affection.

13 ACTING PRESIDENT BRESLIN:
14 Announce the results.

15 THE SECRETARY: Those recorded in
16 the negative on Calendar Number 160 are
17 Senators Alesi, Bonacic, DeFrancisco, Farley,
18 Flanagan, Golden, Griffo, O. Johnson, Larkin,
19 Libous, Little, Maziarz, McDonald, Nozzolio,
20 Ranzenhofer, Saland, Seward, Skelos, Volker,
21 Winner and Young.

22 Ayes, 40. Nays, 21.

23 ACTING PRESIDENT BRESLIN: The
24 bill is passed.

25 The Secretary will continue to

1 read.

2 THE SECRETARY: Calendar Number
3 330, by Senator Foley, Senate Print 4983C, an
4 act to amend the Environmental Conservation
5 Law and others.

6 SENATOR YOUNG: Explanation.

7 ACTING PRESIDENT BRESLIN: An
8 explanation, Senator Foley, has been requested
9 by Senator Young.

10 SENATOR FOLEY: Thank you,
11 Mr. President --

12 ACTING PRESIDENT BRESLIN: Excuse
13 me, Senator Foley.

14 Senator Klein.

15 SENATOR KLEIN: Mr. President,
16 upon unanimous consent, I ask that the
17 supplemental calendar be opened so that
18 Senator Golden can vote on the remainder of
19 this calendar and the supplemental calendar,
20 Mr. President.

21 ACTING PRESIDENT BRESLIN: The
22 Secretary will read the last section on
23 Calendar Number 330.

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

1 ACTING PRESIDENT BRESLIN: Call
2 the roll.

3 (The Secretary called the roll.)

4 ACTING PRESIDENT BRESLIN:
5 Senator Golden.

6 SENATOR GOLDEN: No.

7 And I would vote yes if I were here
8 for the hostile amendment.

9 ACTING PRESIDENT BRESLIN: So you
10 are recorded in the negative on the vote and
11 would be yes on the hostile amendment if you
12 were here.

13 SENATOR GOLDEN: Yes,
14 Mr. President.

15 ACTING PRESIDENT BRESLIN: The
16 roll is withdrawn, and the bill is laid aside.

17 The Secretary will call the roll on
18 Calendar Number 399.

19 THE SECRETARY: Calendar Number
20 399, by Senator Thompson, Senate Print 3296G,
21 an act to amend the Environmental Conservation
22 Law.

23 ACTING PRESIDENT BRESLIN: Read
24 the last section.

25 THE SECRETARY: Section 4. This

1 act shall take effect immediately.

2 ACTING PRESIDENT BRESLIN: Call
3 the roll.

4 (The Secretary called the roll.)

5 ACTING PRESIDENT BRESLIN:
6 Senator Golden.

7 SENATOR GOLDEN: No.

8 ACTING PRESIDENT BRESLIN:
9 Senator Golden recorded in the negative.

10 The roll call is withdrawn and the
11 bill is laid aside.

12 We will now return to Calendar
13 Number 330.

14 Senator Foley, an explanation has
15 been requested by Senator Young.

16 SENATOR LIBOUS: Mr. President.

17 ACTING PRESIDENT BRESLIN:
18 Senator Libous.

19 SENATOR LIBOUS: I believe
20 there's an amendment at the desk. And we ask
21 that you waive its reading and, if you would
22 call on Senator Marcellino, that would be
23 greatly appreciated at this time.

24 ACTING PRESIDENT BRESLIN: There
25 is an amendment at the desk. Without

1 objection, the reading is waived.

2 And, Senator Marcellino, you may
3 speak on the amendment.

4 SENATOR MARCELLINO: Thank you,
5 Mr. President. I appreciate the recognition.

6 The term "hostile amendment," I
7 really regret having to use it here because I
8 don't think this is in fact -- is this on?
9 The light's not. Okay, thank you.

10 I don't believe this is a hostile
11 amendment. This is an attempt to take this
12 bill and try to make it better, fairer to all
13 parties that would be impacted by the bill.

14 There are a few subsections to this
15 bill. The first amends the ECL. And in the
16 bill, the language would read, between
17 Sections -- the lines 18 -- just add it on to
18 the end where it lists a series of chemicals
19 or a series of stuff that could be used. This
20 bill would add Sections 7 and 8 to that list
21 and basically include the substances known as
22 silica gels and other nonvolatile ready-to-use
23 substances -- paste, foam or gel formulations
24 of insecticides in areas inaccessible to
25 children, or the application of a pesticide

1 which the United States Environmental
2 Protection Agency has determined satisfies its
3 reduced risk criteria, including a
4 biopesticide. Which, for those who may not
5 know, are naturally occurring pesticides in
6 the plants or in the organisms. We would
7 simply add that to this bill.

8 Section B or Amendment B to the
9 legislation would allow nonpublic schools,
10 which would come in the area of Line 25 in the
11 bill, on page 2, would allow nonpublic schools
12 to get approval from their trustees for
13 emergency applications of pesticides.

14 Right now the bill reads "or in the
15 case of public schools, the school boards
16 could be used to declare an emergency." In
17 other words, if an emergency was found, the
18 school board would be able to say, in a public
19 school situation, you could do this.

20 We're adding the language, we would
21 simply say include "public and nonpublic
22 schools" and the word "trustees," because
23 nonpublic schools do not have school boards,
24 necessarily. Some of them only have trustees.
25 That would be -- and maybe one or two, and

1 they're not necessarily elected to any
2 particular place.

3 So that, we think, would make the
4 bill fairer for the nonpublic school and put
5 them on the same plane with respect to this
6 particular legislation. Those two would be
7 amendments to the Environmental Law.

8 We would also add a section that
9 would amend the Social Services Law, because
10 as we know this bill also amends the Social
11 Services Law with respect to daycare centers.
12 And we would add the same lines 7 and 8 around
13 Line 49 in the bill, which would again add
14 those same chemicals that I mentioned and read
15 before, the silica gels and the like, to the
16 bill so that they could also be used.

17 These are non -- they're not
18 neurotoxins, they would -- insects die and you
19 could smother them. These are things that you
20 would apply to an insect which would basically
21 go over their outer shell and smother them and
22 not engage in a neurotoxic thing.

23 This I don't think will -- I think
24 this was left out inadvertently. I don't
25 think this was left out for any particular

1 reason. I think this might be just something
2 that was overlooked when the bill was written.
3 So we feel that they should be added in
4 because they're tools that could be used to
5 assist anyone in a case where you want to
6 engage in a program to get rid of a problem or
7 a problem pest.

8 We would also add Section D, which
9 would be Line 56 in the bill, which basically
10 does the same thing for nonpublic daycare
11 centers. It would allow them to be put on the
12 same level as public daycare centers -- and
13 frankly, nonpublic is 99 percent of the kind
14 of daycare centers we deal with -- allow them
15 the ability to go to their trustees or their
16 board of directors or whatever to declare an
17 emergency situation. That would put them on a
18 par again with the public situation.

19 This also would add Section E to
20 this bill. We noticed in the reading --
21 Mr. President, I am having cross-conversations
22 here which I really can't --

23 ACTING PRESIDENT BRESLIN: Can we
24 please have some quiet.

25 SENATOR MARCELLINO: Thank you.

1 Appreciate it.

2 Section E deals with the effective
3 date. There are two different effective dates
4 in this bill. One is six months after the
5 application; one is as much as a year later.

6 We would request or suggest that
7 the effective date be one year from the date
8 the bill is signed into law for both schools
9 and daycare centers, giving them both equal
10 and ample time to address the needs and change
11 their rules and so forth that is necessary for
12 these entities to survive.

13 Basically, that is the amendments
14 to the bill. Again, I don't consider any of
15 them hostile to the actual nature of the bill.
16 I know the bill has been amended before; this
17 was done at the request of members of the
18 Environmental Committee, myself included. In
19 discussion, we came up with afterwards more
20 issues were raised that were not addressed by
21 those initial amendments. We think the bill
22 becomes fairer when you do it this way and
23 more acceptable to us for that.

24 So I would request that these
25 amendments be taken, put into place and make

1 the bill -- amend the bill, and pass it on to
2 the other house and let them adopt the bill.
3 I certainly would recommend a yes vote on the
4 amended version or the amendments to this
5 bill.

6 Thank you, Mr. President.

7 ACTING PRESIDENT BRESLIN: Thank
8 you, Senator Marcellino.

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

11 Hearing none, the question is on
12 the nonsponsor motion to amend Calendar Number
13 330. Those Senators voting in support of the
14 nonsponsor amendment please raise your hands.

15 Announce the results.

16 THE SECRETARY: Ayes, 29. Nays,
17 32. Senator Golden recorded in the
18 affirmative earlier today.

19 ACTING PRESIDENT BRESLIN: The
20 motion fails.

21 We're now back to the bill in
22 chief.

23 Senator Foley, there's been an
24 explanation requested by Senator Young.

25 SENATOR FOLEY: Thank you,

1 Mr. President.

2 The hour is getting late, but
3 certainly this resolution is something that is
4 very timely and, as we said at the beginning
5 of our proceedings today, the connection or
6 the nexus between public health and good
7 stewardship of our environment. And this bill
8 exemplifies those two basic principles.

9 In short, this act would amend the
10 Environmental Conservation Law, the Education
11 Law, and the Social Services Law in relation
12 to the use and guidance of pesticide
13 alternatives. This bill, most importantly,
14 will minimize the harmful effects of
15 pesticides on children by limiting the use of
16 aesthetic pesticides in sensitive outdoor
17 areas such as in schools and daycare.

18 The bill provides that no school,
19 nor will any daycare apply of these particular
20 pesticides to any playgrounds, turf, athletic
21 or playing fields, with the exception of
22 emergency application. And by emergency
23 application we mean, in effect, if there was
24 some -- either some kind of pest that was
25 affecting that particular turf and they had to

1 apply a particular kind of substance. Then
2 there is an emergency procedure that can be
3 followed.

4 And that emergency procedure is
5 outlined in the law, whether it be a public
6 school board or, in the case of a daycare and
7 other institutions, it would be a local county
8 health department or local commissioner of
9 health or his or her designee.

10 What's most important here,
11 Mr. Chairman, is that this particular
12 resolution will do something that is very
13 important when we want to try and protect
14 children, and that is the principle of prudent
15 avoidance. So I'll get into that more in
16 detail, but that is let's say the overview,
17 Senator Little, of the bill.

18 It would also require, once it's
19 approved, for the commissioner of the
20 Department of Environmental Conservation, in
21 consultation with the Departments of Ed and
22 Health, to develop guidelines on pesticide
23 alternatives. That would be in the first six
24 months. And then from that six-month period
25 to the end of the year, those particular

1 pesticide alternative guidelines would then be
2 sent to the relevant schools and other daycare
3 centers.

4 And at the end of the first year,
5 after the bill is signed into law, for that
6 particular year those pesticides could be used
7 for the year, but at the end of that year
8 those pesticides would then be prohibited from
9 future use.

10 So that is the -- it's Senator
11 Young who asked after that? My apologies,
12 Senator Young.

13 ACTING PRESIDENT BRESLIN:
14 Senator Young.

15 SENATOR YOUNG: Thank you,
16 Senator Foley. So you realized I'm Senator
17 Young, then, right? Because I was going to
18 say I guess to Democrats all Republican women
19 must look alike.

20 (Laughter.)

21 SENATOR YOUNG: Thank you for
22 that explanation. And I had a few questions
23 that I'd like to pose to you, Senator Foley,
24 if that's okay, Mr. President.

25 ACTING PRESIDENT BRESLIN:

1 Senator Foley, will you yield to questions
2 from Senator Young?

3 SENATOR FOLEY: From Senator
4 Young, yes.

5 SENATOR YOUNG: Thank you very
6 much.

7 Senator Foley, what can you tell me
8 what the definition of integrated pest
9 management is?

10 ACTING PRESIDENT BRESLIN:
11 Senator Foley.

12 SENATOR FOLEY: Yes.
13 Mr. Chairman, over a period of time we've seen
14 this courtroom strategy of trying to answer
15 particular questions on particular areas of
16 law.

17 And what I would say in this
18 particular case is that IPM is not an area
19 that is addressed in this bill. This is not
20 about integrated pest management, this is
21 about the avoidance of using pesticides as it
22 relates to ballfields where children are
23 playing.

24 ACTING PRESIDENT BRESLIN:
25 Senator Young.

1 SENATOR YOUNG: Mr. President, if
2 I could, Senator Foley.

3 SENATOR FOLEY: Yes.

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

6 SENATOR FOLEY: Yes,
7 Mr. President.

8 SENATOR YOUNG: This isn't a
9 courtroom questioning, because integrated pest
10 management is already being aggressively used
11 by all of our school districts in New York
12 State.

13 So the reason that I asked you that
14 question is that it's a way that schools use
15 already to mitigate the use of pesticides and
16 chemicals on school grounds, but it's a
17 comprehensive approach. So you try to use
18 natural methods first, and if those don't
19 work, then you have to go to using some sort
20 of pesticide if you have a serious problem
21 that needs to be addressed.

22 So the reason I asked you that is
23 that it has a direct bearing on this
24 particular piece of legislation.

25 ACTING PRESIDENT BRESLIN:

1 Senator Foley.

2 SENATOR FOLEY: Thank you.

3 Certainly, yes, integrated pest
4 management is an accepted practice. It's
5 something that I know from my time of working
6 with the Cornell Cooperative Extension
7 sentence. Throughout the State of New York,
8 they've been very much involved in integrated
9 pest management.

10 However, I as one sponsor of the
11 bill, as well as a number of organizations
12 which I'll list later in the debate, believe
13 that we need to go beyond integrated pest
14 management and that in fact in this particular
15 area we'll be able to have good turf, if you
16 will, conditions for our children. And at the
17 same time, instead of integrating pesticides
18 into that management, we can avoid the use of
19 pesticides almost, I'd say, totally in the
20 care and maintenance of that turf.

21 So in other words, we want to go
22 beyond IPM, we don't see the need for it if in
23 fact, by adopting this bill -- and if in the
24 remote condition that there's a need for some
25 specialized application of pesticides, there

1 is that emergency mechanism within the bill to
2 still provide for that.

3 But with integrated pest
4 management, Mr. President, it still has an
5 accepted practice the regular use of
6 pesticides even though they do try to minimize
7 it. This bill goes beyond IPM to say it
8 should be even used less often than it is used
9 under IPM conditions.

10 ACTING PRESIDENT BRESLIN:

11 Senator Young.

12 SENATOR YOUNG: Thank you,
13 Mr. President. If Senator Foley would
14 continue to yield.

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

17 SENATOR FOLEY: Yes,
18 Mr. President.

19 ACTING PRESIDENT BRESLIN: You
20 may proceed, Senator.

21 SENATOR YOUNG: Thank you very
22 much.

23 You know, just three weeks ago,
24 approximately, the Senate Democrats in this
25 house voted to slash school aid by

1 \$1.4 billion. And you talk about the need for
2 not having to use pesticides. But when you
3 break this down and look at the explosion of
4 athletic sports fields, athletic sports, a lot
5 of schools are putting up fields anywhere that
6 they could. And as a result, they may not
7 have proper irrigation, they have all kinds of
8 needs that are very expensive to deal with.

9 And if you talk about, for example,
10 if you have an athletic field that is attacked
11 by some kind of fungus, it's going to cost
12 \$75,000 or more to replace that field. Or if
13 you use all these other methods that you're
14 talking about, regular iteration, that costs
15 tens of thousands of dollars to do that on a
16 regular basis.

17 So on one hand, how can you vote to
18 slash school aid and take away resources from
19 our schools and then want to put through a
20 piece of legislation that significantly
21 increases costs to schools? This bill is a
22 mandate on school districts. And so how can
23 you justify that particular fact?

24 ACTING PRESIDENT BRESLIN:

25 Senator Foley.

1 SENATOR FOLEY: Thank you,
2 Mr. President. Obviously, I disagree with
3 both contentions.

4 Number one, when we speak about the
5 whole issue of aid to education, in fact I as
6 one Senator had stated on the floor that
7 particular night that we would work day and
8 night to try and restore as much of the cuts
9 that were proposed by the Governor. That's
10 clear for the record.

11 Number two, I would have to
12 directly and also respectfully disagree with
13 the cost estimates that you have cited in the
14 case of different kinds of conditions that
15 would have to be addressed if in fact those
16 things happen to turf.

17 I would also say -- through you,
18 Mr. President -- you used the example of a
19 fungicide. This bill does not address the
20 issues of fungicides for turf. This is
21 specifically a pesticide bill. So the
22 condition that you're speaking about, the
23 school districts can simply go forward with
24 how they work in that particular area of
25 fungicides and the like if they needed to

1 apply that.

2 This resolution is very narrowly
3 focused. We heard from a whole host of folks
4 who offered constructive criticism, so we
5 narrowly focused the bill to schools and
6 daycare and also to the use of pesticides. So
7 I want to make it clear for the record, very
8 clearly, it's not issues of either herbicides
9 or fungicides, only of pesticides.

10 ACTING PRESIDENT BRESLIN:

11 Senator Young.

12 SENATOR YOUNG: Thank you. Will
13 Senator Foley continue to yield?

14 ACTING PRESIDENT BRESLIN:

15 Senator Foley, will you continue to yield to
16 Senator Young?

17 SENATOR FOLEY: Yes,
18 Mr. President.

19 ACTING PRESIDENT BRESLIN: You
20 may proceed, Senator Young.

21 SENATOR YOUNG: Thank you very
22 much for that answer, but I have a whole sheet
23 of additional costs right here as to what it
24 would actually do to the school districts if
25 you went ahead with this bill. So I have to

1 disagree with what you just said.

2 You know, when you pass legislation
3 it's always critical, in my viewpoint, to have
4 facts and to have evidence supporting your
5 claim. So you're talking about that this is
6 going to protect children and children are
7 being harmed across the state because of the
8 use of pesticides to deal with significant
9 problems that may emerge at schools in the use
10 of pesticides.

11 What actual cases can you cite
12 today that support your contention?

13 SENATOR FOLEY: Well, there's a
14 body of scientific evidence to this effect.
15 And certainly if I was in the opposition
16 before today, I would have done my homework
17 myself and looked up those particular cases.

18 What I would say is the following.
19 Whether it's the National Academy of
20 Sciences -- as a matter of fact, some years
21 ago when I was in the county legislature and
22 Senator Marcellino was carrying the
23 neighborhood notification bill, they cited the
24 National Academy of Science reports that dealt
25 with neurotoxicity and pesticides and how

1 there is in fact some connection between the
2 two, particularly with youngsters. And that
3 was one of the reasons why there was
4 widespread support for Senator Marcellino's
5 neighborhood notification law that went into
6 effect in the state and also in our county.

7 So you certainly just have to look
8 through scientific journals and particularly
9 the National Academy of Science. I'm not
10 going to give you chapter and verse tonight,
11 but certainly there is that body of evidence.

12 But I would also say there's also
13 another principle that's at play here. And I
14 can think for an example, Senator Young, that
15 when we speak, for instance, with the
16 Huntington Breast Cancer Action Coalition and
17 the neighborhood network, as well as the
18 Rochester Breast Cancer Coalition, one of the
19 bedrock principles, again, of these
20 organizations is that prevention is the cure.
21 And the way that you prevent is by avoiding.

22 So if we have prudent avoidance,
23 that's the way to prevent any kind of, let's
24 say, any kind of interaction with these
25 chemicals and pesticides, which in turn can in

1 fact cause not just problems with cancer, but
2 they have proven before to cause respiratory
3 illnesses. That is unimpeachable.

4 So again, if we believe that
5 prevention is the cure and the way that one
6 prevents is by avoidance, this particular
7 approach will enable these children to avoid a
8 situation that could cause some real harm to
9 their health.

10 ACTING PRESIDENT BRESLIN:

11 Senator Young.

12 SENATOR YOUNG: Through you,
13 Mr. President.

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

16 SENATOR FOLEY: Yes,
17 Mr. President.

18 ACTING PRESIDENT BRESLIN: You
19 may proceed, Senator.

20 SENATOR YOUNG: So basically what
21 you just said, Senator Foley, is that you
22 cannot cite one particular incidence in this
23 entire state, you can't cite one case that
24 proves that this is harmful. You can't give
25 me any example from any particular school

1 district or daycare in this state where a
2 child was actually harmed.

3 ACTING PRESIDENT BRESLIN:
4 Senator Foley.

5 SENATOR FOLEY: Yes, thank you.
6 Do I have in front of me a list,
7 the chapter and verse of a list of children
8 who have been impacted? No, not in front of
9 me.

10 However, when you have -- again,
11 when you have an array of different
12 organizations that support this particular
13 proposal, it speaks to the importance and the
14 strength of the argument that if you want to
15 have a principle of prudent avoidance and it's
16 proven that these particular pesticides can
17 cause problems -- now, can I give you chapter
18 and verse of which school districts? No. I'd
19 be happy to follow up with that.

20 And I think also, if I may say
21 through the chair, that in fact if any Senator
22 wanted this information, this resolution has
23 been around for quite a number of months. I
24 would have been more than happy to furnish
25 that information before being asked just five

1 minutes ago.

2 ACTING PRESIDENT BRESLIN:

3 Senator Young.

4 SENATOR YOUNG: Through you,
5 Mr. President.

6 ACTING PRESIDENT BRESLIN: Will
7 you continue to yield, Senator Foley?

8 SENATOR FOLEY: Yes,
9 Mr. President.

10 SENATOR YOUNG: So, Senator
11 Foley, you're saying that you don't have a
12 list with you today. Have you ever seen a
13 list?

14 ACTING PRESIDENT BRESLIN:
15 Senator Foley.

16 SENATOR FOLEY: Thank you. As I
17 mentioned earlier, I'd be more than happy to
18 put together the scientific information that
19 you need to help in your decision-making. Do
20 I have a list of particular students? No. We
21 don't have that list, no.

22 SENATOR YOUNG: Okay, so the
23 answer is no.

24 ACTING PRESIDENT BRESLIN:
25 Senator Young.

1 SENATOR YOUNG: Mr. President,
2 through you. Senator Foley --

3 ACTING PRESIDENT BRESLIN: Do you
4 continue to yield?

5 SENATOR FOLEY: Yes,
6 Mr. President.

7 SENATOR YOUNG: Senator Foley,
8 it's my understanding that deer ticks and Lyme
9 disease are a tremendous problem on Long
10 Island. Is that true?

11 SENATOR FOLEY: It's true in may
12 parts of the state. But it's true in our
13 region, yes, it is.

14 SENATOR YOUNG: Right. It's my
15 understanding that it's Long Island, Hudson
16 Valley especially. Of course it's an issue
17 across all of New York State. But when you
18 have a serious issue with deer ticks and Lyme
19 disease, why would you disallow school
20 districts from being able to treat for deer
21 tick infestation if they have it? Aren't you
22 putting children at risk that way?

23 ACTING PRESIDENT BRESLIN:
24 Senator Foley.

25 SENATOR FOLEY: Senator Young, do

1 you care to rephrase your question?

2 SENATOR YOUNG: Why should I
3 rephrase my question? I'm asking you a
4 question.

5 SENATOR FOLEY: Because it
6 doesn't prohibit that use. Through the
7 President. Thank you.

8 This is what happens,
9 Mr. President, when one goes on for hours and
10 it's getting late into the evening and they
11 try to find any reason to hang their hat to
12 oppose a bill.

13 I'll speak for a moment as a former
14 chairman of the Health Committee in Suffolk
15 County that had, in fact, a number of public
16 hearings on the whole issue of deer tick
17 population. And as Senator LaValle may
18 recall, there's a certain Dr. Duttweiler from
19 Stony Brook University, one of the foremost
20 experts in the world on deer tick population.

21 I can say unequivocally to you,
22 Senator Young, I would never put forward any
23 kind of legislation that would put in harm's
24 way any child or any adult as it relates to
25 deer ticks.

1 Let me go on further. I would say
2 to you and to any who, again, are looking for
3 a reason to vote no, I have not heard of one
4 example where one football field, where one
5 soccer field, where one baseball field ever
6 had a deer tick problem.

7 Now, that may happen. But there
8 are mechanisms through this resolution, if and
9 when approved, that would enable those school
10 districts to apply that particular substance,
11 whatever it might be, to attack that
12 particular problem. But I can tell you,
13 standing here tonight and having been involved
14 in scholastic athletics for many decades, I
15 have not heard of one example of that. But if
16 it would happen, in the most remote of
17 possibilities, there are mechanisms within
18 this bill that would address that problem,
19 however remote that it is.

20 ACTING PRESIDENT BRESLIN:

21 Senator Young.

22 SENATOR YOUNG: Thank you,
23 Mr. President. Through you. Senator Foley --

24 ACTING PRESIDENT BRESLIN: Would
25 you continue to yield, Senator Foley?

1 SENATOR FOLEY: Certainly.

2 SENATOR YOUNG: Senator Foley,
3 it's interesting you bring that up, because
4 you touched on it just briefly in your
5 explanation, but you talked about there are
6 provisions in the bill that allow for
7 emergency application. But could you explain
8 exactly how that would work, what kind of
9 hoops you would have to jump through to get
10 that kind of allowance?

11 SENATOR FOLEY: Sure.

12 ACTING PRESIDENT BRESLIN:
13 Senator Foley.

14 SENATOR FOLEY: The simple answer
15 is that it's contained in the resolution
16 itself. But since that's not enough of an
17 answer, even though it's contained in the body
18 of the resolution, I would then go on to the
19 question at hand.

20 If in fact the school board had a
21 problem where there was a need to apply a
22 pesticide, the school board itself can make
23 that decision and then they can move forward
24 to apply that particular -- make that
25 particular application.

1 For a daycare or others, they could
2 then appeal to the local county health
3 department. If there is no local county
4 health department, it can go through a
5 designee of the county legislature, as one
6 example.

7 But the important part is that if
8 and when the bill is approved, the Departments
9 of Environmental Conservation and Education
10 would promulgate the rules and regulations,
11 and this would lead to the administration of
12 this law. Those two departments would
13 promulgate the rules and regulations that
14 would put in place the process that would be
15 followed in order to make those particular
16 applications if it's not a school board.

17 And I am going to ensure or let's
18 say request of the departments, of those two
19 departments when they promulgate these rules
20 that it will be as small of a window of time
21 of response as possible. And I'm highly
22 confident that they could put together a very
23 short window that they would be able to give a
24 response to that organization that needs to
25 use that pesticide, in the remote case that it

1 might need it.

2 ACTING PRESIDENT BRESLIN:

3 Senator Young.

4 SENATOR YOUNG: Mr. President,
5 will Senator Foley continue to yield.

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

8 SENATOR FOLEY: Yes,
9 Mr. President.

10 ACTING PRESIDENT BRESLIN: You
11 may proceed, Senator Young.

12 SENATOR YOUNG: Thank you.

13 Well, Senator Foley, it sounds from
14 what you just said that there's an awful lot
15 of red tape that would go along with this bill
16 and that it could get jammed up in the
17 process.

18 But I wanted to ask you some
19 additional questions. Can you describe what
20 anaphylactic shock is?

21 SENATOR FOLEY: How does it
22 relate to the resolution?

23 SENATOR YOUNG: Oh, it absolutely
24 relates to it, and I'll tell you why. Under
25 your bill, you would not allow for the

1 treatment of clover on athletic fields.
2 Clover is a food source for bees and other
3 flying insects that sting. And if you
4 eliminate the food source, you eliminate the
5 bees.

6 But I asked you about anaphylactic
7 shock because that's a very serious health
8 issue. Again, that could occur if this bill
9 goes through. So I just wanted to ask you if
10 you knew what it was.

11 ACTING PRESIDENT BRESLIN:

12 Senator Foley.

13 SENATOR FOLEY: Thank you,
14 Mr. President.

15 The reason I asked why it's
16 relevant to the legislation is the fact that
17 this was brought up in committee. And I had
18 mentioned to Senator Young at that time that
19 clover is also an excellent source of
20 nitrogen, and there would be less of a need to
21 in fact put down some fertilizers that you
22 otherwise would have to if you didn't have
23 clover as part of the mix for those particular
24 fields.

25 Again, these are very, very remote,

1 very extreme examples, Senator Young. I very
2 much doubt that those problems would arise.
3 And if they do, there already are protocols
4 within schools if and when a child comes --
5 I'll say comes down or has an anaphylactic
6 reaction, whether in the school or in the
7 fields. So those particular, let's say,
8 protocols are already in place in every school
9 district if that would happen either in the
10 school building or on school grounds. So
11 those same protocols would still hold true if
12 and when this legislation would be approved.

13 ACTING PRESIDENT BRESLIN:

14 Senator Young.

15 SENATOR YOUNG: Thank you,
16 Mr. President. Would Senator Foley continue
17 to yield?

18 ACTING PRESIDENT BRESLIN: Will
19 you continue to yield, Senator Foley?

20 SENATOR FOLEY: Yes,
21 Mr. President.

22 SENATOR YOUNG: I just want to
23 remark first that those protocols are after
24 the fact. And clover is a very common problem
25 that we see in our athletic fields. And even

1 if you aerate the soil, you can avoid all that
2 and all that additional cost if you treat a
3 field for clover, and it can last up to five
4 years. But right now, if this bill goes
5 through, you're going to tie the school
6 district's hands to be able to deal with that
7 situation.

8 But I wanted to ask you about
9 athletic injuries. And there's a real problem
10 when grubs attack the root systems of athletic
11 fields, because the ground becomes unstable,
12 you see a dramatic increase in ankles being
13 broken, legs being broken, arms, collarbones,
14 head injuries.

15 And I guess, again, I'd like to ask
16 if you can't treat for grubs under this bill,
17 and you're going to see an increase in
18 children's injuries if they're playing sports,
19 how can you justify this?

20 ACTING PRESIDENT BRESLIN:
21 Senator Foley.

22 SENATOR FOLEY: Again,
23 Mr. President, I dispute the exaggerated
24 claims about what would happen if in fact
25 there's a grub infestation on the fields.

1 And again, the bill allows for
2 emergency applications of a pesticide if in
3 fact the need arises. And again, if it's on
4 school grounds in public schools, there are
5 other mechanisms contained in the law in a
6 very clear and simple way that school boards
7 could in fact move forward with making that
8 quick determination.

9 So again, there's no -- there is --
10 we would hope that there will be far less need
11 to use these particular pesticides, or no need
12 to use it, but particularly to take
13 alternative turf guidelines that can help to
14 strengthen that turf and in so doing make it
15 far less likely that there will be anything
16 that would occur that will put stress on the
17 turf.

18 But in the remote -- again, the
19 remote possibility of these things happening,
20 there are mechanisms in the bill that will
21 allow those applications to occur.

22 ACTING PRESIDENT BRESLIN:

23 Senator Young.

24 SENATOR YOUNG: Will Senator
25 Foley continue to yield?

1 SENATOR FOLEY: Yes,
2 Mr. President.

3 ACTING PRESIDENT BRESLIN:
4 Senator Foley continues to yield.

5 SENATOR YOUNG: I'd just like to
6 follow up on that point about grubs. Because
7 what, Senator Foley, you're talking about is
8 waiting until this problem gets out of control
9 and then trying to deal with it.

10 Basically, what happens with grubs
11 is if you treat the field two years in a row
12 in early July when school is out of session,
13 then you totally avoid the problem. And what
14 you're saying now is that wait until there's a
15 huge problem, kids are getting hurt, and then
16 maybe we'll treat it through some kind of an
17 emergency application. I don't see how that
18 makes sense.

19 ACTING PRESIDENT BRESLIN:
20 Senator Foley.

21 SENATOR FOLEY: Again, that's not
22 the scenario that I would foresee. If in fact
23 the grounds supervisor sees that there's an
24 initial problem or, let's say, the initial
25 phase of that particular grub problem --

1 because it all doesn't happen at once -- he
2 can then immediately -- he or she can then
3 immediately appeal to the school district
4 officials to trigger the process that would
5 quickly respond to the problem.

6 SENATOR YOUNG: Mr. President.

7 ACTING PRESIDENT BRESLIN: Would
8 you continue to yield to Senator Young?

9 SENATOR FOLEY: Yes,
10 Mr. President.

11 SENATOR YOUNG: Senator Foley,
12 have you ever had poison ivy?

13 SENATOR FOLEY: Again, I don't
14 see the relevancy of the question. But I
15 think, given the tenor of the day, where such
16 kinds of questions have been asked on other
17 bills, the answer is no.

18 SENATOR YOUNG: Okay. So --

19 ACTING PRESIDENT BRESLIN:
20 Senator Young.

21 SENATOR YOUNG: Through you.

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

24 SENATOR FOLEY: On non-poison ivy
25 questions, sure.

1 SENATOR YOUNG: The reason,
2 Senator Foley, that I'm asking about poison
3 ivy is again, under your legislation, school
4 districts and daycares would not just be able
5 to go out and treat poison ivy if they see it
6 growing on a tree or a fence near a
7 playground, for example, or on school grounds.

8 I can't think of any parent who I
9 know who would want their child to come home
10 with a bad case of poison oak or poison ivy.
11 Now, a lot of times people will say that,
12 well, we train the kids, it has three leaves,
13 so they'll identify it. Do you know what
14 poison ivy looks like in March?

15 ACTING PRESIDENT BRESLIN:
16 Senator Foley.

17 SENATOR FOLEY: Well, let me
18 answer the question this way. Again, similar
19 to the earlier question about fungicides,
20 Mr. President, this bill focuses on
21 pesticides. In order to combat poison ivy,
22 that would then be a select application of an
23 herbicide. So again, we're not talking about
24 herbicides or fungicides here, we're talking
25 about pesticides.

1 A pesticide has no role with poison
2 ivy. So again, just as the protocol has been
3 all these years when it comes to trying to
4 eradicate poison ivy on school grounds or
5 other grounds, the same protocols can be used
6 even when this legislation is approved.

7 SENATOR YOUNG: Thank you.
8 Mr. President, one more question.

9 ACTING PRESIDENT BRESLIN: One
10 more question, Senator Foley. Will you yield
11 to Senator Young?

12 SENATOR FOLEY: I'll be happy to
13 yield to Senator Young.

14 SENATOR YOUNG: I just want to go
15 back to the emergency procedures one more
16 time. Because you talked about how you were
17 going to mitigate the amount of time that it
18 took to get emergency appeals through.

19 SENATOR FOLEY: Yes.

20 SENATOR YOUNG: But exactly how
21 long would the emergency procedures take to
22 effectuate a treatment from identification of
23 a problem to the application of the accepted
24 pesticides?

25 SENATOR FOLEY: That's an

1 excellent question, a fair question. Probably
2 the best question that's been asked so far
3 tonight.

4 That's why I said earlier the same
5 principles apply whether at the county level,
6 city level, state level. We as legislators
7 will propose and approve laws. Then we then
8 turn to the administrative branch of
9 government, and then they will promulgate the
10 rules and regulations that will effectuate the
11 law.

12 And as I said earlier, it's my
13 expectation and the way that this Senator
14 works, if and when a bill of his is approved,
15 is to follow through and speak with the
16 relevant departments to make sure that they
17 promulgate rules and regulations that reflect
18 both the intent and the spirit of the bill
19 that this Senator proposes.

20 So I would say most directly to
21 Senator Young that through the process of
22 promulgation of the rules and regs, it will in
23 fact be a period of time that will enable the
24 school or the other institution to address it
25 that timely, effective manner.

1 ACTING PRESIDENT BRESLIN:

2 Senator Young.

3 SENATOR YOUNG: On the bill.

4 ACTING PRESIDENT BRESLIN:

5 Senator Young, on the bill.

6 SENATOR YOUNG: Thank you,
7 Mr. President.

8 You know, this particular piece of
9 legislation is totally unnecessary. Because
10 our school districts already are very
11 responsible in dealing with this issue. And
12 basically what this would do is drive up
13 costs. It's another unfunded mandate from
14 New York State that would be burdened on our
15 school districts at a time when they are
16 suffering mightily. They are facing
17 tremendous budget cuts right now. And to put
18 this on their backs is totally wrong.

19 And, you know, we talk a lot in
20 this chamber about unintended consequences.
21 The unintended consequences of this bill are
22 that children could be hurt, not helped.

23 We talked about the fact that Lyme
24 disease is a tremendous problem across the
25 state, particularly in Long Island and the

1 Hudson Valley. And I was talking to a
2 pesticide applicator who deals with a lot of
3 school districts recently, and he told me a
4 story. He said that he went to a woman's
5 house in the Hudson Valley and she had him
6 applying pesticides to deal with deer ticks,
7 but she wanted it all over her property, way
8 beyond what he would normally recommend.

9 And he said to her, "Don't you
10 think you're going a little bit overboard on
11 this?" And she said, "Come in my house, I
12 want to show you something."

13 So he went in her house, and on her
14 couch was a little two-year-old girl on a
15 respirator. And she said, "When I was
16 pregnant, I took care of myself, I ate well, I
17 walked every day on my property. And I didn't
18 know it, but I contracted Lyme disease while I
19 was pregnant. And as a result, my baby will
20 never be able to breathe on her own."

21 Those are the effects of Lyme
22 disease on people's lives. And I think you
23 have to take that into account.

24 Anaphylactic shock is another very
25 serious problem. And as I said, it's very

1 difficult to treat for clover once it takes
2 hold. And you have to have the ability to get
3 it off the athletic fields.

4 I have personal experience with
5 this, because when my son Patrick was a little
6 boy, we were on school grounds, he went
7 running up to a chain link fence, and being a
8 little boy, he shook it. And what he did not
9 know is that there was a yellow-jacket nest
10 next to the fence. Yellow jackets, as we all
11 know in this chamber, are extremely
12 aggressive. Some flew out, and they started
13 to sting him. The next thing I knew, his face
14 was swelling up, he was turning blue. I had
15 to rush him to the emergency room.

16 Fifty people in this country die
17 every year from anaphylactic shock. Millions
18 of people are allergic to bee stings. Why
19 wouldn't we give the school districts the
20 ability to fend off a serious problem before
21 the fact and not wait for some tragedy to
22 happen?

23 You know, it's time that we applied
24 a little common sense in this chamber. And on
25 the surface, this bill sounds like a good

1 idea. But I believe very strongly it's the
2 wrong thing to do, it's the wrong action to
3 take. I would urge everyone to vote no on
4 this legislation for all the things that we
5 talked about.

6 But to create more bureaucracy,
7 more red tape, tie the districts' hands and
8 create another financial burden on them and
9 jeopardize our children's health and safety is
10 the wrong way to go.

11 Thank you.

12 ACTING PRESIDENT BRESLIN: Thank
13 you, Senator Young.

14 Senator Libous, on the bill.

15 SENATOR LIBOUS: Thank you,
16 Mr. President. On the bill.

17 You know, when I heard the exchange
18 between Senator Young and Senator Foley, I was
19 a little disappointed, Senator Foley. I felt
20 that maybe you didn't take Senator Young's
21 questions serious, because there were some
22 flippant answers that were given back.

23 And I just want to back up some of
24 the things that she said. And I think the
25 best way to do it is to read a letter that I

1 received today.

2 It says: "Good morning. I am
3 writing from the Union-Endicott Central School
4 District to ask that you please consider our
5 concerns regarding the fact that the Senate
6 and Assembly are planning on passing
7 legislation this week for Earth Day that would
8 prohibit the use of certain pesticides on
9 school properties.

10 "While well-meaning, the bill is
11 harmful. In the midst of weathering the
12 financial crisis, the state would force
13 schools to buy new products as well as hire
14 and pay to train new staff. It would also
15 impose a senseless, uniform approach to
16 problems that are unique in each school
17 district.

18 "The legislation purports to
19 advance the safety of children but ignores the
20 threat of Lyme disease and other pest-borne
21 diseases and, just as importantly, the history
22 of the school district's judicious use of
23 these products.

24 "Please know that we are not
25 endangering the health of our students, as

1 claimed by the sponsor. Please realize that
2 this bill will add another unfunded mandate to
3 an already long list of unnecessary, unpaid
4 requirements placed upon us and our taxpayers
5 with no evidence of necessity.

6 "Thank you for any help you can
7 give us on this matter.

8 "Suzanne E. McLeod, Superintendent
9 of the Union-Endicott School District."

10 So, Mr. President, Senator Young's
11 questions are serious questions. They are
12 questions that not only she has on behalf of
13 our constituents, I have on behalf of mine.
14 And one who is a superintendent responsible --
15 Union-Endicott happens to be one of the
16 biggest school districts in my area. And this
17 superintendent is responsible for her children
18 and is concerned about this legislation.

19 So I think that anytime anything is
20 discussed in this chamber, while from time to
21 time we may disagree and have different
22 feelings and sometimes, you know, we get a
23 chuckle out of a bill, as we did earlier with
24 Senator Squadron -- and certainly that was
25 important to him, and it passed -- I would

1 hope that all of our colleagues take very
2 serious that those of us, in this case in
3 upstate districts who are concerned about the
4 children of their school district and
5 certainly concerned about additional mandates
6 and concerned about what is going to be placed
7 on school districts in a fiscal crisis -- and
8 again, Mr. President, I will say it, at a time
9 when we don't have a budget done -- I think
10 these are very serious concerns.

11 And as Senator Young pointed out, I
12 too share the concerns, the questions that she
13 asked, as do superintendents in my district.

14 Thank you, Mr. President.

15 ACTING PRESIDENT BRESLIN: Thank
16 you, Senator Libous.

17 Senator Marcellino, on the bill.

18 SENATOR MARCELLINO: Thank you,
19 Mr. President. Will Senator Foley please
20 yield to a question?

21 SENATOR FOLEY: Sure.

22 ACTING PRESIDENT BRESLIN:
23 Senator Foley, will you yield to Senator
24 Marcellino?

25 SENATOR FOLEY: Yes,

1 Mr. President.

2 SENATOR MARCELLINO: Senator
3 Foley, you mentioned before in your
4 cross-conversation with Senator Young that
5 pesticides, as you define them, do not include
6 fungicides, herbicides and others? I don't
7 know the full length of it, but you did
8 mention fungicides and herbicides?

9 SENATOR FOLEY: The bill is
10 focused on pesticides, correct.

11 SENATOR MARCELLINO: Are you
12 familiar with the definition of "pesticides"
13 in the ECL? I'm sorry, through you,
14 Mr. President.

15 ACTING PRESIDENT BRESLIN: Yes.
16 Senator Foley, do you yield to another
17 question?

18 SENATOR FOLEY: Yes.

19 ACTING PRESIDENT BRESLIN: You
20 may proceed, Senator Marcellino.

21 SENATOR MARCELLINO: The
22 definition of "pesticides" in the ECL includes
23 insecticides, rodenticides, and fungicides.

24 Factually -- your statement, sir,
25 is factually incorrect. Go right ahead.

1 ACTING PRESIDENT BRESLIN:

2 Senator Foley.

3 SENATOR FOLEY: Thank you,
4 Mr. President, for the opportunity to respond.
5 And I'll certainly take that correction to
6 heart.

7 SENATOR MARCELLINO: It's --

8 SENATOR FOLEY: Let me finish the
9 point.

10 But it also speaks to the point I
11 raised earlier, which is the fact that there
12 are mechanisms within the bill, if it becomes
13 law, that would enable the schools to move
14 forward with applications of those particular
15 chemicals if in fact it's required under an
16 emergency situation.

17 So while there is an initial
18 prohibition of the use, if in fact there is an
19 emergency situation, they could still then be
20 used within the rules and regulations that
21 will be promulgated by the relevant
22 departments.

23 ACTING PRESIDENT BRESLIN:

24 Senator Marcellino.

25 SENATOR MARCELLINO: Now that

1 we've cleared up with the definition of
2 "pesticides" is --

3 ACTING PRESIDENT BRESLIN: Would
4 you like to ask an additional question?

5 SENATOR MARCELLINO: If I could
6 just preamble it, I'll then get to that, sir.
7 With all due respect.

8 ACTING PRESIDENT BRESLIN:
9 Pardon?

10 SENATOR MARCELLINO: I just want
11 to preamble it, and then I'll ask him a
12 question. Is that okay?

13 ACTING PRESIDENT BRESLIN: Sure.

14 SENATOR MARCELLINO: Thank you
15 very much.

16 ACTING PRESIDENT BRESLIN: Would
17 you yield to a question, Senator Foley?

18 SENATOR FOLEY: Yes,
19 Mr. President.

20 SENATOR MARCELLINO: Thank you,
21 sir.

22 The section of the bill reads
23 from -- I'm starting at line 19 on page 2 of
24 the bill. Starting at "No school shall apply
25 pesticide to any playgrounds, turf, athletic

1 fields except that emergency applications of a
2 pesticide may be made as determined by the
3 county health department or, in a county not
4 having a health department, such authority as
5 the county legislature shall designate, the
6 commissioner of health or his or her designee,
7 the commissioner of environmental conservation
8 or his or her designee, or, in the case of a
9 public school, the school boards."

10 In my amendment before, I asked
11 that we include private and parochial schools
12 in that list. Because the way I read this
13 section, they're not included here. They
14 don't have elected school boards. They have
15 trustees, maybe an owner, whatever. But they
16 don't have elected school boards as defined by
17 this bill. So all we wanted to ask in the
18 definition was to include them in the list.

19 ACTING PRESIDENT BRESLIN:

20 Senator Foley.

21 SENATOR FOLEY: Yes, thank you,
22 Mr. President.

23 In those particular instances, say
24 either in our counties -- in Suffolk County or
25 Nassau County, for example, those particular

1 schools would be able to appeal directly to
2 the local county health department for an
3 emergency application of the required
4 pesticide.

5 SENATOR MARCELLINO: Mr.
6 President, if the Senator would continue to
7 yield.

8 ACTING PRESIDENT BRESLIN:
9 Senator Foley, would you continue to yield to
10 Senator Marcellino?

11 SENATOR FOLEY: Yes,
12 Mr. President.

13 ACTING PRESIDENT BRESLIN: You
14 may proceed, Senator Marcellino.

15 SENATOR MARCELLINO: Thank you.

16 As I said earlier, words matter,
17 Senator. It says clearly here "or, in the
18 case of public schools." It says "no school
19 shall apply," and then it excludes public
20 schools by allowing them to go to their school
21 boards. Private schools do not have that.
22 They just don't. Therefore, they're excluded
23 here. They don't have that.

24 They have to go up to the
25 Commissioner of Health in the state, because

1 there are counties in the state, as you
2 recognized by accepting the amendments, that
3 don't have health departments. There are at
4 least 10 counties that don't have health
5 departments. Some counties don't have county
6 legislators.

7 So, you know, you're dealing with a
8 situation that we asked to correct, and all
9 we're saying, put nonpublic schools, parochial
10 schools on the same playing field so that they
11 too can be protected by your law. That's all
12 we're saying.

13 ACTING PRESIDENT BRESLIN: If you
14 consider it a question, can you answer that,
15 Senator Foley?

16 SENATOR MARCELLINO: I thought it
17 was a question.

18 SENATOR FOLEY: Again, Senator
19 Marcellino, they can appeal to, in this case,
20 the State Health Department. In fact, I would
21 say this. This particular section of law --
22 this particular section of the bill, rather,
23 came from a suggestion that you had made at
24 our Environmental Conservation Committee
25 meeting, and it was a point well-taken, as far

1 as either DEC or the Health Department or
2 their designee.

3 So again, the way the bill is
4 constructed, those particular schools would
5 have several options that they could pursue in
6 order to receive the approval to move forward
7 with a pesticide application. And again, that
8 would be reflected in the rules and regs
9 promulgated by the relevant department.

10 ACTING PRESIDENT BRESLIN:

11 Senator Marcellino.

12 SENATOR MARCELLINO: Mr.

13 President, through you, if the Senator will
14 continue to yield.

15 ACTING PRESIDENT BRESLIN:

16 Senator Foley, will you continue to yield?

17 SENATOR FOLEY: Yes,

18 Mr. President.

19 SENATOR MARCELLINO: Senator, you

20 can say it every way you wish. The language
21 in the bill -- and I agree, the language in
22 the bill simply excludes nonpublic schools.
23 That's what the phrase means at the end.

24 And had we added that amendment,
25 had we added that fix, I wouldn't have a

1 problem with that. I don't necessarily agree
2 that this bill is absolutely necessary. I
3 think it's covered in a whole bunch of
4 different rules. And a whole bunch of
5 different laws take into consideration most of
6 what you want to do. I think basically we're
7 looking -- we have a solution looking for a
8 problem here.

9 But that being said, in order to
10 fix the bill -- and I believe it can be fixed,
11 that was the purpose of the amendment. Not to
12 derail the bill, not to stop the bill, but to
13 fix it. I believe there's a fix necessary
14 here.

15 ACTING PRESIDENT BRESLIN:

16 Senator Foley.

17 SENATOR FOLEY: Thank you.

18 In past conversations that I've had
19 with Senator Marcellino, certainly you've
20 expressed support for the bill. And in prior
21 conversations that we've had -- in fact, even
22 at committee -- once we made the initial
23 amendments, and Senator Thompson will recall
24 this as well, when we made the amendments as
25 suggested by Senator Marcellino several weeks

1 ago, there was -- in fact, he supported the
2 bill being reported out of committee with
3 those amendments.

4 So again, I'm a little surprised by
5 the fact that several hours ago we did in fact
6 receive some hostile amendments by the Senator
7 who had heretofore supported the bill.

8 Certainly, going forward --

9 ACTING PRESIDENT BRESLIN:
10 Senator Duane -- excuse me, Senator Foley.
11 Senator Duane, why do you rise?

12 SENATOR DUANE: Thank you,
13 Mr. President. I'm assuming that Senator
14 Foley has the floor, and I would like to ask
15 the Senator --

16 ACTING PRESIDENT BRESLIN: At
17 this point, Senator Marcellino has the floor.

18 SENATOR MARCELLINO: I believe I
19 have the floor, Mr. President.

20 SENATOR DUANE: No, I think
21 Senator Foley has the floor.

22 SENATOR MARCELLINO: No, he's
23 yielding to a question.

24 ACTING PRESIDENT BRESLIN: No,
25 Senator Marcellino has asked if -- Senator

1 Marcellino has the floor.

2 SENATOR FOLEY: We'll get to it,
3 Tom.

4 Mr. President --

5 ACTING PRESIDENT BRESLIN:

6 Senator Duane, to explain, earlier I
7 recognized Senator Marcellino, and he's been
8 asking questions of Senator Foley. So Senator
9 Marcellino has the floor to ask those
10 questions. Thank you, Senator Duane.

11 SENATOR FOLEY: Thank you.

12 So again, there were amendments
13 that were suggested by Senator Marcellino, we
14 incorporated those amendments, he supported
15 the bill. So I was a little surprised to see
16 the hostile amendments today.

17 Let me just say this. Some of the
18 elements of the amendment that he proposed
19 certainly can be entertained in the future.
20 But I would submit to Senator Marcellino that
21 the failure of the amendment to be approved,
22 to me, does not make this bill a fatally
23 flawed one. You may believe that there needs
24 to be improvements to the bill. But as I've
25 said many times, I don't think we ever passed

1 a perfect bill in any deliberative body.

2 So certainly, going forward, if in
3 fact there are other chapter amendments that
4 would be, let's say, mutually supported, we
5 can move forward with those. Absent the
6 approval of the hostile amendment this
7 afternoon I would submit is not enough of a
8 reason to oppose this bill.

9 ACTING PRESIDENT BRESLIN:
10 Senator Marcellino.

11 SENATOR MARCELLINO: If the
12 Senator would continue to yield.

13 ACTING PRESIDENT BRESLIN: Do you
14 continue to yield to Senator Marcellino?

15 SENATOR FOLEY: Yes,
16 Mr. President.

17 ACTING PRESIDENT BRESLIN: You
18 may continue, Senator Marcellino.

19 SENATOR MARCELLINO: The Senator
20 mentioned the fact of our suggesting
21 amendments during the committee meeting
22 process, which we did. Those amendments were
23 ultimately, although not immediately,
24 incorporated. I think a couple of days later
25 we had a meeting and the bill had not been

1 amended. I voted at that time without
2 recommendation, because the bill wasn't
3 amended at that point in time to see that the
4 bill in fact was. So while --

5 ACTING PRESIDENT BRESLIN:
6 Senator Duane -- excuse me, Senator
7 Marcellino.

8 SENATOR MARCELLINO: I'm not
9 finished, Mr. President. If I might --

10 ACTING PRESIDENT BRESLIN:
11 Senator Marcellino, Senator Duane has risen.
12 I can ask him why he has risen.

13 SENATOR DUANE: Because,
14 Mr. President -- and maybe --

15 SENATOR MARCELLINO: So has the
16 sun, sir.

17 ACTING PRESIDENT BRESLIN: Excuse
18 me?

19 SENATOR MARCELLINO: I'm just
20 suggesting that --

21 SENATOR DUANE: Mr. President,
22 the reason that I -- I just heard Senator
23 Marcellino ask Senator Foley if he would
24 yield. Thereby, I assumed that that -- and
25 maybe Senator Marcellino was incorrect in his

1 questioning that Senator Foley didn't have to
2 yield. But it was the second time I heard it,
3 and that's why I was presuming that Senator
4 Foley, if he was being asked to yield, he was
5 being asked to yield.

6 SENATOR FOLEY: In fact, I had
7 the floor, yeah.

8 SENATOR DUANE: And so --

9 ACTING PRESIDENT BRESLIN:
10 Senator Duane, sometimes the correct
11 terminologies aren't used. And it's up to the
12 President to control the debate.

13 SENATOR DUANE: Certainly that's
14 never happened in my case.

15 ACTING PRESIDENT BRESLIN: No,
16 I'm well aware of that.

17 SENATOR DUANE: Thank you,
18 Mr. President.

19 ACTING PRESIDENT BRESLIN: I will
20 allow Senator Marcellino to continue to ask
21 questions.

22 SENATOR DUANE: Thank you,
23 Mr. President.

24 ACTING PRESIDENT BRESLIN:
25 Senator Marcellino.

1 SENATOR MARCELLINO: I apologize,
2 Mr. President. I didn't notice that Senator
3 Duane had risen, and I interrupted your
4 comment. I didn't mean to. No disrespect
5 intended.

6 Senator, you mentioned the fact
7 that in your mind the bill is not flawed
8 enough to warrant the change and that we could
9 address chapter amendments down the road.
10 I've engaged in chapter amendments on occasion
11 with other pieces of legislation. They're not
12 always that reliable. You can't always count
13 on the other house to finish and to do that.
14 You can't always count on the Governor to sign
15 them.

16 We do have an opportunity right
17 now. The bill is here, the bill could be
18 fixed, the bill could be amended, it could be
19 sent over to the other house with the
20 amendments added to it. And I'm sure none of
21 these amendments would justify them not
22 passing the bill. They would probably pass
23 it. So we could kill two birds and not waste
24 a lot of time if we did that.

25 All that being said, if I might,

1 the other point of the bill, too, goes to the
2 same thing with the Social Services Law. The
3 bill says the same language.

4 And I might add that the bill has a
5 misprint in it, which I don't necessarily
6 think we have to fix, but it could be when the
7 bill is finally printed. Because the line
8 says, at the end, "or in the case of public
9 schools." Once again, I don't mean you mean
10 public schools. I think you mean, at that
11 point, daycare centers.

12 So that could be adjusted.
13 Hopefully it's not a same-as as the other
14 bill. That might impact it, if it's a
15 problem.

16 ACTING PRESIDENT BRESLIN: Are
17 you on the bill, Senator Marcellino?

18 SENATOR MARCELLINO: No, I'm not.

19 I would ask that the same thing be
20 done, that we add into the section on Social
21 Services Law for daycare centers, private
22 daycare centers which do not have the benefit
23 of boards and the like, that they be added,
24 the language be put in. Instead of "public,"
25 that "private and/or trustees" be added, so

1 that they can declare an emergency --

2 ACTING PRESIDENT BRESLIN: Again,
3 Senator Marcellino --

4 SENATOR MARCELLINO: Would you
5 not agree?

6 ACTING PRESIDENT BRESLIN:
7 Senator Marcellino -- okay, at the end there
8 was a question.

9 SENATOR MARCELLINO: I thought
10 there would be.

11 ACTING PRESIDENT BRESLIN:
12 Senator Foley.

13 SENATOR FOLEY: I'm glad at the
14 end you finally put the verb in that
15 paragraph. It was at the end of the
16 paragraph.

17 Again, in all due respect -- former
18 chair of EnCon; again, neighborhood
19 notification and other very good and
20 groundbreaking pieces of legislation that the
21 former chair had championed -- I would have to
22 respectfully disagree with your
23 characterization of it.

24 As the sponsor of the bill, I would
25 not necessarily agree with all the provisions

1 that you had contained in the hostile
2 amendment. That's why I believe, in a larger
3 sense, hostile amendments is a rather
4 ineffective way to try and change laws,
5 because it's always done in confrontation with
6 the sponsor of the bill, as opposed to a more
7 collegial fashion, as was exhibited when we
8 worked together in the committee structure to
9 do those amendments, not to do an amendment
10 two hours before we opened session.

11 So I'd have to disagree with your
12 statement, Senator Marcellino.

13 ACTING PRESIDENT BRESLIN:
14 Senator Marcellino.

15 SENATOR MARCELLINO: Mr.
16 President, I'll go on the bill.

17 ACTING PRESIDENT BRESLIN:
18 Senator Marcellino, on the bill.

19 SENATOR MARCELLINO: Simply
20 saying that you disagree does not answer.
21 Simply saying "I disagree with you" does not
22 make the statement made incorrect.

23 The bill as written excludes
24 private schools. It excludes private daycare
25 centers from the same prerogatives that you're

1 giving to the public schools and public
2 daycare centers. It is discriminatory in that
3 respect and should be fixed.

4 There are huge populations of
5 youngsters in the private daycare centers and
6 in the private schools that will not get the
7 same benefits -- if you want to accept the
8 fact that this bill has benefits -- that the
9 public schools and the public daycare centers
10 have. It simply doesn't provide them. Saying
11 it, I disagree with you -- it's a great
12 answer, Senator, but it doesn't cut it. The
13 language means something.

14 The language in this bill, as
15 phrased in this bill, you can talk to any
16 lawyer you want, they're going to tell you the
17 same thing. It excludes the private schools,
18 it excludes the private daycare centers.
19 That's not what you want it to do. I don't
20 believe that's what you intend it to do. I
21 think it's just a case of poorly written
22 language that could be fixed. That's all.

23 If you want to fix it, then let's
24 fix it. If you're talking about a chapter
25 amendment, I think that's unnecessary time.

1 You want to do that later, in fact, fine,
2 let's do it later. But this is a problem with
3 the bill that makes it, in my mind, difficult
4 to support because it leaves out a huge
5 population of youngsters.

6 It was talked about before that we
7 have school districts -- I received a memo
8 from an organization called Grassroots
9 Environmental Education, and it lists a whole
10 bunch of school districts that it says that
11 these districts are involved right now in the
12 organic pesticide applications. And it just
13 so happens, we called some of them. We had
14 people make some phone calls.

15 It lists the Jericho Union Free
16 School District, which is one of the better
17 school districts in the state, one of the
18 larger ones in my district, and we called
19 them. There is organic, by choice of the
20 school board, in the elementary grades, but
21 not at the high school, according to the
22 school district. The high school does not
23 engage in the organic pesticide situation, but
24 the elementary grades, it does. Why? I don't
25 know. But that was their choice.

1 In questioning some of the others,
2 in calling some of the other districts, we
3 found out some had engaged in it, no longer
4 do -- by choice. Some are thinking about
5 doing it but are not now doing it, but they
6 might consider it. You know, you go down the
7 list here, there's district after district.
8 In other words, the list is not exactly
9 complete. And the statement in the memo is
10 not exactly accurate, as it should be.

11 Right now any school district that
12 wants to, any school district that wants to,
13 any municipality that wants to, any entity
14 that wants to can on its own, right now, go
15 organic. And I would have absolutely no
16 problem with that. They would have the
17 perfect right to do it. I would encourage
18 most of it. I don't see the problem with
19 that. Let them do it. But they have the
20 right now.

21 This law doesn't give them the
22 right, this law mandates that they do it.
23 Whether they want to or not, whether the
24 circumstances fit their needs or not, this
25 bill says "you must."

1 I don't know that that's the way to
2 go when they have the opportunity to do it and
3 many are engaged. They are engaging. I know
4 of some entities that started it and got away
5 from it because the cost was too much to
6 maintain and it was not an effective process.
7 Could that have been the result of poorly
8 trained personnel? Possibly.

9 Hence the need to engage with a
10 group like Cornell Cooperative Extension,
11 which was unfunded in the EPF and literally
12 destroyed the program because it was no longer
13 funded in the Governor's budget. So that
14 program is shut down. So the schools have no
15 place to go now. Who's going to provide the
16 expertise and the training? That's what
17 Cornell provided to these districts.

18 That's what generated the IPM
19 programs, which taught them to use organic and
20 non-pesticides insecticides, fungicides,
21 rodenticides, anything you want to call them.
22 It encouraged them not to use them first. It
23 encouraged them to use them only as a last
24 resort. Not as a first resort, as a last
25 resort. Only in emergency circumstances, only

1 when it was absolutely necessary would they do
2 it.

3 And only using it by trained
4 personnel. Not just any Joe Blow off the
5 street taking a bag of junk and saying, "Here,
6 I'm going to throw it out there." This had to
7 be done carefully, by trained personnel, under
8 supervision, because these pesticides are
9 dangerous chemicals. We all understand that.
10 That's why it has the word "cide" on the end
11 of it. That means to kill whatever precedes
12 it. We're not looking for that.

13 But we all recognize, and so do you
14 in this legislation, that there are
15 emergencies. What we're saying is in some
16 cases the declaration of the emergency means
17 you've got to jump through 52 hoops to get
18 there. And it might be too late to solve it,
19 and it might be far more expensive to solve
20 it.

21 If you're going to apply
22 organics -- the claim has been made that in
23 some cases studies have shown that it's
24 cheaper. Not necessarily true. In some cases
25 it is far more expensive because you have to

1 apply far more of the substance than you do of
2 the pesticide to get the same result. So
3 you're buying more of a product to get the
4 same result as you would from a pesticide.

5 Is it worth it? Yeah. I might go
6 with that. I would say yeah, I wouldn't mind
7 spending more money if I'm going to get the
8 same result and make it's safer. I'll do
9 that. But let's not make the claim that it's
10 cheaper when it isn't. The expenditure of the
11 money when it comes, as you said in your
12 comment, Senator, where we're talking about
13 public health, I don't mind spending a little
14 extra money. Spend it. I think that's money
15 well spent.

16 But you can't claim something that
17 simply isn't there. You can't make a claim
18 when you can't back it up. The facts are
19 otherwise. Anybody who uses this stuff will
20 tell you that in order to get the same
21 results, it costs more, because you have to
22 apply more of the organics. It's not the
23 same.

24 Now, as I said, I don't mind the
25 application, I don't mind the extra expense,

1 because you're talking about public health and
2 you're talking about the health of young
3 people and our children. Do it. Do it. But
4 let's not make a statement that it's easy.
5 Let's not make a statement that simply isn't
6 factual that pesticides don't include, by
7 definition, fungicides and others that were
8 mentioned. That simply isn't the case.

9 Let's not conclude that language in
10 a bill that says one thing doesn't say what it
11 says. I didn't write this bill. I didn't
12 write this language. But that's what it says.
13 It should be changed.

14 The bill is flawed and needs to be
15 adjusted. Amendments would do that. We could
16 do that tonight. We could do that now. We
17 could send the amendments to the other house,
18 let them pass it, and you'll get the pesticide
19 bill that everybody wants. I have no problem
20 with that. Let's do it. Let's do it.

21 Instead of debating whether or not something
22 says something that in fact it doesn't say.
23 Pretending won't make it so. Words mean
24 something.

25 Mr. President, I urged a vote of

1 yes on the amendments because I think and
2 thought these were not hostile amendments,
3 they were not intended to destroy the bill.
4 There was nothing in those amendments that
5 eviscerated the bill, that changed the point
6 of the bill, that changed the momentum of the
7 bill. I thought they would make the bill
8 better -- and fairer, quite honestly.

9 The bill as it stands now is not a
10 better bill and it's not a fair bill. It
11 doesn't afford, as I said, privates the same
12 benefits as the public schools or public
13 daycare centers. These changes should be made
14 before this bill becomes law. If it becomes
15 law.

16 I will be voting no on the bill,
17 sir.

18 ACTING PRESIDENT BRESLIN: Thank
19 you, Senator Marcellino.

20 Senator Larkin, on the bill.

21 SENATOR LARKIN: Thank you,
22 Mr. President. Would Mr. Foley --

23 ACTING PRESIDENT BRESLIN: Excuse
24 me. Excuse me for a minute.

25 Senator Duane, why do you rise?

1 SENATOR DUANE: Thank you,
2 Mr. President. Would the sponsor yield,
3 please?

4 ACTING PRESIDENT BRESLIN: Again,
5 just -- I will recognize Senator Larkin. I
6 have given him the floor. I'll recognize you
7 in due course.

8 SENATOR LARKIN: Thank you,
9 Mr. President. Will Senator Foley yield?

10 SENATOR FOLEY: Yes,
11 Mr. President.

12 SENATOR LARKIN: I know you've
13 been on the hot seat all night long, but we'll
14 make it a little short.

15 SENATOR FOLEY: That's fine.

16 SENATOR LARKIN: Have you heard
17 from anybody at the school level or local
18 level that supports this or opposes this?

19 SENATOR FOLEY: We've heard --
20 through you, Mr. President -- we've heard from
21 a number of local organizations that are
22 strongly supportive of this legislation.

23 SENATOR LARKIN: I'm talking
24 about schools.

25 SENATOR FOLEY: School boards as

1 well as the School Board Association and the
2 superintendents of grounds, no, they are
3 opposed to the bill.

4 SENATOR LARKIN: Yes. You
5 know --

6 ACTING PRESIDENT BRESLIN:
7 Senator Larkin --

8 SENATOR LARKIN: Thank you. On
9 the bill.

10 ACTING PRESIDENT BRESLIN:
11 Senator Larkin, on the bill.

12 SENATOR LARKIN: About two weeks
13 ago, 16 members on that side of the aisle
14 wrote a letter to the Governor and said don't
15 cut any money out of education. Two days
16 later, you voted on a resolution to take that
17 money out -- the school boards,
18 municipalities, everything.

19 Here's 700-plus school boards,
20 5,000 elected board officials are saying to
21 us: This is a bad bill. It's going to cost
22 us money. You're talking about what we're
23 doing to our fields and that, and they're not
24 true.

25 You know, I know Antoine Thompson

1 is sitting over there very happy. This is
2 Earth Day's legislation. My question is, what
3 is more important? To say that we passed all
4 this legislation to prove we are concerned
5 about the earth? Some guys my age will tell
6 you we cared about the earth before you were
7 born.

8 But what are we saying? Is it
9 better to pass these bills that are not
10 totally positive, to see that we got it done,
11 or are we going to listen to somebody who's on
12 5,000 members of school boards and over 700 --
13 actually, 742 school districts in this state?
14 And we're not even listening to them. We're
15 saying yes.

16 My colleague Senator Marcellino,
17 who's chaired this committee for a number of
18 years, was very clear when he said let's treat
19 everybody when we're talking about the public
20 and the private sector. I mean, is it such a
21 sin that we must pass this tonight rather than
22 to sit down and look at what happened? Are we
23 to sit here -- you can snigger over there all
24 you want. I don't think it's funny. It may
25 be funny to you, but it's not funny to me.

1 We have 742 school districts, 5,000
2 elected officials are saying to you, please do
3 not pass this. What they also said, this bill
4 creates a mandate on districts at a time when
5 massive cuts and added pressures are being
6 placed on our districts. The last thing we
7 need now is another unfunded mandate.

8 Don't tell me that you're worried
9 about money for education when you're saying
10 be prepared to spend this. Because this just
11 opens the door. I don't think there's anybody
12 in here that doesn't want to see this right.
13 This is a very important issue. But don't
14 wash it around by the fact that, you know, all
15 of the environmentalists are in town and they
16 want us to do this as part of Earth Day.

17 Well, as part of Earth Day, I have
18 17 grandchildren. I'm worried about when
19 they're at school. But they go to a daycare
20 center, we don't take care of them. Not in
21 this bill.

22 Why don't we just set this aside
23 and correct it and make it positive by
24 everybody supporting it? That's not a big
25 deal. But if you want to say, well, I want to

1 show that we've got the power and we can get
2 this done and to Hades with the other side,
3 that doesn't make sense.

4 You all said we're going to work
5 together. We're working together about as
6 good as two goats that can't even talk to one
7 another. This is a disgrace. A total
8 disgrace -- yes, I did, Frank. You engineers
9 don't understand that.

10 But what's so wrong about it?
11 Anybody want to stand up and tell me over
12 there? Mr. President, when are we in this
13 chamber going to do something for the public,
14 for the people who pay the taxes? We have a
15 great opportunity --

16 SENATOR DUANE: Mr. President, I
17 think there was a question to the other side.
18 And, I'm sorry, I didn't get it.

19 SENATOR LARKIN: It's past tense.

20 SENATOR DUANE: I'm wondering if
21 the Senator would yield, because he said there
22 was a question he was asking this side of the
23 aisle, and it was garbled. And I was
24 wondering if the Senator would repeat it,
25 because maybe it deserves an answer.

1 SENATOR LARKIN: I'm on the bill,
2 and that's what I'm saying, period.

3 Mr. President --

4 ACTING PRESIDENT BRESLIN: I
5 believe it was rhetorical in nature.

6 SENATOR LARKIN: -- I think it's
7 very clear that, as I said earlier today, we
8 stuck it to group one, we stuck it to group
9 two, we stuck it to group three. You guys go
10 home tomorrow, ladies and gentlemen go home
11 and say, yeah, you invite us to meetings and
12 we tell you what our problems are and we send
13 you a memo -- and what did you say? How many
14 of you over there that got this memo called
15 your school boards and told them? Any one of
16 you, tell me.

17 SENATOR ONORATO: I didn't get
18 one.

19 SENATOR LARKIN: Everybody got
20 one. I called today and I checked with the
21 messenger service and they said there was one
22 of these placed in everybody's box, George.

23 But has anybody called their people
24 back home and told them? I did. I said, "Bet
25 your bottom dollar they'll pass this and

1 they'll pass the costs on to you and they'll
2 say 'We did it in honor of the students, we
3 did it in honor of the future'."

4 You know what? If you think these
5 people back home are that dumb, God bless you
6 come November.

7 ACTING PRESIDENT BRESLIN:
8 Senator Duane, on the bill.

9 SENATOR DUANE: Thank you,
10 Mr. President. If the sponsor would yield.

11 ACTING PRESIDENT BRESLIN:
12 Senator Foley, you're not going to yield to --
13 or will you yield to Senator Duane?

14 SENATOR FOLEY: I'm happy that I
15 can finally yield to the fine Senator from
16 Gramercy Park.

17 SENATOR DUANE: Thank you.

18 ACTING PRESIDENT BRESLIN:
19 Senator Duane.

20 SENATOR DUANE: Mr. President, I
21 would like to wish you and everyone here a
22 happy Earth Day, and in particular to the
23 sponsor of this legislation.

24 I'm wondering if the sponsor would
25 tell us how long he's been a member of this

1 chamber, this body.

2 ACTING PRESIDENT BRESLIN:

3 Senator Foley.

4 SENATOR FOLEY: Thank you,
5 Mr. President. It's my honor and privilege,
6 from the citizens of the Third Senatorial
7 District, to represent them here in this fine
8 institution since January of last year.

9 SENATOR DUANE: And through you,
10 Mr. President, if the sponsor would continue
11 to yield.

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

14 SENATOR FOLEY: Yes.

15 SENATOR DUANE: I would like to
16 have my memory refreshed on what happened with
17 this legislation -- the history of this
18 legislation last year and through this point.
19 How was this legislation moved forward? What
20 happened last year, what's happened this year?

21 ACTING PRESIDENT BRESLIN:

22 Senator Foley, do you yield to that question?

23 SENATOR FOLEY: Yes,

24 Mr. President.

25 The legislative history of this

1 particular resolution was in 2001 and 2002 it
2 was referred to Environmental Conservation
3 from the Assembly side. '03-'04, same
4 reference in that period of time. In '05-'06,
5 the Assembly bill was referred to EnCon.
6 '07-'08, the same. So in other words, there
7 has never been any action on this side of the
8 house.

9 SENATOR DUANE: And through you,
10 Mr. President, if the sponsor would continue
11 to yield.

12 ACTING PRESIDENT BRESLIN: Do you
13 continue to yield, Senator Foley, to Senator
14 Duane?

15 SENATOR FOLEY: Yes,
16 Mr. President.

17 SENATOR DUANE: It's my
18 understanding that last year, despite all of
19 the difficulty here -- which I need not remind
20 everyone, sad and difficult though it was --
21 that this bill moved until it was placed on
22 the Codes calendar; is that correct?

23 SENATOR FOLEY: That is correct,
24 Mr. President.

25 SENATOR DUANE: And through you,

1 Mr. President, if the sponsor would continue
2 to yield.

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

5 SENATOR FOLEY: Yes,
6 Mr. President.

7 SENATOR DUANE: And if memory
8 serves me -- and I just want to verify -- that
9 this is probably the furthest that this
10 legislation has moved in any form in this
11 house to this point?

12 ACTING PRESIDENT BRESLIN:
13 Senator Foley.

14 SENATOR FOLEY: Mr. President,
15 that is correct. This is the farthest, if you
16 will, this piece of legislation has come in
17 this house over a period of years. I think
18 last year it was approved in the Assembly by
19 overwhelming numbers. And there was strong
20 overwhelming bipartisan support in the
21 Assembly. And I hope that we could reflect
22 that same support here in this house.

23 ACTING PRESIDENT BRESLIN:
24 Senator Duane.

25 SENATOR DUANE: Thank you,

1 Mr. President. If the sponsor would continue
2 to yield.

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

5 SENATOR FOLEY: Yes,
6 Mr. President.

7 SENATOR DUANE: And I just need
8 to preface this by my definition of bipartisan
9 now. Bipartisan, by my definition, means both
10 sides of the aisle in this house, as opposed
11 to previously bipartisan meant the majority
12 party in this house and the majority party in
13 the other house. That was the former
14 definition of bipartisan.

15 But I'm talking about my
16 definition, our definition of bipartisan,
17 which is both sides of the aisle in this
18 chamber.

19 I noticed that this bill is a
20 C print. And I'm wondering if the sponsor
21 could tell me whether or not he had
22 discussions with members -- bipartisan
23 discussions, as I define them in present day
24 in this house -- if there were bipartisan
25 discussions regarding this piece of

1 legislation.

2 ACTING PRESIDENT BRESLIN:

3 Senator Foley.

4 SENATOR FOLEY: That's an
5 excellent question. And as I mentioned
6 earlier, when this bill was in the
7 Environmental Conservation Committee, we were
8 ready to move it out, there were several let's
9 say elements of constructive criticism that
10 was leveled at the bill by Senator Marcellino.

11 And as much as I could have
12 reported the bill out of committee at that
13 time, since we had the majority on the
14 committee, I tabled the bill. And Senator
15 Marcellino's staff, my legislative staff, as
16 well as the committee staff, worked over
17 together over several days' time, about a
18 week, to make the changes that the good
19 Senator had suggested at that time.

20 So we incorporated those changes --
21 we reported it out of committee, as he
22 mentioned, but we then incorporated the
23 changes to the bill. And that's why I was so
24 surprised through the present to see that
25 there further amendments now, three weeks

1 later, two hours before session.

2 SENATOR DUANE: And through you,
3 Mr. President, if the sponsor would continue
4 to yield.

5 ACTING PRESIDENT BRESLIN: Do you
6 continue to yield, Senator Foley, to Senator
7 Duane?

8 SENATOR FOLEY: Yes,
9 Mr. President.

10 ACTING PRESIDENT BRESLIN: You
11 may proceed, Senator Duane.

12 SENATOR DUANE: I would like to
13 ask the sponsor -- and I have to make for
14 absolute certain so that I can sleep tonight
15 with a clear conscience -- does the sponsor of
16 this legislation care about children?

17 ACTING PRESIDENT BRESLIN:
18 Senator Foley.

19 SENATOR FOLEY: Absolutely,
20 Mr. Chairman. I think all of us in this house
21 devote the time that we do away from our
22 family and our neighborhoods, among other
23 reasons, to protect children and to take that
24 kind of faith, if you will, and translate that
25 into meaningful legislation that will make a

1 difference in the lives of those children and
2 the parents who are parenting those children.

3 SENATOR DUANE: And through you,
4 Mr. President, if the sponsor would continue
5 to yield.

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

8 SENATOR FOLEY: Yes,
9 Mr. President.

10 SENATOR DUANE: I have to preface
11 this by saying that I am not an avid golfer.
12 I never have been. I don't envision that I
13 will be, but who knows. But I'm wondering if
14 the sponsor is a huge, every-weekend golfer.

15 ACTING PRESIDENT BRESLIN:
16 Senator Foley.

17 SENATOR FOLEY: As much as I'm a
18 fan of golf, unfortunately -- although since
19 my hair's been turning gray, I've had more
20 people ask me if I wanted to golf -- but no,
21 I'm not a golfer. If I have free time on the
22 weekend, Mr. President, I try to keep some
23 semblance of harmony at home and spend some
24 time around the home area as opposed to the
25 links on Long Island.

1 SENATOR DUANE: And through you,
2 Mr. President, if the sponsor would continue
3 to yield.

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

6 SENATOR FOLEY: Yes,
7 Mr. President.

8 SENATOR DUANE: I'm wondering if
9 the sponsor -- and there may be schools like
10 this, but I'm wondering if there are any
11 schools in his district which have golf
12 courses.

13 ACTING PRESIDENT BRESLIN:
14 Senator Foley.

15 SENATOR FOLEY: There are no
16 schools that have golf courses. The local
17 schools in fact use both the county and the
18 town courses in the Islip -- well, in Suffolk
19 County, the county courses and the town
20 courses.

21 ACTING PRESIDENT BRESLIN:
22 Senator Duane.

23 SENATOR DUANE: And through you,
24 Mr. President, if the sponsor would continue
25 to yield.

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

3 SENATOR FOLEY: Yes,
4 Mr. President.

5 SENATOR DUANE: Is the sponsor's
6 intent of this legislation to substitute
7 pesticides which are more natural in nature
8 than the ones that, for instance, were the
9 kind that I unfortunately breathed in when I
10 was a child? And from the way a lot of people
11 around here sound, apparently they were
12 breathing it in too.

13 ACTING PRESIDENT BRESLIN:
14 Senator Foley.

15 SENATOR FOLEY: It's an
16 absolutely crucial question, and it gets to
17 the heart of the matter. Which is over a
18 period of time there have been enough, let's
19 say -- and in an evolving nature, turf
20 maintenance has made great strides,
21 particularly over the last 10 years, to where
22 there is far less need for the application of
23 pesticides as there was 10, 15, 20 years ago.

24 And there's a whole industry, in
25 fact, creating more jobs where there are

1 alternative -- we can't even call them
2 alternative anymore, Mr. President -- but in
3 fact tried and true methods where we can
4 improve the health of the turf so that there's
5 far less need -- in fact, in many cases, no
6 need -- to apply these chemicals as they were
7 applied 15 to 20 years ago.

8 So we made great strides in the
9 area that then allows us to offer a bill like
10 this, where then we would avoid the
11 interaction of pesticides with children and
12 still have turf fields, with some possible
13 remote exemptions, those turf fields being of
14 such a nature that they could withstand all
15 the running and to and fro that happens on the
16 fields at the elementary and high school
17 levels.

18 SENATOR DUANE: Thank you.

19 Mr. President, on the bill.

20 ACTING PRESIDENT BRESLIN:

21 Senator Duane, on the bill.

22 SENATOR DUANE: I would like to
23 in the strongest possible terms commend the
24 sponsor of this legislation. I have known of
25 his deep commitment to children throughout our

1 state, his deep commitment to the
2 environment -- and not just on Long Island,
3 which we're trying to preserve the environment
4 on Long Island, which is probably far more
5 fragile than we even imagined, but to commend
6 him for this legislation which will help
7 children and the environment throughout the
8 state.

9 Senator Foley's arrival in this
10 house and his putting forward this legislation
11 and shepherding it through the house is
12 exactly the reason why it is so advantageous
13 to have a member such as the sponsor of this
14 legislation. This is my 12th year here. I
15 have been waiting to have pieces of
16 legislation like this come to the floor to be
17 voted on.

18 It's an enormous, giant leap
19 forward for the children of the State of
20 New York, for the environment of the State of
21 New York. And I absolutely urge everyone to
22 vote in favor of this legislation. And there
23 will be much more to come, I'm sure. But at
24 9:30 at night, it's a pleasure to be able to
25 vote -- I will be very happy to be able to

1 vote in favor of this legislation because of
2 the wonderful results which it will bring to
3 the State of New York.

4 Thank you, Mr. President.

5 ACTING PRESIDENT BRESLIN: Thank
6 you, Senator Duane.

7 Senator Thompson, on the bill.

8 SENATOR THOMPSON: Yes, thank
9 you, Mr. President. It is a privilege that I
10 stand today in support of this bill.

11 It has been stated that we spent
12 some time working on this bill. Back in
13 February of this year, we had a roundtable on
14 the first floor of this building, and it was
15 standing room only. We had landscapers and
16 businesspeople and advocates on both sides of
17 the issue from all over the state that came
18 in. And it was represented from people on
19 both sides of the aisle who listened quite
20 patiently to the debate.

21 And in fact, on this particular
22 bill there really wasn't a lot of debate on
23 this particular bill at the roundtable with
24 all the industry people there. That's not to
25 say that they were, you know, kicking their

1 heels about the bill. But this was out of all
2 the bills that we talked about and issues that
3 we talked about that day, this particular
4 issue of safe playing fields was not viewed as
5 an extreme measure.

6 And that's important to note,
7 because there were other bills that they were
8 concerned about that we said that we were not
9 going to address. That we were only looking
10 at passing two bills this year, and we would
11 look to work towards, after we got the work
12 day, to try to deal with the issue of IPM.
13 And I think that's available online under the
14 new Senate rules.

15 The other thing is that many -- I
16 was sitting here and I did a quick Google
17 search on my BlackBerry. And if you just
18 Google while you're sitting here and type in
19 "dangers, pesticides on playing fields," it is
20 amazing what you will find in just a quick
21 Google search, and all the different reports
22 from people on both sides of the issue.

23 Let me say that this particular
24 bill is limited in scope. We have lots of
25 bills that are supported by -- that are

1 sponsored by both Democrats and Republicans in
2 the Senate that deal with pesticides. And we
3 tried this year to get -- we've tried this
4 year to narrow it down so that we can do a
5 couple things that make sense.

6 Protecting our children who are
7 playing on sports fields is reasonable. We
8 put in a provision that says that if an
9 outbreak takes place, they can get it
10 addressed immediately so that we don't lose
11 whole entire playing fields.

12 But to protect our young people
13 really is the right thing to do. It's beyond
14 the right thing to do. And many newspapers
15 have supported this, not that -- everyone
16 knows that I'm not one who panders to what
17 newspapers say. But many newspapers across
18 the state, in addition to advocacy groups, in
19 addition to the buildings and grounds folks
20 who've actually got to do the job. They've
21 said they can do it.

22 We had folks from the association
23 that came to our roundtable and said that this
24 is a good bill, this bill does not go too far,
25 just give us the flexibility, in the event

1 that there's an outbreak, that we can then do
2 something, so that we don't lose a lot of
3 money.

4 The last thing I want to emphasize
5 is that when we -- at least as the chair of
6 the committee, when members bring bills, we
7 put a lot of care into these bills. My
8 colleague Senator Marcellino has been --
9 whether he's for something or against
10 something, I think that whenever he or other
11 members of the committee or people who are not
12 on the committee -- we've always tried to be
13 open and attentive. In fact, right after the
14 committee meeting when this bill passed out of
15 committee, we actually assigned two staffers
16 to work on a number of recommendations.

17 And so I think this is a very good
18 bill to do for Earth Day. It's a very good
19 bill to do any day, but particularly on Earth
20 Day. And I believe there are a lot of bills
21 that are in committee that groups like Crop
22 Life America support and don't support by
23 Democrats and Republicans. There are groups
24 like RISE, which was just in Buffalo last week
25 doing something on pesticide awareness and

1 prevention, Responsible Industry for a Sound
2 Environment, there are bills that are
3 sponsored by Democrats and Republicans that
4 they support and do not support.

5 So I believe this bill is a fair
6 bill. It's a good bill. It's not extreme.
7 It focuses on our young people when they're
8 playing on playing fields and around daycare
9 facilities. This is a good, reasonable bill.

10 And I don't believe -- and I don't
11 have a crystal ball, and I don't know
12 everything, but it's been a long time since we
13 passed a major pesticide bill in this chamber.
14 And I think now is the time, and this bill is
15 a responsible bill. It does not go too far
16 right or too far left. This is actually a
17 bill right down the center.

18 Thank you.

19 ACTING PRESIDENT BRESLIN: Thank
20 you, Senator Thompson.

21 Are there any other Senators
22 wishing to be heard?

23 Hearing none, the debate is closed.
24 The Secretary will ring the bell.

25 Read the last section.

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

3 ACTING PRESIDENT BRESLIN: Call
4 the roll.

5 (The Secretary called the roll.)

6 ACTING PRESIDENT BRESLIN:
7 Senator Foley, to explain his vote.

8 SENATOR FOLEY: Thank you,
9 Mr. Chairman.

10 I'd like to thank everybody for the
11 robust debate and discussion that we had this
12 evening.

13 Let me just cite for the record the
14 number of organizations in favor. We have the
15 Center for Health and Environmental Justice,
16 the Learning Disabilities Association, the
17 Huntington Breast Cancer Action Coalition, the
18 Rochester Breast Cancer Coalition, the Group
19 for the East End, Citizens Campaign for the
20 Environment, Environmental Advocates,
21 Neighborhood Network Action, Audubon New York,
22 NYPIRG, Vision Long Island.

23 And I'll end with this from the
24 Huntington Breast Cancer Action Coalition: It
25 is common sense that fetuses, newborns and our

1 children, as they are developing, are very
2 vulnerable when exposed to toxins. The
3 passage of this legislation initiated by you
4 and Assemblymember Englebright truly
5 represents child safety and protection."

6 I vote in the affirmative,
7 Mr. President.

8 ACTING PRESIDENT BRESLIN:
9 Senator Foley will be recorded in the
10 affirmative.

11 Senator DeFrancisco, to explain his
12 vote.

13 SENATOR DeFRANCISCO: I'm going
14 to vote in the negative. And despite some of
15 the comments, you're not against children by
16 being against this bill. At least that was
17 the clear implication.

18 I have seven grandchildren, four of
19 school age in New York State. And there is
20 nothing I would do to put those kids in
21 jeopardy. And there is nothing I would do to
22 not protect their safety.

23 And could you hammer the gavel a
24 little bit so I can hear myself think?

25 ACTING PRESIDENT BRESLIN: Can we

1 have some quiet, please.

2 SENATOR DeFRANCISCO: So that's
3 not the point. The point simply is this. And
4 there's organizations that oppose this bill,
5 including the School Boards Association, who
6 everybody here has said at least once during
7 their Senate career -- even Senator Foley,
8 who's only been here since January of last
9 year -- that we've got to stop the unfunded
10 mandates to school districts. So we get a
11 notice from the school districts saying it's
12 an unfunded mandate.

13 Don't think we don't care about our
14 kids. We care about our kids. We're not
15 going to put them in a danger zone. Give us
16 some kind of credit for being reasonable human
17 beings. Besides, under the notification law,
18 everybody is notified when pesticides are
19 being applied.

20 So to make this a bill that is
21 crucial to the life and safety of children and
22 to just totally ignore school boards -- who
23 are I believe doing the right things for our
24 kids as far as this area is concerned -- and
25 provide another unfunded mandate when we're

1 cutting their budgets I just don't think is
2 the right thing to do at this time in history.

3 That's why I'm voting no.

4 ACTING PRESIDENT BRESLIN:

5 Senator DeFrancisco will be recorded in the
6 negative.

7 Senator Saland, to explain his
8 vote.

9 SENATOR SALAND: Thank you,
10 Mr. President.

11 Mr. President, I chaired the Senate
12 Children and Families Committee for some
13 10 years, the Education Committee for some six
14 years. I think I have an impeccable record
15 when it comes to dealing with issues involving
16 children, and certainly think I have been
17 responsible for sensitizing the system to
18 unfunded mandates.

19 I listened to the debate and
20 response to the exchange between Senator Young
21 and Senator Foley. Clearly Senator Foley
22 could not cite one instance of a child being
23 harmed, a reported instance of a child being
24 harmed by a pesticide.

25 Now, I can cite for you in my

1 district alone dozens upon dozens upon dozens
2 upon dozens of people who have been afflicted
3 by Lyme disease, a horribly crippling disease
4 which even when it goes into remission can
5 still return with absolutely horrid
6 consequences to a person who has been so
7 afflicted.

8 So if my choice is to spray a field
9 and save a child from Lyme disease versus a
10 feel-good bill in which there has not been an
11 acknowledgment of a single solitary child
12 being adversely impacted by this pesticide
13 menace, I opt to protect the children in my
14 district, the athletes in my district, the
15 families in my district from Lyme disease.
16 Both in Dutchess and Columbia County, we at
17 times have been the epicenter,
18 percentage-wise, of cases of Lyme disease.
19 It's a no-brainer. And in fact Lyme disease
20 can at times make you a no-brainer.

21 I vote in the negative,
22 Mr. President.

23 ACTING PRESIDENT BRESLIN:
24 Senator Saland will be recorded in the
25 negative.

1 Announce the results.

2 THE SECRETARY: Those recorded in
3 the negative on Calendar Number 330 are
4 Senators Bonacic, DeFrancisco, Farley, Golden,
5 Griffo, Hannon, O. Johnson, Lanza, Larkin,
6 Leibell, Libous, Little, Marcellino, Maziarz,
7 Nozzolio, Ranzenhofer, Saland, Seward, Skelos,
8 Volker, Winner and Young.

9 Ayes, 39. Nays, 22.

10 ACTING PRESIDENT BRESLIN: The
11 bill is passed.

12 Senator Klein, that completes the
13 reading of the controversial calendar.

14 SENATOR KLEIN: Mr. President, at
15 this time can we please go a controversial
16 reading of the Senate supplemental calendar.

17 ACTING PRESIDENT BRESLIN: The
18 Secretary will read.

19 THE SECRETARY: Calendar Number
20 399, by Senator Thompson, Senate Print 3296G,
21 an act to amend the Environmental Conservation
22 Law.

23 ACTING PRESIDENT BRESLIN: Read
24 the last section.

25 An explanation has been requested,

1 Senator Thompson.

2 SENATOR LIBOUS: Mr. President,
3 who requested the explanation?

4 ACTING PRESIDENT BRESLIN: Far be
5 it from me to hear it.

6 Read the last section.

7 SENATOR LIBOUS: Thank you.

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

10 ACTING PRESIDENT BRESLIN: Call
11 the roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT BRESLIN:
14 Announce the results.

15 THE SECRETARY: Ayes, 60. Nays,
16 1. Senator Golden recorded in the negative
17 earlier today.

18 ACTING PRESIDENT BRESLIN: The
19 bill is passed.

20 Senator Klein, that completes the
21 reading of the controversial supplemental
22 calendar.

23 SENATOR KLEIN: Mr. President, is
24 there any further business at the desk?

25 ACTING PRESIDENT BRESLIN: No,

1 Senator Klein, there is no further business at
2 the desk.

3 SENATOR KLEIN: There being no
4 further business, Mr. President, I move that
5 we adjourn until Wednesday, April 21st, at
6 11:00 a.m.

7 ACTING PRESIDENT BRESLIN: There
8 being no further business to come before the
9 Senate, on motion, the Senate stands adjourned
10 until Wednesday, April 21st, at 11:00 a.m.

11 (Whereupon, at 9:47 p.m., the
12 Senate adjourned.)