NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 23, 2010

1:21 p.m.

REGULAR SESSION

SENATOR NEIL D. BRESLIN, Acting President

ANGELO J. APONTE, Secretary

P R O C E E D I N G S

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

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

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

ACTING PRESIDENT BRESLIN: In the absence of clergy, may we bow our heads for a moment of silence.

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

ACTING PRESIDENT BRESLIN: The reading of the Journal.

The Secretary will read.

THE SECRETARY: In Senate, Tuesday, June 22, the Senate met pursuant to adjournment. The Journal of Monday, June 21, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Klein.

SENATOR KLEIN: Mr. President, on behalf of Senator Addabbo, on page number 38 I offer the following amendments to Calendar Number 1104, Senate Print Number 7591, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT BRESLIN: So ordered.

SENATOR KLEIN: On behalf of Senator Onorato, on page number 26 I offer the following amendments to Calendar Number 782, Senate Print Number 5847D, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT BRESLIN: So ordered.

SENATOR KLEIN: On behalf of Senator Addabbo, on page number 38 I offer the

following amendments to Calendar Number 1097, Senate Print Number 7153, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT BRESLIN: So ordered.

SENATOR KLEIN: Mr. President, I believe there are substitutions at the desk. I ask that we make the substitutions at this time.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: On page 20, Senator Klein moves to discharge, from the Committee on Rules, Assembly Bill Number 9934 and substitute it for the identical Senate Bill Number 7011, Third Reading Calendar 568.

On page 28, Senator Peralta moves to discharge, from the Committee on Rules, Assembly Bill Number 4501A and substitute it for the identical Senate Bill Number 8014, Third Reading Calendar 812.

On page 31, Senator Oppenheimer moves to discharge, from the Committee on Rules, Assembly Bill Number 3467B and

substitute it for the identical Senate Bill Number 7820A, Third Reading Calendar 871.

And on page 34, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 10718 and substitute it for the identical Senate Bill Number 7503, Third Reading Calendar 917.

ACTING PRESIDENT BRESLIN: Substitutions ordered.

Senator Klein.

SENATOR KLEIN: Mr. President, at this time I wish to recall Senate Resolution Number 6159, by Senator McDonald, which was unanimously adopted on June 22nd.

I ask that the title of the resolution be read and give Senator McDonald an opportunity to speak on his resolution.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: By Senator McDonald, Legislative Resolution Number 6159, commending Deputy Sergeant-at-Arms Ted Smetana upon the occasion of his retirement after 36 years of distinguished service to the New York State Senate.

ACTING PRESIDENT BRESLIN: Senator McDonald.

SENATOR McDONALD: Thank you, Mr. President.

It's quite an honor today to recognize somebody who's given so much service to their community, their state, and their country. And that gentleman is Ted Smetana, who for 36 years was a member of our corps of sergeant-at-arms.

Thirty-six years he worked for us. Amazingly, prior to that he had an outstanding career as a New York State trooper for 22 years. Before that, he served for us in World War II, in the U.S. Navy.

Think of that -- time in World War II with the U.S. Navy, over 20 years as part of our wonderful New York State Troopers, where he led the first scuba diving unit right of Lake George, locally, where they started the first deep sea -- or I guess what it is, scuba diving, and in charge of the modern scuba diving program that the State Police inaugurated.

He'd done so many things for us.

Then he stayed with us, after the Troopers, and he's worked for us right here in the New York State Capitol. Dedicated and a family man.

Please recognize this wonderful gentleman. He is with his wife and his son Mark. Please stand up.

Thank you for your service, Ted.

(Applause.)

SENATOR McDONALD: Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator McDonald.

Are there any other Senators wishing to be heard?

Senator Padavan.

SENATOR PADAVAN: He's also a great fisherman. You want to know where all the great fishing spots are up here in the Northeast, you ask Ted.

ACTING PRESIDENT BRESLIN: Senator Volker.

SENATOR VOLKER: I just want to say obviously I've known Ted for a long time.

And as somebody who at one time was

assigned the duty of kind of overseeing the sergeant-at-arms, he's been here through all the majority leaders that I've been here with, and only 36 years. I'm 38 years, so there isn't much difference.

But I've got to tell you something. He's one of the most dedicated, one of the best sergeant-at-arms we ever had. He's also -- not only do we talk about the scuba diving, he was also in charge of -- let's see, how can I explain this. I don't want to mean covert operations. But he was in charge of making sure that the Senate didn't have any invasion by outside people from people, as happened here years ago, by the way, when a governor did it.

He was in charge of the group that would go into the various offices and make sure that there was no wiretapping going on. And that meant that sometimes he'd be in all night long, because he'd do it mostly when the Senate was out of the session. Interestingly enough, most of the people in the Senate didn't even know it was going on.

But since we were a house here that

at one time had our phones tapped years ago, which has never been talked about very much -- in fact, I personally did -- we made sure that the Senate operation was not attacked either from outside or inside.

In fact, we offered the Assembly -- because we had an enormous amount of equipment -- we offered the Assembly, and Mel Miller, who was my good friend, said, "Well, I don't think it's really right for Senate people to be checking into the Assembly." And they hired people at an enormous rate of money, I don't want to get into it, to do their job.

But the people that did our job did a super job, and we now have a system here that we spent quite a bit of money on to make sure that our members don't have to worry about being attacked either from inside or outside.

And I want to say to Ted, I'll miss you, because you've been a great guy and you've been part of the Senate family for so long, it's hard to believe you're going to be gone. Of course, I've been part of the Senate

family; it's going to be hard for me to leave too. But it's time, I know, for me; you're quite a bit younger. Well, whatever.

But good luck, Ted.

ACTING PRESIDENT BRESLIN: Thank you, Senator Volker.

Senator Farley.

SENATOR FARLEY: Yes, I rise to wish Ted a very happy retirement and say that, you know, of course he's been here even longer than my 34 years.

But what a sergeant-at-arms he was and continued to be. You could write a history of things that have happened here, because there's so many things that did happen during your tenure here in the Senate, with people breaking in and all kinds of disruptions and things where you had to step up.

The job that you did was magnificent, as a State Police officer for so many years, and you even had a longer time serving the people of the State of New York as a sergeant-at-arms.

Ted, you were a fixture here

throughout my career and always treated everybody on both sides of the aisle with dignity and respect. And you've been a great asset to our Senate family, and we all wish you the very best.

ACTING PRESIDENT BRESLIN: Thank you, Senator Farley.

Are there any other Senators wishing to be heard?

Senator LaValle.

SENATOR LaVALLE: I just want to add my congratulations for all of the work that you've done. You've been here the entire tenure of my career.

And many times I know the sergeant-at-arms think that the members are kind of blase about what you do. But, Ted, you have always been a real professional, always a real gentleman in performing your duties, and we really -- I'm speaking for myself -- appreciated the quality that you added to the Senate family. And good luck to you in your retirement.

ACTING PRESIDENT BRESLIN: This resolution was adopted unanimously on

June 22nd.

Congratulations, Ted.

(Applause.)

ACTING PRESIDENT BRESLIN: Senator Klein.

SENATOR KLEIN: Mr. President, at this time I wish to recall Senate Resolution 6178, by Senator Farley, which was unanimously adopted on June 22nd. I ask that the title of the resolution be read and give Senator Farley the opportunity to speak on his resolution.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: By Senator Farley, Legislative Resolution Number 6178, commending Chief Sergeant-at-Arms William C. Martin upon the occasion of his retirement after 13 years of distinguished service to the New York State Senate.

ACTING PRESIDENT BRESLIN: Senator Farley.

SENATOR FARLEY: Thank you. Thank you, Mr. President.

I rise to pay tribute to our sergeant-at-arms for 13 years. Every member

of this house remembers the outstanding service of Billy Martin, who is not here today.

But let me just tell you something else. He was a Schenectady police officer for 22 years, he was the administrative training sergeant, and came here into the Senate to become our chief sergeant-at-arms and served with great dignity and honor. And again, treated everybody fairly and ran a tremendous ship. And somebody that we're very, very proud of his service.

Billy Martin not only was a great sergeant-at-arms, he's a wonderful family man and the father of four children and a terrific person and human being. It's not easy what the sergeant-at-arms has to do to take care of all the minutiae that happens here in the Senate. And I know that we all appreciate his service. And this record will be sent on to him.

And I wish Billy Martin a very happy retirement and thank him for his service to this house.

ACTING PRESIDENT BRESLIN: Thank

you, Senator Farley.

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

Hearing none, this resolution was adopted unanimously on June 22nd.

Senator Klein.

SENATOR KLEIN: Mr. President, at this time I wish to recall Senate Resolution Number 6226, by Senator Little, which was unanimously adopted on June 22nd. I ask that the title of the resolution be read and that Senator Little be given the opportunity to speak on her resolution.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: By Senator Little, Legislative Resolution Number 6226, mourning the untimely death of Benjamin D. Osborn and paying tribute to his courageous actions as a member of the United States Army.

ACTING PRESIDENT BRESLIN: Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

Army Specialist Benjamin D. Osborn

was killed in combat on Tuesday, June 15, 2010, while serving in Konar Province, Afghanistan.

It's fitting that we talk about this legislative resolution today because Governor Paterson has directed that all flags in the State of New York be flown at half-mast today in honor of Benjamin Osborn.

Born in Glens Falls on January 21, 1983, Ben was the son of William and Beverly Osborn. In February he married Nicole LaPier.

He had joined the Army in April of 2007 and had served in both Iraq and Afghanistan. Among the medals that he's received has been the Iraq Freedom Medal, the Purple Heart, and the Bronze Star.

Ben was a competitive athlete for many years at Lake George High School. He was a loved and compassionate person who fully subscribed to the following Vince Lombardi creed, and I quote: "I firmly believe that man's finest hour is that moment when he has worked his heart out in a good cause and he's exhausted on the field of battle, victorious."

Ben gave his all for the mission at

hand. He will be laid to rest tomorrow at the Gerald B.H. Solomon Saratoga National Cemetery.

I ask you all to remember his family in your prayers and in your thoughts. Thank you.

ACTING PRESIDENT BRESLIN: Thank you, Senator Little.

This resolution was unanimously adopted on June 22nd.

Senator Klein.

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

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: Calendar Number 172, by Senator Foley, Senate Print 4322B, an act to amend the Social Services Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 172 are Senators DeFrancisco, Golden, Griffo, L. Krueger, Lanza, Ranzenhofer, Volker and Young. Also Senator Nozzolio. Also Senator Libous.

Ayes, 47. Nays, 10.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 312, by Senator Foley, Senate Print 6139A, an act to authorize Lighthouse Mission, Inc.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 56. Nays,

1. Senator Bonacic recorded in the negative.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 380, by Senator Schneiderman, Senate Print 7034A, an act to amend the Civil Practice Law and Rules.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 7. This act shall take effect on the 30th day.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 380 are Senators Bonacic, DeFrancisco, Farley, Golden, Griffo, O. Johnson, Lanza, Larkin, Marcellino, Skelos, Volker, Winner and Young. Also Senator LaValle.

Ayes, 43. Nays, 14.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 383, by Senator Aubertine, Senate Print 7145, an act to amend the Public Service Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 393, by Senator L. Krueger, Senate Print 5571A, an act to amend the Education Law.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 3. This act shall take effect one year after it shall have become a law.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN:

Announce the results.

Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: Yes, I thought I'd explain the vote rather than debate it.

I've heard of bills where an individual, no matter what the profession or occupation might be, after a period of experience doesn't have to take continuing education courses to maintain a license. But this is the first I've heard of that if you've worked a certain amount of time you don't have to have a license at all.

Now, something doesn't click right here. I don't quite understand the logic behind here, unless there's somebody or a group of people who the sponsor is trying to help. Because you either should have licenses or not have licenses. And if you want to eliminate some of the requirements to get a license, that's one thing. But to eliminate the requirement even to have a license is --

I'm greatly curious about that type of theory here.

So for that reason, I'm going to vote no.

ACTING PRESIDENT BRESLIN: Senator DeFrancisco to be recorded in the negative.

Senator Padavan, to explain his vote.

SENATOR PADAVAN: I'd like explain my vote, Mr. President.

Interior designers are not interior decorators. These are individuals who can do major renovations in a commercial facility, or a residential, including knocking down walls, putting up new walls, partitions. Some of them can be bearing partitions.

They are doing, in a sense, by design, engineering work. Which under the building code in the City of New York requires review by a plan examiner of plans either submitted by a professional engineer or a licensed architect.

We're exempting them entirely. I don't think this is, in terms of public

safety, the right thing to do. So I'll be voting no.

ACTING PRESIDENT BRESLIN: Senator Padavan to be recorded in the negative.

Senator Liz Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you very much.

I appreciate the colleagues who are voting no. I just want to clarify, it doesn't -- this grandfathers in people with at least 15 years of experience if -- again, only if, based on information and portfolio they have provided to the State Education Department, the State Education Department decides to allow them to be licensed based on a history of experience.

So it's not an automatic grandfathering in of everyone who has worked in the field for at least 15 years. They still have to meet criteria established by the State Education Department, who can say no based on any and all of these concerns that are being raised. And this bill has been

negotiated out with SED to clarify that.

I'll be voting yes. Thank you.

ACTING PRESIDENT BRESLIN: Senator Liz Krueger will be recorded in the affirmative.

Senator LaValle, to explain his vote.

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

I was the sponsor of the legislation that created the interior design profession. At that time we had a two-year window to bring people in.

To the best of my knowledge, I don't believe we have for any profession gone back and opened it up for individuals to come back in after -- I think the chapter was in 1990. So, you know, we're talking 20 years ago.

So I don't think it's a good precedent. I think Senator Padavan brought up some cogent points. I'm going to be recorded in the negative, please.

ACTING PRESIDENT BRESLIN: Senator LaValle will be recorded in the

negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 393 are Senators Bonacic, DeFrancisco, Farley, Flanagan, Golden, Griffo, Hannon, O. Johnson, Lanza, Larkin, LaValle, Libous, Marcellino, McDonald, Nozzolio, Padavan, Robach, Saland, Skelos, Volker, Winner, and Young.

SENATOR KLEIN: Can we lay the bill aside for the day, please.

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

The Secretary will read.

THE SECRETARY: Calendar Number 569, by Senator C. Johnson, Senate Print 7534, an act to amend the State Finance Law and others.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 636, by Senator Savino, Senate Print 6784, an act to amend the General Municipal Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

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

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 636, those Senators recorded in the negative are Senators Diaz, Hassell-Thompson, L. Krueger, Ranzenhofer and Squadron.

Ayes, 52. Nays, 5.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number

650, by Senator Duane, Senate Print 7156, an act to amend the Public Health Law.

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT BRESLIN: The bill is laid aside.

THE SECRETARY: Calendar Number 776, by Member of the Assembly Jeffries, Assembly Print Number 8012, an act to amend the Correction Law.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 2. This act shall --

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT BRESLIN: The bill is laid aside.

THE SECRETARY: Calendar Number 808, by Member of the Assembly Millman, Assembly Print Number 11226, an act to amend the Election Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Senator Farley, to explain his vote.

SENATOR FARLEY: I'm voting no.

But I just want to point out that this says it's within the City of New York. This is statewide. So that's misleading in and of itself.

ACTING PRESIDENT BRESLIN: Thank you, Senator Farley. Senator Farley to be recorded in the negative.

Senator Padavan, to explain his vote.

SENATOR PADAVAN: No, Mr. President, I'm asking for a point of information.

If a calendar item -- calendared item, the bill before us -- blatantly, blatantly misrepresents the bill, should it not be laid aside and at least the title corrected? This title says, in effect, very directly, within the City of New York.

And that's not the case. It's misleading. I think everyone should know

that. But moreover, I think the bill ought to be laid aside and the title corrected.

SENATOR KLEIN: Lay the bill aside for the day, please.

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

Thank you, Senator Padavan.

THE SECRETARY: Calendar Number 815, by Member of the Assembly Weinstein, Assembly Print Number 8969, an act to amend the Estates, Powers and Trusts Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 861, by Senator Adams, Senate Print 7945A, an

act to amend the Criminal Procedure Law.

ACTING PRESIDENT BRESLIN: Read the last section.

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT BRESLIN: The bill is laid aside.

THE SECRETARY: Calendar Number 871, substituted earlier today by Member of the Assembly Rosenthal, Assembly Print Number 3467B, an act to amend the Education Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

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

SENATOR DeFRANCISCO: I'm voting no.

I understand it is already the practice of school districts to have parents consent at the beginning of the year to a child being involved with the dissection of

animals, for a biology class or otherwise. My understanding of this bill is that the parents have to receive a notice of that right.

We've gotten to the point where we're notifying everybody of what their rights are or notifying everybody about everything and requiring more paperwork to be distributed by schools and other areas as well, which it seems to me we should use the money for education.

So for that reason, since it's an absolutely needless thing, that we should not require a needless thing to be done at great expense to the school districts.

So I vote no.

ACTING PRESIDENT BRESLIN: Senator DeFrancisco to be recorded in the negative.

Senator Farley, to explain his vote.

SENATOR FARLEY: You know, as we're cutting school aid and not passing budgets and all kinds of things, this is another mandate on schools. It's a pain in the neck for them to notify every parent of

when they're going to dissect an animal or whatever it might be. It's just a mandate that is a bad piece of legislation.

ACTING PRESIDENT BRESLIN: Senator Farley will be recorded in the negative.

Senator Oppenheimer, to explain her vote.

SENATOR OPPENHEIMER: Well, explain the bill. And my vote, which is yes.

ACTING PRESIDENT BRESLIN: Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: This is not much of a mandate, if you want to call it that. It's to post in the places where this dissection is going on, in the class, that the parents will have, in consultation with their student child, the opportunity to not do it hands-on but rather to do it in another method.

So that some children get very upset with this dissection, and it's done just to alert the parent that they can ask to have it done through video. So it's really not much of anything. Maybe it's posting a single

piece of paper. But I can't really call a single piece of paper a mandate.

So I'm doing it for those children that I guess are very, very squeamish and cannot withstand the sight of dissection. So that is the principle behind it, and I will be voting yes.

ACTING PRESIDENT BRESLIN: Senator Oppenheimer will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 871 are Senators Bonacic, DeFrancisco, Farley, Flanagan, Golden, Griffo, O. Johnson, Lanza, Little, Maziarz, Ranzenhofer, Robach, Saland, Winner and Young. Also Senator Fuschillo. Also Senator Larkin. Also Senator Nozzolio. Also Senator Hannon. Also Senator Leibell. Also Senator McDonald.

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 36. Nays, 21.

ACTING PRESIDENT BRESLIN: The

bill is passed.

THE SECRETARY: Calendar Number 903, by Member of the Assembly Pheffer, Assembly Print Number 10266, an act to amend Chapter 176 of the Laws of 2007, amending the Education Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 921, by Member of the Assembly Latimer, Assembly Print Number 10939, an act to repeal Title 37 of Article 15-B of the General Municipal Law.

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

Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 954, by Senator L. Krueger, Senate Print 7812B, an act to amend the Penal Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 964, by Senator Dilan, Senate Print 4478B, an act to amend the Railroad Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 1017, by Member of the Assembly John, Assembly Print Number 6964, an act to amend the Labor Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

SENATOR SALAND: Lay it aside.

ACTING PRESIDENT BRESLIN: The bill is laid aside.

THE SECRETARY: Calendar Number 1048, by Senator Foley, Senate Print 7427, an act to authorize Peter J. Smith, a retiree receiving benefits.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

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

SENATOR DeFRANCISCO: Yes, I'm going to vote no on this.

And I don't know Peter J. Smith or anything about him, other than what's in the bill memo -- that in order to allow this filing, late filing or this exemption to following the rules, it's going to cost the State of New York, according to the bill memo, $143,000. And it's my understanding that the $87,000 pension this person is getting will

thereupon rise to over $100,000.

There are so many people out in our community that have lost their jobs, lost their pensions, lost everything. And in addition, there's so many people who follow the rules in the pension system and get what they're entitled to under the pension system.

So it just seems wrong, very wrong, to make a special case for someone who didn't follow the rules, which will cost $143,000 so that this individual can make about $13,000 more a year on that person's pension.

For those reasons, I vote no.

ACTING PRESIDENT BRESLIN: Senator DeFrancisco will be recorded in the negative.

Senator Foley, to explain his vote.

SENATOR FOLEY: Thank you, Mr. President.

The record should clearly reflect -- and this has been a common practice in both houses -- that this is correcting an error that had occurred through no fault of this public employee.

We can have a great debate about

the fact of what pension costs are in this state, and that is a very worthy and just discussion and debate. But that's not the issue here.

The issue here is that through no fault of this particular public employee, errors had taken place that need to be corrected. So what the amount of the money is is one thing. But the error did occur. And we can go back over a period of decades that when there is an error of paperwork through no fault of the employee, we have seen scores of resolutions to correct that error, whether it's a dollar or whether it's a far higher figure.

So many of us would love to join in the other debate about pension costs, and we should have that kind of debate. But that is not at issue here. What is at issue here is that an error had taken place, just as virtually every member of this house has put forward bills to correct errors.

So this is to correct that error made through no fault of the public employee, and corrects it. At some other point we can

certainly speak about pension costs, but that's a different issue. That's why this bill was put forward.

Thank you, Mr. Chairman.

ACTING PRESIDENT BRESLIN: Thank you, Senator Foley.

Senator Foley to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1048 are Senators Bonacic, DeFrancisco, Griffo, Hannon, Larkin, Little, Maziarz, Ranzenhofer, Robach, Saland, Winner and Young.

Ayes, 45. Nays, 12.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 1078, by Member of the Assembly Cahill, Assembly Print Number 7593B, an act to amend the Public Service Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

SENATOR FUSCHILLO: Lay it aside.

ACTING PRESIDENT BRESLIN: The bill is laid aside.

THE SECRETARY: Calendar Number 1091, by Member of the Assembly Kellner, Assembly Print Number 9465A, an act --

SENATOR KLEIN: Lay the bill aside for the day, please.

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

THE SECRETARY: Calendar Number 1099, by Member of the Assembly Schimminger, Assembly Print Number 10857A, an act to amend the Alcoholic Beverage Control Law.

SENATOR KLEIN: Lay the bill aside for the day, please.

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

THE SECRETARY: Calendar Number 1103, by Senator Parker, Senate Print 7565A, an act to amend the Public Service Law.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 12. This act shall take effect --

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT BRESLIN: The bill is laid aside.

THE SECRETARY: Calendar Number 1115, by Member of the Assembly Silver, Assembly Print Number --

SENATOR KLEIN: Lay the bill aside for the day, please.

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

THE SECRETARY: Calendar Number 1117, by Senator Stachowski, Senate Print 8092, an act to amend the Insurance Law.

ACTING PRESIDENT BRESLIN: Read the last section.

SENATOR STACHOWSKI: Lay it aside, please. For the day.

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

THE SECRETARY: Calendar Number 1120, by Senator Klein --

SENATOR KLEIN: Lay the bill aside, please.

ACTING PRESIDENT BRESLIN: The bill is laid aside.

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

Senator Klein.

SENATOR KLEIN: Mr. President, on Calendar Number 393, I would like the bill laid aside, not laid aside for the day.

ACTING PRESIDENT BRESLIN: Calendar Number 393 is laid aside.

Senator Klein.

SENATOR KLEIN: Mr. President, upon unanimous consent I ask that the roll be opened for the seven bills on the controversial calendar so that Senator Diaz can vote on each bill.

ACTING PRESIDENT BRESLIN: The Secretary will place Calendar Number 393 before the house.

THE SECRETARY: Calendar Number 393, by Senator L. Krueger, Senate Print 5571A, an act to amend the Education Law.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 3. This act shall take effect one year after it shall have become a law.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Senator Diaz.

SENATOR DIAZ: Yes.

ACTING PRESIDENT BRESLIN: Senator Diaz will be recorded in the affirmative.

The roll is withdrawn, and the bill is laid aside.

The Secretary will call Calendar Number 650.

THE SECRETARY: Calendar Number 650, by Senator Duane, Senate Print 7156, an act to amend the Public Health Law.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 6. This act shall take effect August 1, 2011.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Senator Diaz.

SENATOR DIAZ: Yes.

ACTING PRESIDENT BRESLIN: Senator Diaz will be recorded in the affirmative.

The roll is withdrawn, and the bill is laid aside.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 776, by Member of the Assembly Jeffries, Assembly Print Number 8012, an act to amend the Correction Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Senator Diaz.

SENATOR DIAZ: Yes.

ACTING PRESIDENT BRESLIN: Senator Diaz will be recorded in the affirmative.

The roll is withdrawn, and the bill is laid aside.

THE SECRETARY: Calendar Number 861, by Senator Adams, Senate Print 7945A, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Senator Diaz.

SENATOR DIAZ: Yes.

ACTING PRESIDENT BRESLIN: Senator Diaz will be recorded in the affirmative.

The roll is withdrawn, and the bill is laid aside.

THE SECRETARY: Calendar Number 1017, by Member of the Assembly John, Assembly Print Number 6964, an act to amend the Labor Law.

ACTING PRESIDENT BRESLIN: Read

the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Senator Diaz.

SENATOR DIAZ: Yes.

ACTING PRESIDENT BRESLIN: Senator Diaz will be recorded in the affirmative.

The roll is withdrawn, and the bill is laid aside.

THE SECRETARY: Calendar Number 1078, by Member of the Assembly Cahill, Assembly Print Number 7593B, an act to amend the Public Service Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Senator Diaz.

SENATOR DIAZ: Yes.

ACTING PRESIDENT BRESLIN: Senator Diaz will be recorded in the affirmative.

The roll is withdrawn, and the bill is laid aside.

THE SECRETARY: Calendar Number 1103, by Senator Parker, Senate Print 7565A, an act to amend the Public Service Law.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 12. This act shall take effect immediately.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Senator Diaz.

SENATOR DIAZ: To explain my vote.

ACTING PRESIDENT BRESLIN: Senator Diaz, to explain his vote.

SENATOR DIAZ: Even though

Senator Parker last night told me that none of my bills will be passed as long as he'll be here, I'm voting yes on this bill.

ACTING PRESIDENT BRESLIN: Senator Diaz will be recorded in the affirmative.

The roll is withdrawn, and the bill is laid aside.

THE SECRETARY: Calendar Number 1120, by Senator Klein, Senate Print 8171, an act to amend the Public Health Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Senator Diaz.

SENATOR DIAZ: Yes.

ACTING PRESIDENT BRESLIN: Senator Diaz will be recorded in the affirmative.

The roll is withdrawn, and the bill is laid aside.

Senator Klein.

SENATOR KLEIN: Mr. President, can we please stand at ease. The Minority Senators are going to conference. I estimate we'll return back at about 3:30.

ACTING PRESIDENT BRESLIN: The Senate will stand at ease pending the return of the Minority Conference at approximately 3:30.

(Whereupon, the Senate stood at ease at 2:11 p.m.)

(Whereupon, the Senate reconvened at 4:24 p.m.)

ACTING PRESIDENT BRESLIN: Senator Klein.

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

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: Calendar Number 393, by Senator L. Krueger, Senate Print 5571A, an act to amend the Education Law.

ACTING PRESIDENT BRESLIN: The Secretary will ring the bell. Members are asked to come to the chamber for the reading of the controversial calendar.

Are there any Senators who wish to be heard?

Senator Padavan.

SENATOR PADAVAN: Is this Calendar Number 393?

ACTING PRESIDENT BRESLIN: Yes, it is, Senator Padavan.

SENATOR LIBOUS: S5571A.

SENATOR PADAVAN: I would like to speak on the bill. I think I did earlier.

ACTING PRESIDENT BRESLIN: Senator Padavan, on the bill.

SENATOR PADAVAN: Thank you very much.

I hate to be redundant, but earlier I pointed out that these individuals are not interior decorators. An interior designer, by definition, can do extensive work in any building --

ACTING PRESIDENT BRESLIN: May we please have some order.

SENATOR PADAVAN: They can do extensive work in any building, commercial or residential -- knock down walls, put up partitions, some of them load-bearing partitions -- work involving electrical work to rewire the walls or the outlets. Ventilating, heating, if ventilating ducts have to be moved. There's a great deal involved.

Now, normally, because a permit would be required for that kind of extensive work, in the City of New York plans have to be submitted, reviewed by a plan examiner, to determine whether or not that construction meets the building code, which is basically a fire safety code, the electrical code, and any applicable ordinances.

Now, without licensure, I'm not sure how this can be legally done. Who's going to get the permit in the City of New York, if it isn't an architect or an engineer -- which by law it must be, to file plans to get a permit. So, I mean, these are questions that come to mind with regard to this bill.

As was said earlier by Senator LaValle, he was involved many years ago -- 20 years ago, I think he said -- in the establishment of a category of licensure for the interior decorators so that would give them the status they needed to do the work they needed. And there was a grandfathered period of time, a window, for those to get in on it. Now, 20 years later, as Senator LaValle put it, you've now opened not only a window but a barn door.

Now, I think basically here we're dealing with public safety, public health, and there has to be some level of licensure for the people doing it. And we cannot be -- again, I repeat what I said before, because I think it's so important. I don't know how you're getting around the requirements of the building code in the City of New York by allowing decorators who do this type of work to be doing so without any level of licensure.

Unless, of course, they go out and hire an architect or an engineer to work for them to do what they're about to do. But there's nothing in your bill that says that.

ACTING PRESIDENT BRESLIN: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you very much. I appreciate my colleague's concerns. And I wanted to just clarify a few things.

One, this does not permit the practice of engineering or architecture by persons who would be certified as interior designers unless they were otherwise so authorized. So there are some architects and engineers who are also interior designers.

But becoming a certified interior designer and licensed interior designer under this law would not give them any authority that they might not have otherwise in law. It would not allow them to be a new universe of people to file paperwork, as my colleague was pointing out, with the City of New York as far as the Department of Buildings or work permits. This does not change any of that.

What this bill does is clarify certification requirements and update certification requirements to become a certified interior designer requiring an

application with SED, at least seven years professional training, academic study, work experience of, with at least two but not more than five of these seven years as postsecondary education, have to meet satisfactory definitions by the SED commissioner providing regulations as such and pass two examinations satisfactory to the state board, with an exemption made if you have at least 15 years of experience, submit your documentation and your portfolio to SED.

Then they could decide, they could decide whether they believe you had the qualifications to exempt you from some of the otherwise requirements, to allow the grandfathering in of some people who meet the criteria set by SED.

You have to get a license through them. They can reject you for a license on a grandfathering-in basis. You have to pay for the license.

And again, just to clarify something that I believe a Senator got wrong earlier, this bill actually was passed by the Senate, a variation of this bill, when it was

carried by Senator Ken LaValle in 2008, but it was vetoed because of concerns by SED.

This bill I'm hoping we will pass today is an updated version of the bill that addresses the concerns of SED but in fact is a bill that this house passed with almost unanimous support when carried by my colleague Senator LaValle back in 2008.

So I am hoping that now that we have fixed the problems that were identified by the Governor when he vetoed the bill, that we might be able to pass this today. I would urge a yes vote.

Thank you very much, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Krueger.

Are there any other Senators wishing to be heard?

Hearing none, the debate is closed. The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 3. This act shall take effect one year after it shall have become a law.

ACTING PRESIDENT BRESLIN: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: If everyone could keep their hands up till a tally is achieved.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 393 are Senators Alesi, Bonacic, DeFrancisco, Farley, Flanagan, Fuschillo, Golden, Griffo, Hannon, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, Marcellino, Maziarz, McDonald, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Winner and Young.

Absent from voting: Senator Volker. Ayes, 32. Nays, 28.

ACTING PRESIDENT BRESLIN: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 650, by Senator Duane --

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

SENATOR LIBOUS: Was the roll

open on that issue for Senator Diaz? I don't believe it was. I believe it was opened after.

ACTING PRESIDENT BRESLIN: Senator Libous, we opened the roll for seven votes for Senator Diaz. The remaining bills were laid aside, I believe. Eight, I'm sorry, eight bills.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 650, by Senator Duane, Senate Print 7156, an act to amend the Public Health Law.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 6. This act shall take effect August 1, 2011.

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

Hearing none, the debate is closed. The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT BRESLIN: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN:

Senator Duane, to explain his vote.

SENATOR DUANE: Thank you, Mr. President. I just want to thank my colleagues for proceeding with the vote on this issue.

I want to point out that the Advisory Committee on Immunization Practices recommended that all persons 11 to 18 be vaccinated against meningococcal disease. And this legislation will take a big step towards protecting children and young people, particularly those who are in college, from either becoming fatally ill or having a permanent disability as a result of contracting meningococcal.

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

ACTING PRESIDENT BRESLIN: Thank you, Senator Duane.

Senator Nozzolio, to explain his vote.

SENATOR NOZZOLIO: Thank you,

Mr. President.

Mr. President and my colleagues, it's hard to believe that it's been 16 years ago this month that I lost my godson and nephew, who finished his junior year at Cornell University, was aboard ship as a midshipman, a naval officer training in his commitment, and about to enter his senior year at Cornell. He was stricken with the meningococcal virus, and he did not survive.

Since that time I've found many young people similarly afflicted in the prime of their lives with this dreaded disease.

I urge all parents to understand that vaccines are available. A number of years ago we provided the colleges of this state with a notice provision that the bacteria is a deadly bacteria and that in effect there are steps and precautions that can be taken.

I rise because I certainly understand the sponsor's desire to see a mandatory vaccination process. I believe, though, the steps currently should be for the parents to understand the risks and make that

decision for them. That is why I reluctantly vote against this provision, because of the mandatory nature.

But hopefully the legislation will send an appropriate signal that there is a step, a precaution, that parents should be aware of and that they could take. And if I could take that to prevent the death of Matthew Nozzolio, I certainly would have taken that step.

Thank you, Mr. President. I reluctantly vote in the negative.

ACTING PRESIDENT BRESLIN: Thank you, Senator Nozzolio. You will be recorded in the negative.

Senator Oppenheimer, to explain her vote.

SENATOR OPPENHEIMER: Well, this may sound like funny statement coming from me, but I really don't care what the parents think on this. This is so important and so vital. To think that you could lose the life of a child because you didn't get them inoculated.

And I'm speaking as one who has had meningoencephalitis. Believe me, you don't

want it. It's a cousin to this, and one-third do survive. And knock wood, I survived.

But this is so horrible. It took me many months, lost sight, lost hearing, lost walking. I mean, you just -- if it can be avoided by a simple injection, why would you not do it? And I would do it irrespective of what parents wanted, with the simple exception, of course, of those religious entities that do not accept any medical treatment.

I'll be voting yes.

ACTING PRESIDENT BRESLIN: Thank you, Senator Oppenheimer. You will be recorded in the affirmative.

Senator Hannon, to explain his vote.

SENATOR HANNON: Thank you, Mr. President. I rise in support of this legislation.

Vaccination is part of public health. And, one, while the family decision-making process is very important, when we deal with public health we're dealing with the individual and their health and we're

dealing with societies. Because you're going to get infected by other people, and you need to be able to rely on the fact that other people don't have a disease, don't have something that can be communicated.

That's why we have vaccination, we have mandatory vaccination. It's not because we want to override some freedom. But we want to make sure that all of society is protected. And so I rise in support of this legislation.

Thank you.

ACTING PRESIDENT BRESLIN: Thank you, Senator Hannon. You will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 650 are Senators DeFrancisco, Farley, Griffo, Lanza, Nozzolio and Robach.

Ayes, 56. Nays, 6.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 776, by Member of the Assembly Jeffries, Assembly Print Number 8012, an act to amend

the Correction Law.

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

Hearing none, debate is closed. The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 776 are Senators Alesi, Bonacic, DeFrancisco, Farley, Flanagan, Fuschillo, Golden, Griffo, Hannon, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, Marcellino, Maziarz, McDonald, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and Young.

Ayes, 32. Nays, 29.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 861, by Senator Adams, Senate Print 7945A, an act to amend the Criminal Procedure Law.

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

Hearing none, the debate is closed. The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 861 are Senators Alesi, Bonacic, DeFrancisco, Farley, Golden, Griffo, Hannon, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, Marcellino, Maziarz, McDonald, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and Young. Also Senator Fuschillo.

Ayes, 33. Nays, 28.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 1017, by Member of the Assembly John, Assembly Print Number 6964, an act to amend the Labor Law.

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

Hearing none, debate is closed. The Secretary will ring the bell.

Senator Saland.

SENATOR SALAND: Mr. President, I respectfully request that the roll call be withdrawn. I just have a question for Senator Onorato.

ACTING PRESIDENT BRESLIN: The roll call is withdrawn.

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

ACTING PRESIDENT BRESLIN: Senator Onorato, would you yield to a question from Senator Saland?

SENATOR ONORATO: Yes, I will.

SENATOR SALAND: Senator Onorato, I've read the title of the bill, which

provides for -- relates to unemployment benefits for innocent bystanders during industry controversy. And in looking at the bill, I see reference to innocent bystanders. Is "innocent bystander" defined somewhere in statute?

SENATOR ONORATO: The Commissioner of Labor determines that the claimant (A) is not employed by an employer that is involved in an industrial controversy --

SENATOR SALAND: I'm sorry, Senator.

Mr. President, may I ask for a little quiet?

ACTING PRESIDENT BRESLIN: Can we have a little quiet, please.

Senator Onorato.

SENATOR ONORATO: Okay. The Commissioner determines that the claimant is not employed by an employer that is involved in the industrial controversy that caused his or her unemployment and is not participating in the industrial controversy or is not in a bargaining unit involved in the industrial

controversy that caused his or her unemployment and is not a participant in the industrial controversy.

ACTING PRESIDENT BRESLIN: Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

Senator Onorato, if you would just continue to yield.

ACTING PRESIDENT BRESLIN: Senator Onorato, will you continue to yield for another question?

SENATOR ONORATO: Yes, I will.

ACTING PRESIDENT BRESLIN: You may proceed, Senator Saland.

SENATOR SALAND: And I know we had the opportunity to discuss this briefly. This is an effort to distinguish between what occurs between a group of employees who may be on strike and a group of employees who may be affected by the strike but not necessarily participating in the strike.

SENATOR ONORATO: Correct.

ACTING PRESIDENT BRESLIN: Senator Saland, do you wish Senator Onorato to

continue to yield?

SENATOR SALAND: Yes, if he'll continue to yield, Mr. President.

ACTING PRESIDENT BRESLIN: Senator Onorato?

SENATOR ONORATO: Yes, I will.

SENATOR SALAND: In the one instance, how would the employee who is participating in the strike be affected vis-a-vis eligibility for benefits and how would the innocent bystander be affected?

SENATOR ONORATO: The employee that's involved in the strike will be denied unemployment insurance for seven weeks. The innocent bystander who was not involved in the strike would be eligible to collect it without waiting the seven weeks. After two weeks, the normal procedure.

ACTING PRESIDENT BRESLIN: Senator Saland.

SENATOR SALAND: Thank you, Mr. President. Thank you, Senator Onorato. I appreciate your -- and again, the determination is left to the Labor Commissioner, and I won't find that in

definition anywhere or in case law.

SENATOR ONORATO: Thank you.

SENATOR SALAND: Thank you, Mr. President. Thank you, Senator Onorato.

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

Hearing none, the debate is closed. The Secretary will ring the bell.

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT BRESLIN: Senator Libous.

SENATOR LIBOUS: While we're waiting for members to come, I just want to make a notation that for those members on bills who want to vote no, that they need to raise their hands high so that the clerk can see them. I know that sometimes members, for whatever reason, get tired arms and they only go like this [gesturing].

So if members want to be registered so that the clerk can count, they need to raise their hands high.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Libous.

Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 60. Nays, 0. Senator Duane absent from voting.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 1078, by Member of the Assembly Cahill, Assembly Print Number 7593B, an act to amend the Public Service Law.

ACTING PRESIDENT BRESLIN: Senator Ranzenhofer, on the bill.

SENATOR RANZENHOFER: Thank you, Mr. President.

This is an important piece of legislation for people that work in my district. This is about the call center and about jobs at call centers. And the concern that I have is for the 115 employees that work

in my hometown.

One of the things when you're balancing whether or not you impose new rules and regulations and whether you're going to regulate business or whether you're dealing with --

SENATOR LIBOUS: Excuse me, Senator.

Mr. President, there is an awful lot of noise -- papers, meetings going on in the back of the chamber. And I think that Senator Ranzenhofer has something very important to say, and I can't hear him.

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

Can we please have some quiet and please take meetings out into the hall.

Thank you, Senator Ranzenhofer. You may continue.

SENATOR RANZENHOFER: Thank you, Mr. President. Thank you, Senator Libous.

One of the things when you're balancing regulating business and whether or not you're affecting the health, the safety and the welfare of the general public is where

do you strike that balance. And in this particular situation, one of the few industries that's actually hiring people and employing people across the state, not only in my district but throughout the state, are utilities. And specifically here, we're dealing with the call centers.

Now, in looking at some of the memos both in opposition and in support, one of the things that they both talk about are jobs and preservation of jobs. And both are actually saying the same thing.

And the concern that I have is that if we impose this regulation, you have an effective date of 60 days after it passes. And at some point business is going to say we've got to make a decision, are we going to continue doing what we're doing or are we going to what a lot of companies do -- banks, hospitals, medical facilities -- to voicemail, the voice response units.

And my concern is that if this bill is passed, there are going to be companies, not only in my district but in districts throughout the state, that are going to decide

this regulation, this rule is just not worth it, and they're going to fire the employees and going to the automatic system, which means everybody's going to lose their job. So this will not be a job-preservation bill, but at least in my district it's going to cost 115 jobs. And because of that, I would urge my colleagues to vote against this bill.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Ranzenhofer.

Are there any other Senators wishing to be heard?

Hearing none, the debate is closed. The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Senator Volker, to explain his vote.

SENATOR VOLKER: Mr. President, I must explain my vote.

At one time some time ago, I sponsored a bill very similar to this. But I have to be honest with you, what's happened is -- and of course this session of the Legislature has been one of the worst sessions the utilities have ever seen. We've passed all kinds of bills here that will raise the cost of utilities and then hurt the utilities in general.

The problem here is that I have information and very good information that one particular utility in my region has made it clear that if this bill passes and becomes law, they will move out of Western New York and will move into Pennsylvania, where the government there is much more favorable. Which is a huge problem.

And I'm talking not about -- when I say move the utilities, I'm talking about moving all their administrative jobs and all the people that are directly involved. The loss of jobs could be enormous.

So the reason that I'm voting against this is that very reason, because one thing we cannot afford in Western New York is

losing any more jobs. So I vote no.

ACTING PRESIDENT BRESLIN: Thank you, Senator Volker. You will be recorded in the negative.

Senator Savino, to explain her vote.

SENATOR SAVINO: Thank you, Mr. President.

You know, Senator Volker, I agree with you. And I also agree with Senator Ranzenhofer. We can't afford to lose any more jobs.

And the fact is the utility companies, every time we try and issue a new regulation that affects them, their response is always that rates will rise and jobs will fall. When they make a decision about moving jobs out of state, it's because it's in their best interest -- their best interest, not the best interest of upstate New York, where the majority of the call centers are.

What this bill will do will not only require them to go before the Public Service Commission prior to moving jobs out of upstate New York or anywhere else, and to get

approval to do so, but it's going to require them also to provide service to customers that must be done in the state, which should not be done and can't be done by an automated answering system.

This bill is about protecting jobs. The utility companies have been shifting jobs out of New York State, not only to other states but to other countries, all in an effort to save money at the expense of New York State residents. We need to keep jobs here. We need to make sure the utility companies are able to justify why they feel the need to move jobs out of New York State.

I vote in favor of this bill and I hope that everybody will recognize that what we're doing here is protecting the jobs of average New Yorkers, not the utility companies.

Thank you.

ACTING PRESIDENT BRESLIN: Thank you, Senator Savino. You will be recorded in the affirmative.

Senator Maziarz, to explain his vote.

SENATOR MAZIARZ: Thank you very much, Mr. President. To explain my vote.

You know, many of the things that Senator Savino says is correct. And the things that Senator Volker said are also correct. I have voted for this bill I think on two different occasions. I believe that two different governors have vetoed this legislation. I almost suspect that this version may suffer the same fate.

But the reality is, the reality is that Senator Ranzenhofer and Senator Volker are correct. National Fuel has informed us that given that 60-day window that they have, they are going to close this call center in -- I think it's in Amherst or just outside of Buffalo. And it's going to be another hundred-plus people or in Western New York that will lose good-paying jobs. And Western New York can't suffer that kind of a hit anymore.

Mr. President, I vote in the negative.

ACTING PRESIDENT BRESLIN: Thank you, Senator Maziarz. You will be recorded in

the negative.

Senator Ranzenhofer, to explain his vote.

SENATOR RANZENHOFER: Thank you.

One of the comments that was made is that companies always make threats. Well, let me just give you a little history about this particular situation. And I saw Senator Thompson in the chamber earlier, and he knows that this will not be an idle threat.

About eight years ago, this company was located in the city of Buffalo, right downtown, right at the corner of Main and Court Streets. Great jobs in the city. The city wanted to dictate where they were going to be within the city. The company said, Well, you can't, and they took well over 500 jobs out of the city of Buffalo, which needed them, into my district. I'm happy that they did that.

But you can't -- you know, you can't regulate things like this. When they were deciding where to go, they were deciding between Amherst, Orchard Park, and Erie, Pennsylvania, all of which they have pretty

substantial areas.

So this is not a situation where this is an idle situation, this is something that may happen. If they say that this is going to happen, the history shows that they've done it before. And again, you know, this is one of the things that's just killing us all across the state, but especially in Western New York.

These are good-paying jobs. If you want to replace them with machines -- this is not the way to go. If you want to keep these jobs in Western New York, I would ask you to vote against this bill. Thank you.

ACTING PRESIDENT BRESLIN: Thank you, Senator Ranzenhofer. You will be recorded in the negative.

Senator Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: Yes, thank you, Mr. President, I rise in support of this bill. And I've got to say, in the case of this particular litigation, I understand all of these sort of ideological arguments about imposing burdens on businesses, and sometimes

they're true. We're talking about gas and electric utility corporations. Someone is going to take advantage of the market for gas and electricity in New York State and provide services.

All this bill says -- this is not like a company that can flee. Someone is going to provide the services. And this just says that when you call up because you have an emergency or you need information, the call center should stay in New York. If they're going to move it out, they've got to have a hearing.

This is an entirely reasonable piece of legislation. There's really no way this can drive jobs away just because of the way the bill is drafted and the circumstances of a gas and electric utility. There are some businesses that have to stay put. This is one.

And, you know, if some company decides they're going to leave, somebody else is going to move in to provide these services because there's a good market, there's money to be made, and that's why capitalism is

wonderful. This just ensures that New Yorkers keep some of the jobs that these businesses provide.

Thank you, Mr. President. I vote yes.

ACTING PRESIDENT BRESLIN: Thank you, Senator Schneiderman. You will be recorded in the affirmative.

Senator Libous, to explain his vote.

SENATOR LIBOUS: Thank you, Mr. President.

I'm going to support this bill. I had a bill similar to this a couple of years ago. And I understand where my colleagues are coming from, and I understand where the utility companies are coming from. But I still think that what I've seen in my district is a company that continues to shrink and shrink and shrink and continues to move their call center operation to other places other than New York.

The issue in this state, Mr. President, is not that this bill is going to put anybody out of business. The reason

why the utilities are having problems are because of a prevailing rate bill we passed the other day. That's why they're having problems. Because taxes keep going up in this state, that's why they're having problems. Because government regulation on business continues to grow.

I mean, let's be honest with ourselves. Certainly we can sit here and guess and pontificate both ways -- yes, they're going to leave -- but they're leaving because they're being taxed out of the state and overregulated.

This bill will at least hopefully stabilize what few jobs that are left in my district. So I have to vote yes on behalf of the people who work in my call center, who are left in my call center, because I want to preserve every job I can in my district.

I vote aye.

ACTING PRESIDENT BRESLIN: Thank you, Senator Libous. You will be recorded in the affirmative.

Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: I don't quite understand why, when we have the representatives from that area warning that this is an absolute clear event that's going to happen, the loss of 115 jobs in Western New York, that people from other areas of the state that aren't going to be directly affected know better. I just don't get it.

I don't know why we're playing chicken with the utility company when the only remedy is, if this bill passes, that people, before they close a call center, they have to have notice and the commission has to have a hearing. On what? To justify why they don't want the call center anymore? So what does that do? You mean the utility can't come up with reasons like it costs too much? So we go through a process, a needless process to come to the same result?

Weighed against that is the loss of 115 jobs by the people who represent that district. We pass so many bills for the New York City area, or New York City, willy-nilly because, well, the legislators probably know better about what's going on in

their district.

So for that reason, I'm relying on the people from that district to understand their district and know whether this threat is real or not. And I hope we don't have to come back here and say, Look, they said they were going to do it, they did it, we lost another 115 jobs, and therefore we're in worse shape than we were before this bill passed.

So I'm going to vote no for that reason. Thank you.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1078 are Senators Alesi, DeFrancisco, Golden, Little, Maziarz, Ranzenhofer, Volker, Winner and Senator Young. Also Senator Nozzolio. Also Senator Saland.

Ayes, 50. Nays, 11.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number

1103, by Senator Parker, Senate Print 7565A, an act to amend the Public Service Law.

SENATOR LIBOUS: Explanation.

ACTING PRESIDENT BRESLIN: Senator Parker, an explanation has been requested by Senator Libous.

SENATOR PARKER: Senator Libous, the Green Jobs, Green New York on-bill finance bill is the second part of a bill that was passed last year as a major jobs bill. It was important because this bill is going to create 60,000 new jobs across the State of New York and will raise about $5 billion in capital improvements for New York homes without ever touching the state budget.

And so the first piece, again, we did last year was securitizing some of the RGGI money to develop a program. The second piece, the on-bill finance piece, is an ability for us to make the program more accessible to New Yorkers throughout the state who need this.

As many of us know, we have some of the leakiest and most energy-inefficient homes in the entire country. And so it is important

that we fully implement the Green Power Jobs program because what it does, it does three things. One, it produces jobs throughout the state. Second, it retrofits buildings and makes those buildings more energy-efficient. And third, by doing so, we all as New Yorkers lower our carbon footprint and become better stewards of our state's natural resources and particularly our environment and ecology.

You know, we're wasting, again, a lot of money on energy that's being essentially literally going out the doors and the windows of people's homes. This bill in particular will allow consumers to take their improvement, add it to the cost of their energy bill, and pay it off incrementally over time without having to find sources of funding outside of the program.

So that's what the program does.

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT BRESLIN: Senator Libous.

SENATOR LIBOUS: Would Senator Parker yield to a few questions?

ACTING PRESIDENT BRESLIN:

Senator Parker, will you yield for a few questions from Senator Libous?

SENATOR PARKER: I'll yield for Senator Libous.

ACTING PRESIDENT BRESLIN: You may proceed, Senator.

SENATOR LIBOUS: Thank you, Senator. Thank you, Mr. President.

Senator, you referenced an earlier version. Was that the jobs bill that was passed about a year ago in this chamber?

SENATOR PARKER: Yes, sir.

SENATOR LIBOUS: And at that time I heard that it was going to create 60,000 jobs. Is it now going to create 120,000 jobs, or is this the same 60,000 jobs that I heard a year ago?

SENATOR PARKER: Senator Libous, we're still talking about the same 60,000 jobs. And the 60,000 jobs weren't immediate from the time that the bill was passed. Actually, NYSERDA is still working on the regs. This is the second part that in fact actually makes that possible by making access to financing easier for your constituents and

mine.

ACTING PRESIDENT BRESLIN: Senator Libous.

SENATOR LIBOUS: Will he continue to yield?

SENATOR PARKER: I do continue to yield for Senator Libous.

SENATOR LIBOUS: Thank you, Senator. Mr. President, so I guess what the Senator is telling me is that no jobs have been created yet in a year, that this is the second part that needs to be put forward for NYSERDA before any jobs can be created? Or have there -- I guess it's a two-part question, Senator. Let me just ask, have there been any jobs created since the last bill was passed?

ACTING PRESIDENT BRESLIN: Senator Parker.

SENATOR PARKER: Since the last bill was passed, I'm not actually quite sure about that. I know that that program is beginning to be implemented. We are still waiting for NYSERDA to promulgate regulations for the program for it to be fully

implemented. So if there are any jobs, I would expect that there's not been many created to this point.

But certainly the passage of this legislation will help ramp that up. Because once the program is actually promulgated and regulated, we can then have an on-bill finance program that allows consumers to get financing through the utility companies and be able to pay that finance back easily through the utilities.

SENATOR LIBOUS: Mr. President, would Senator Parker continue to yield?

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

SENATOR PARKER: I do continue to yield.

ACTING PRESIDENT BRESLIN: Senator Libous.

SENATOR LIBOUS: Senator Parker, do you know is there a timetable for these 60,000 jobs? In other words, let's assume that as you stated, Senator Parker -- and I appreciate that, that you don't believe, at least right now, any jobs have been created.

But let's assume from this point forward if the bill is to pass today and go to the Governor, how long before these 60,000 jobs will be created? Will they be created in increments of 5,000, 10,000? I'm just kind of curious. Is there a timetable?

SENATOR PARKER: Senator Libous -- through you, Mr. President -- there is a timetable. And that timetable is over the course of three to five years. And you're looking somewhere about 10,000 jobs per year.

ACTING PRESIDENT BRESLIN: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President. Would the Senator continue to yield?

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

SENATOR PARKER: I do continue to yield.

ACTING PRESIDENT BRESLIN: You may proceed, Senator Libous.

SENATOR LIBOUS: I appreciate that, Senator. Thank you.

These jobs that would be created

over three to five years, is there a geographic breakdown as to where these jobs might be created?

ACTING PRESIDENT BRESLIN: Senator Parker.

SENATOR PARKER: There is a geographic breakdown. In the State of New York, from Brookhaven from Brooklyn, from Brooklyn to Albany, from Albany to Buffalo, we expect to see jobs created.

SENATOR LIBOUS: Senator Libous.

SENATOR PARKER: Oh, and Binghamton too.

SENATOR LIBOUS: Would the Senator Parker continue to yield.

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

SENATOR PARKER: Yes, I do continue to yield.

ACTING PRESIDENT BRESLIN: Senator Libous.

SENATOR LIBOUS: Senator, I appreciate your enthusiasm. But as you mentioned in the end the "B" word, Binghamton, I am certainly, as a representative of the

Southern Tier -- three counties, to be exact; Broome, Tioga and Chenango -- I'm a little selfish in wondering what is the forecast in the number of jobs over the three to five years for my three counties. Would you know that?

SENATOR PARKER: Through you, Mr. President, I don't have that specific information, but I will get it to you posthaste. I expect that it will be proportional to the amount of people who actually need retrofits in those parts of the world.

When you look at, you know, where communities are going to be actually producing jobs, it's going to be a function of really two factors, one of which is where homes actually need retrofits. So in parts of the state -- and I don't necessarily know where these specific places are -- but in parts of the state where you have older homes, you're going to have more retrofits in those areas and thus, you know, produce more jobs, you know, in proportion to the number of retrofits that you're doing.

In places that have newer communities, you're going to have less retrofits because these newer communities have more energy-efficient homes and they'll need less retrofitting, if any at all, and you'll produce less jobs in those areas.

And so in an area like yours -- well, I know you live in a brand-new house so your house probably is not going to need a lot of retrofitting. But for some of us who live in older, more historic buildings, we night need more retrofitting. But I know that you probably have neighbors that run the gamut, you know, from new communities -- in those three counties that you mentioned, they probably run the gamut from some newly communities that are probably already fairly energy-efficient to some older communities that are probably going to need more work.

And again, it will be dependent on people's interest and accessibility to the program. If we pass this bill today, that will be a first step to people getting on-bill finance. And so those folks who have more historic homes, who need more retrofitting,

they will be easily able to get that vis-a-vis their utility companies.

ACTING PRESIDENT BRESLIN: Senator Libous.

SENATOR LIBOUS: Senator, would you yield for one more question?

ACTING PRESIDENT BRESLIN: Will you yield to one more question, Senator Parker?

SENATOR PARKER: Through you, Mr. President, absolutely.

SENATOR LIBOUS: And again, just for the record, Senator, I live in a condo that was built in 1960.

Having said that, when you say retrofitting, I guess I'm a little -- what kind of jobs would we be creating? I don't -- I know what the word "retrofitting" means, but what are we retrofitting?

SENATOR PARKER: Through you, Mr. President. So the process that this bill actually helps in terms of creating green-collar jobs actually runs the gamut from, you know, carpentry through, you know, actually science and technology.

And specifically what you'll need people to do, and I'll walk you through the process -- and I didn't realize that your home -- it's in great shape for a condo built in 1960, by the way. But, you know, if we go into your home, the first thing that happens when you call the program, they bring somebody in to do an assessment. We're going to need more people to do assessments because there's, you know, a lot of homes that need assessments. And we don't have nearly enough people doing energy-efficiency assessments right now, and so that will be one type of job that will be created.

Once an assessment is done, you will be given options on the kinds of retrofits that are available to you and the kinds of things -- you may need a new boiler. You might need a new hot water heater. You may need insulation. You might need your byways and throughways sealed. You might need energy-efficient lighting. You might need a new roof. You might decide, in the context of that retrofitting, to add solar or solar voltaic panels or a wind turbine.

And so each type of those kinds of work will require jobs to be created vis-a-vis contractors who will be independently contracted to come in, certified through NYSERDA to do that work on your home. You may need your windows changed, right. And so, again, they'll have contractors that come in, and those contractors will hire people in your community, because more likely there will be contractors in Binghamton who are licensed and certified vis-a-vis NYSERDA to in fact do that work, and that will create another type of job.

The more that we do this, the materials that we're using is going to create a secondary source of jobs. Because, again, if we're putting in a lot of windows, we're going to need to manufacture windows. So window manufacturers in New York State will see an increase in their business, and they will hire people. We'll have more solar voltaic panels being created. We'll have more wind turbines. And that will in fact spur the green-collar jobs that we need, everything from science to look at how we make silicone

more efficient down to the evaluation of homes to see the proper work that needs to be done in those homes. So when we talk about the jobs, they will run the gamut.

ACTING PRESIDENT BRESLIN: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President. Thank you, Senator.

ACTING PRESIDENT BRESLIN: Senator Bonacic.

SENATOR BONACIC: Thank you. Would Senator Parker yield for a couple of questions?

ACTING PRESIDENT BRESLIN: Senat or Parker, would you yield to a couple of questions from Senator Bonacic?

SENATOR PARKER: Yes. For Senator Bonacic, absolutely.

SENATOR BONACIC: Senator Parker, I just want to get familiar with how the process works if I'm a homeowner. The energy assessment individual comes in, he makes recommendations. For the sake of discussion, let's say there's $20,000 of suggested energy improvements. Okay?

Now, I don't have -- I'm a homeowner. I don't have the $20,000 in the bank. So do I then make an application to the utility company to get the 20,000? That would be my first question.

ACTING PRESIDENT BRESLIN: Senator Parker.

SENATOR PARKER: Senator Bonacic, you can actually access the program vis-a-vis your utility company. And the application is actually not to the utility company, you're actually applying to NYSERDA, but through the utility company.

Or, if you're a homeowner -- you could do this even now, at this moment. Right? When we leave this chamber, you can actually get on the phone -- well, it's probably after-hours now. I don't know how late NYSERDA is staying. But Frank Murray works hard. So, you know, you could actually call NYSERDA, get Frank Murray on the phone, and he would actually -- no, he wouldn't do it, he'll send you to somebody. But you would actually get somebody to do an evaluation for you first. They'll say it's $25,000, and you

could apply directly to them for financing or through a local lender.

So in the mid-Hudson Valley, there might be some community lenders. I know in Brooklyn, for instance, NHS, Neighborhood Housing Service, which is very active in the full-cycle lending model around home ownership and development, they provide financing. We have a couple of small banks that provide financing for these kind of NYSERDA projects.

And so you would either apply vis-a-vis the utility company or you could do it directly to NYSERDA.

SENATOR BONACIC: Okay. Would you continue to yield for another question?

SENATOR PARKER: I will, Mr. President.

ACTING PRESIDENT BRESLIN: Senator Parker will continue to yield. Proceed.

SENATOR BONACIC: Assume that I can't get bank loans, for whatever reason. Could I then get the loan from the utility company? Would they have to give it to me if I wanted to make these energy improvements?

SENATOR PARKER: No. And actually a utility company is actually not -- in many cases the utility companies are not providing the actual direct financing. The financing is actually being provided by NYSERDA through a third-party lender, and it is being billed through the utility. So the money that you're paying is actually not going to the utility company, it's actually going to the lender.

SENATOR BONACIC: Okay. Would you continue to yield for another question?

SENATOR PARKER: I will continue to yield.

ACTING PRESIDENT BRESLIN: You may proceed.

SENATOR BONACIC: Okay. I get the 20,000 from NYSERDA. The utility company is the conduit through which I pay. Okay?

SENATOR PARKER: Yes.

SENATOR BONACIC: I assume it's a monthly fee that's amortized over a period, just like any other loan.

SENATOR PARKER: Correct.

SENATOR BONACIC: Now, if I can't

pay that monthly expense -- I run into trouble, I become unemployed, I get disabled, whatever -- would my meter be shut off because it's tied into my gas and electric meter?

SENATOR PARKER: What would happen is that you would actually have an opportunity to negotiate your bill through the utility company. And the utility company would be actually authorized to negotiate both your energy bill and the loan amount, to make sure that you were able to be accommodated.

SENATOR BONACIC: Okay. Would you continue to yield for another question?

SENATOR PARKER: Yes.

SENATOR BONACIC: What's throwing me off is a little bit is you said NYSERDA was the grantor of the loan, the utility company was the conduit to collect the monthly payments, but now the utility company is like a co-lender that they can negotiate the rate. So with, you know, a reduced rate to help that homeowner.

So is that true, in your understanding of the legislation?

SENATOR PARKER: Through you,

Mr. President. Senator Bonacic, let me give you a little bit of clarity, because this is rather complicated. You're actually not getting the loan from NYSERDA. The loan is actually coming -- you're getting the subsidies from NYSERDA, but you're getting the loan through a third-party lender. It could be a bank, it could be through a micro-revolving loan program for this kind of service.

Again, in New York City, I know Neighborhood Housing Service of New York City does it under some other organizations that provide it. So you would actually be getting the loan through them. The loan would actually be -- would originate from them. And then again, if you had a problem, you know, the utility company would not lose its ability to create an accommodation for you in the same way -- and not necessarily around the rate, but an accommodation around the payments.

ACTING PRESIDENT BRESLIN: Senator Bonacic.

SENATOR BONACIC: Would you continue to yield for another question?

SENATOR PARKER: I will continue to yield.

ACTING PRESIDENT BRESLIN: Proceed.

SENATOR BONACIC: Okay. But the utility company would have the power -- not literally -- to terminate your service if you didn't keep up the monthly payment that was owed for the energy improvements.

SENATOR PARKER: Correct.

SENATOR BONACIC: Okay. Is there a -- I'm thinking of the subprime mortgages where we were giving money out to people we didn't do real credit checks for. Is there any standards for which a homeowner could be refused a loan to make energy improvements? Or is there something in this legislation that says they can access capital for energy improvements regardless of their credit standing?

ACTING PRESIDENT BRESLIN: Senator Parker.

SENATOR PARKER: Through you, Mr. President, yes, there is. You have to actually meet the standards for both the

utility and the organization.

So again, whoever is giving you, whether it was a bank or whether it was another kind of third-party lender -- it might be, again, a micro-revolving loan fund -- they have standards, and you would actually have to be approved for the loan just like you're approved for a loan in any other circumstances.

SENATOR BONACIC: Okay, that's helpful. I have one other question.

ACTING PRESIDENT BRESLIN: One more question, Senator Parker. Do you yield?

SENATOR PARKER: I would actually yield for Senator Bonacic.

SENATOR BONACIC: Okay. So I'm back to the $20,000 loan, I'm making my payments, and I get in trouble after three years and I can't do it. I guess where I want to go with this is if I cannot continue to make the payments, I have to choose between paying my mortgage or paying my utility company, because I don't want the utility to be shut off, so I let the bank -- I let that slide, I pay the utility company.

At any time if the bank had to foreclose or someone else would come and buy the property, is this a lien on the house, the rest of the money that's owed for the energy improvements? So under my example, if I pay three grand off, I still owe 17. What is the status of the 17 grand, if you know?

ACTING PRESIDENT BRESLIN: Senator Parker.

SENATOR PARKER: It actually depends on the type of lean that you get. You actually, Senator Bonacic, knowing your credit, 900, you could probably get an unsecured loan for the 20 grand. And so in that case it would be up to, again, between you and the lender. So you might wind up with somebody. My credit, which is like 430, I would probably have a lien. Mine would probably be set up as a second mortgage. Right?

So in some cases you actually have the loan as a second mortgage or sometimes a third mortgage on the home. And so it actually depends on the individual circumstance and how that loan is set up.

But let me just address what I think that you're trying to get at, if I may, which is the idea of what can happen. And I just want to assure you and the members of this chamber that this is a very real and very substantive concern.

But that in the bill we have provided a great deal of flexibility for utility companies to negotiate with homeowners regarding both the utility portion of the bill and the energy improvement portion of the bill. They're able to give rebates, they're able to do some recalculations, they're able to create level billing plans to be recalculated. They have to have deferred payment plans.

But also, remember that this actually winds up being a benefit to people's homes, not just an expense. Most people actually pay off -- they've actually saved in energy costs the amount of money that they put in somewhere between three and four years. So in three years, you know, you would probably have saved in energy savings that $20,000.

So in many cases -- let's say you

have a $50 bill. This doesn't necessarily mean that your bill is going to go up to $100. This may mean that your bill goes up to maybe $60 or $55. Because even though you're adding a significant amount more money from the loan, you're actually saving almost a proportionate amount vis-a-vis the energy savings.

SENATOR BONACIC: Senator Parker is doing such a good job, I'd like to ask him another question.

SENATOR PARKER: Absolutely.

ACTING PRESIDENT BRESLIN: You may proceed, Senator Bonacic.

SENATOR BONACIC: Back to my example, I owe $17,000 left on this energy improvement. If I sell the home, does the new buyer have to assume that indebtedness? Is it treated like an assessment?

SENATOR PARKER: Through you, Mr. President. Yes, the loan stays with the house, not with the person.

SENATOR BONACIC: Okay. Another question, if I may.

SENATOR PARKER: It's very similar to what happens now when you have a

new line added to your home.

SENATOR BONACIC: Okay. I'm going to ask you two questions now. In terms of bankruptcy, is that indebtedness of $17,000 dischargeable? That's question one.

In case of a foreclosure, if it's an unsecured creditor, because I didn't get a second mortgage, does that get wiped out? There are really two questions there. If you know. The bankruptcy, foreclosure, unsecured loan.

SENATOR PARKER: The first question, the answer is yes. The second question is I'm not sure but I will find out for you.

SENATOR BONACIC: Thank you very much, Senator Parker.

SENATOR PARKER: Thank you.

ACTING PRESIDENT BRESLIN: Senator DeFrancisco.

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

ACTING PRESIDENT BRESLIN: Do you yield for a couple of questions, Senator Parker, to Senator DeFrancisco?

SENATOR PARKER: Yes, I will.

SENATOR DeFRANCISCO: Senator Parker, the bill provides in Section 66(M) that "The commission shall require electric and gas corporations to file tariffs to provide for billing and collection of Green Jobs, Green New York on-bill charges." What is a tariff? What does that mean?

SENATOR PARKER: Senator DeFrancisco, in this particular case "tariff" just refers to charges.

SENATOR DeFRANCISCO: So the commission shall require electric and gas corporations to file tariffs. So that means the commission shall require electric and gas companies to file charges?

SENATOR PARKER: Essentially, my understanding is that this section allows the utility companies to actually give them actually express permission to charge homeowners for the Green Jobs program.

SENATOR DeFRANCISCO: Would Senator Parker yield to another question.

ACTING PRESIDENT BRESLIN: Do you yield to another question, Senator Parker?

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

SENATOR DeFRANCISCO: Now, so the utility companies are not required to loan the money, they're just required to provide a vehicle for the collection of the monthly payments through the utility bill of a loan that's being gotten from some other source; correct?

SENATOR PARKER: Through you, Mr. President, correct.

ACTING PRESIDENT BRESLIN: Senator DeFrancisco.

SENATOR DeFRANCISCO: Would you yield to another question?

ACTING PRESIDENT BRESLIN: Will you yield?

SENATOR PARKER: Yes, I will.

ACTING PRESIDENT BRESLIN: You may proceed, Senator DeFrancisco.

SENATOR DeFRANCISCO: All right. And the way this bill reads -- that same section, I'm going on -- "to collect payment of obligations to NYSERDA Retrofit Investment Fund," do I take that to mean that the lender

in these types of cases that the utilities are required to collect the monthly charges on are only those loans that come from NYSERDA?

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

SENATOR DeFRANCISCO: Okay so if I can ask you another question along the lines of --

ACTING PRESIDENT BRESLIN: Senat or Parker?

SENATOR PARKER: I do yield.

ACTING PRESIDENT BRESLIN: You may proceed.

SENATOR DeFRANCISCO: -- of Senator Bonacic, does NYSERDA -- I didn't find it in the bill -- does NYSERDA have certain requirements that they must loan money to various people?

SENATOR PARKER: Through you, Mr. President, no. They're not required, they actually do have some -- they're actually promulgating those regulations now, so I can't tell you what the standards are because they have not been released yet. But there is in fact a standard being developed by NYSERDA to

guide the loan process.

SENATOR DeFRANCISCO: And would Senator Parker continue to yield.

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

SENATOR PARKER: Yes, I do.

ACTING PRESIDENT BRESLIN: You may proceed.

SENATOR DeFRANCISCO: So that I can read it, is that somewhere in this bill, what NYSERDA's obligations are with respect to the loans?

SENATOR PARKER: Through you, Mr. President, it's actually going to be part of the regulations that they're promulgating now.

ACTING PRESIDENT BRESLIN: Senator DeFrancisco.

SENATOR DeFRANCISCO: Would Senator Parker yield to another question.

SENATOR PARKER: Yes, I will.

ACTING PRESIDENT BRESLIN: Yes, he will. You may proceed.

SENATOR DeFRANCISCO: So by voting for this bill we don't have any idea of

what NYSERDA is going to be required to do, it's totally up to NYSERDA as far as how they will loan money. Is that true?

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

SENATOR DeFRANCISCO: Okay, thank you. And one last area. Would you yield to another question?

SENATOR PARKER: I will yield.

ACTING PRESIDENT BRESLIN: Senator Parker will yield.

SENATOR DeFRANCISCO: According to one section of this bill, and I can give you the section if I can figure it out -- I think it's Section 66(M)2(b) -- it says that "The Green Jobs, Green New York on-bill charges for any services provided at the customer's premises shall survive changes in ownership or utility account responsibility, with arrears at the time of the meter closure."

So if I can't pay my bill -- I'm a customer -- for whatever reason, and I can't negotiate anything because I have no job, I have no money, so they don't want to negotiate

with somebody who doesn't have anything, under those circumstances if the person had to leave the home, it would be the responsibility of the next owner to pay the balance of that loan; correct?

SENATOR PARKER: Through you, Mr. President. One, I somewhat don't accept the notion that even if you don't have a job that they won't negotiate with you. I think there's lots of options they have, including deferments. And so I think there's always a way to negotiate.

And so we're not tying the utilities' hands, I want to be clear about that. We're not tying the utilities' hands vis-a-vis negotiation. So there's a lots of negotiations and other things they can do to help you.

Now, if that all doesn't work and down the line you wind up with a foreclosure, no. No, the next owner is not responsible.

ACTING PRESIDENT BRESLIN: Senator DeFrancisco.

SENATOR DeFRANCISCO: Okay. According to the bill, and I'm going back to

the -- would you yield to another question?

SENATOR PARKER: Yes, I will yield to another question.

SENATOR DeFRANCISCO: I'm going back to this idea of who's required to loan to whom. According to 66(M)2, it says that part of this program requires that full access to the benefits of the program be available to all customers "that meet standards for reliable utility bill payment and current good standing on any mortgage obligations on the premises as determined by NYSERDA."

So it looks like there are some guidelines that NYSERDA has to follow by this bill, that the customer is in good standing on his bill and he's paying his mortgage payments. Fair enough?

SENATOR PARKER: Through you, yes.

SENATOR DeFRANCISCO: Okay. But there doesn't seem to be -- would Senator Parker yield to another question?

SENATOR PARKER: I will yield.

ACTING PRESIDENT BRESLIN: Yes, he will.

SENATOR DeFRANCISCO: There seems to be no requirement that not only will the customer be in good standing on the electric bill and the mortgage, but that they have the wherewithal to pay for the additional costs that they'll have to pay on a monthly basis. That isn't in the bill.

SENATOR PARKER: Through you, Mr. President, that is not in the bill. But that will be in the regulations that are being promulgated as we speak through NYSERDA.

ACTING PRESIDENT BRESLIN: Senator DeFrancisco.

SENATOR DeFRANCISCO: On the bill. Thank you.

ACTING PRESIDENT BRESLIN: Senator DeFrancisco, on the bill.

SENATOR DeFRANCISCO: We just went through probably one of the worst times in our country's history with the subprime mortgage fiasco. And how that happened was that individuals who could not afford loans were getting loans.

And we could talk about all the reasons why and all the misrepresentations and

whatever there may have been by lenders and the like. But that has become a very serious problem that almost resulted in -- well, it did result in a financial disaster for the United States that we're still to trying to recover from.

In this case it's obvious that the motive is a good one, to try to retrofit buildings. But if people are running around to various neighborhoods encouraging people to retrofit their building and there's no requirement in the bill itself that the loans can only go to people that are paying their utility bills, paying their mortgage, and can afford the additional amount of money, we may end up in a substantial number of cases where this money is spent, the loans are given, they can't be repaid, and we end up into another problem with respect to the dollars that are being loaned and the economic problems that the state might end up with.

In addition, there's a provision in here that requires the utility companies to protect NYSERDA -- which I think is a good idea -- requires utility companies to turn off

the electricity if they're not making their payments on the loan.

Even if they're paying the balance of their utility bill, if they're not making payments on the loan. It protects NYSERDA, but I would think that if someone gets in financial trouble and doesn't have electricity, they could do all the negotiations they want -- the fact of the matter is there's an obligation in this bill that they've got to turn off the utilities.

To me, that is an extremely drastic remedy that's going to result in more hardship than maybe the program that's being zealously advocated for by those who want to do the business. It's an adverse result because the people who are advocating to do the business to make all of these improvements obviously want to make the improvements, just like the lenders wanted to make the loans. They're not too concerned about the ability of the customer to pay or run into this problem that they might not have utility service.

So I think that the bill is a very dangerous one. And for the reasons I just

mentioned, I fully intend to vote no unless I hear something that changes my mind based upon the balance of the debate.

Thank you.

ACTING PRESIDENT BRESLIN: Thank you, Senator DeFrancisco.

Senator Parker, on the bill.

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

First, I want to thank my colleagues for the number of questions, because they really actually got some information out there that frankly I probably would not have talked about in such detail. And I thought some of those questions were not only appropriate but were important for people in this room and the people voting on it to understand.

The reality is that when we passed the Green-Collar Jobs bill last year, I think it was an important first step in putting people back to work. We are right now in the middle of the largest contraction of the economy that this country has literally ever seen. Even, frankly, worse than the economy,

say, 75 years ago with the Great Depression. In particular, we have again a jobs crisis where we're talking about jobless recoveries on Wall Street, where people are looking in all of our districts for something to be done for them.

Well, here's the answer, ladies and gentlemen. Last year this body intrepidly put forward a model green-collar jobs program, the first in the nation, and one that is going to have a significant amount of impact, again, from Brookhaven to Brooklyn, from Binghamton to Buffalo. We're going to see, you know, jobs created, you know, over the next coming years if in fact we put in this next piece.

Right now NYSERDA has the ability to do the program, but they don't necessarily have the entree into homes. What we're doing is partnering and creating a mechanism to partner with local utilities who do have the entree into people's homes so they know that this work can be done.

And again, we're going to do three things with this bill, ladies and gentlemen. We're going to put people to work. Everything

from people doing assessments to carpenters to window installers to roofers and boiler installers and hot water heater installers to more science and technology as we increase the number of solar voltaic units and wind turbines and water turbines and other kinds of alternative energy that we're going to be looking at in the context of this bill.

Third, we're going to be decreasing the energy bills of our constituents. How many people in here want to pay higher utility bills? How many of our constituents are talking about the fact that their utility bills need to be lower? This bill allows us to help lower their utility bills.

And third, and probably the most important thing, which is that we are going to decrease our carbon footprint. We're going to take the steps that we need to to become good shepherds of our ecology and our environment so that we can pass it on to our children. What greater gift could we give to our children than clean water and clean air and pristine lands? And this helps us get to that place by in fact lowering our carbon

footprint.

And so I'm asking for my colleagues to vote for this bill exactly because it does those three things. It creates jobs, it lowers people's energy bills, and it reduces our carbon footprint.

And yes, we have gone through a very, very horrible time with the mortgage foreclosure. In fact, nobody has done more in this state, frankly, around mortgage foreclosure than Jeff Klein and the Democratic members of the Senate, who have been at the forefront of the mortgage foreclosure crisis for well over four years.

But this bill doesn't add to that danger. This bill says that the utility companies have an arsenal of techniques in which to help people resolve their bills. They in fact can help -- they can do reviews of their bills, they can recalculate the bills, they can take existing level billing plans and recalculate them so they continue to be level. Utilities can actually -- in fact, must offer deferred payment plans to all customers when offering this program.

Utilities must offer rebates and energy-efficiency measures regardless of when the work was performed.

So we're not even just going forward, we're actually retrospectively saying if you've gotten any energy efficiency work done, we can in fact help you pay for those things.

And also because of the fact that this bill actually allows people to lower their energy bills, we're not talking about significantly increasing bills. Some people's bills will be increased, but they'll be saving money. And most people will in fact have a payment in savings of their energy bills over the course of three to five short years.

And so, you know, this is a good bill because it has all the things that both protect consumers as well as provide new jobs in our struggling economy. And so I ask people to vote for this bill because it not only provides for the things that the people in this state need, but it also protects them while they're providing them.

Thank you very much, and I look

forward to all my colleagues voting yes on this bill.

ACTING PRESIDENT BRESLIN: Thank you, Senator Parker.

Are there any other Senators wishing to be heard?

Hearing none, the debate is closed. The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 12. This act shall take effect immediately.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Senator Bonacic, to explain his vote.

SENATOR BONACIC: First of all, I'd like to thank Senator Parker for his explanations.

Let me just tell you my concerns with the bill: The fact that NYSERDA has not issued regulations of the kind of homeowners that qualify creditwise.

I think the concept is good. Green energy; you know, over the life of the

improvements, you're going to get payment of your loan. My concern is what homeowner can access the monies short term. If it's the same kind of mentality for the subprimes, for people that should get these loans, we're going to create bigger problems than what the program is trying to accomplish.

Now, short term we have substantial concerns. If that customer cannot pay on the energy improvements, the bank forecloses. The utility company gets stuck, the lien goes away. In bankruptcy, if the applicant who took out the loan goes bankrupt, the utility gets stuck. That could lead to higher rates.

Now, the unemployment in our area is still about 10 percent. And there's cash-flow problems right now for a lot of our middle-class families. The critical success of this program short term is to make sure that the person who gets the loan has the ability to pay with the increased debt. That is missing in this bill now.

This bill needs more work. For that reason, I'm going to sadly vote no. And I had supported last year I think Senator

Morahan's bill of the Green Jobs, but I don't think this bill is ready yet. For that reason, I vote no.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Bonacic. You will be recorded in the negative.

Senator LaValle, to explain his vote.

SENATOR LaVALLE: Thank you, Mr. President.

I think Senator Bonacic was absolutely right that this legislation needs some marinating.

I think, Senator Parker, that we need to bring people together and work out some of the pieces. And the thing that is troubling to me is something that my mother, in admonition, said: There's no free lunch. Which means someone's going to have to pay for this.

Those of us who represent the LIPA area, we have some of the highest utility rates. And putting more cost on the ratepayer at this juncture is not the right time. You

yourself indicated the economy and the difficulty with the economy.

And so I think we need to put some pieces together. It's a great title. If you were voting for titles, this would be a yes vote. But when you look at what's inside, we're not there yet. And I vote in the negative, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator LaValle. You will be recorded in the negative.

Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: Thank you.

The problem with the bill is there's a disconnect here. There's a whole group of people that are going to be going through the neighborhoods that are going to be trying to convince people to retrofit their home because they're going to save energy. They have an interest in it. They want the jobs, they want the work, they want to make some money. Sort of like mortgage bankers during the subprime situation.

Number two, the people that are

making the loan don't have any kind of regulation other than as long as, according to the bill, the individual has been paying their utility bills in the past, and also the individual can pay their mortgage payments that they have in the past, then NYSERDA will be granting this loan. Those are the only two requirements. Not that they can afford the next loan that they're going to get.

Then you have the utility companies that have to collect the bills. And if the bills aren't paid in time, the monthly payment is not paid in time, they have to, by this law, cut off the service. So the world's going to be upset at the collector who is forced to collect. And I could see where you might try to negotiate some changes in the payments. But if the person doesn't have the money, they don't have the money.

And Senator Parker mentioned about the partnership, it's a partnership. Well, you've got to have a willing partnership. You don't say you're my partner and I'm putting a noose around your neck to pull you along, you're going to be my partner. And that's the

partnership that's being required here.

Lastly, if you can't pay your loan, you can't make these payments, you lose the house, it goes with the house. The loan is a lien against the house. Which is another impediment to reselling the house.

So there's too many disconnects and too many analogies to the subprime mortgage crisis. And whether or not the Democratic mortgage here helped all the people who had mortgage problems after the subprime mortgage, we don't want to light the match to start the fire so that we can later claim that we helped give relief to the fire that we created.

So I'm going to vote no on this bill. Thank you.

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

Senator Parker, to explain his vote.

SENATOR PARKER: Thank you, Mr. President. To explain my vote.

Again, let me thank my colleagues for their questions. I think that we

illuminated a lot of things that are important. I'm not clear that my colleagues -- and probably is my failure to communicate all the good things about this bill and how it actually works.

Senator LaValle indicated that somebody has to pay for it. We actually already paid for it last year. Because when we did the first part that was actually done by Senator Aubertine -- I want to thank him for his leadership and his intrepid vision as chair of the Energy Committee last year -- when we passed the original Green-Collar Jobs bill, we actually allocated money that came from the Regional Greenhouse Gas Initiative to in fact supplement this program.

And so when we in fact are doing these retrofits, actually much of that money is actually coming from polluters in this state. It's actually a brilliant program. So we're taking people who are polluting, we're taking their money, we're going to now subsidize it to create jobs in Senator LaValle's district and Senator DeFrancisco's district, a few in Senator Libous's

district -- a few; I don't know how you voted -- but a few in Senator Libous's district, and then we're going to create those jobs.

And then at the same time, those people who are working in those areas will also have their homes retrofitted and they will save energy. And so we're not talking about tripling people's bills, we're actually lowering people's bills over the lifetime of those homes. And trust me, there will be enough safeguards vis-a-vis the kind of language and the kind of people who are allowed to get loans.

But then, lastly, these people who are having hard times, our partners in the utilities have the ability to work out arrangements in the same way that every day they do now, work out arrangements around people's utility bills.

This is a good bill, and I thank you very much for your support of it.

ACTING PRESIDENT BRESLIN: Senator Volker, to explain his vote.

SENATOR VOLKER: Mr. President, I

will be brief.

Senator Saland and I talked about a number of pieces of this bill, but I just want to comment -- and I know, Senator Parker, that you mean well. But this bill could turn out to be one of the bombshells for the utilities, because it could be a tremendous money-loser over the long haul.

But one thing I think I know for sure, having been once chairman of Utilities and Energy, we passed enough legislation in the last week probably to raise utility rates for every utility company in the State of New York by at least 20 percent. I have to tell you something. We've got to realize something, that this state has got more taxes on utilities than any state in the union. And the problem when you're dealing with issues such as this, you have to take that into consideration.

And the issues that we've dealt with over the last week, as I've looked at them I said to myself, boy, thank God that for the last 20 or 25 years we Republicans had enough restraint not to do that sort of thing.

We realize very much that it's a tempting thing to grab at the utilities and make the people believe that it's the utilities that are at fault and not the government that churns the rates.

But this bill will not help the ratepayers and I'm afraid, as has already been pointed out, in the long haul will not help homeowners and will not help energy development either. So I've got to vote no.

ACTING PRESIDENT BRESLIN: Thank you, Senator Volker. You will be recorded in the negative.

Are there any other Senators wishing to be heard?

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1103 are Senators Alesi, Bonacic, DeFrancisco, Farley, Flanagan, Golden, Griffo, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, McDonald, Nozzolio, Ranzenhofer, Saland, Seward, Skelos, Volker, Winner and Young.

Ayes, 38. Nays, 23.

ACTING PRESIDENT BRESLIN: The

bill is passed.

THE SECRETARY: Calendar Number 1120, by Senator Klein, Senate Print 8171 --

SENATOR KLEIN: Lay the bill aside for the day, please.

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

That completes the reading of the controversial calendar, Senator Klein.

SENATOR KLEIN: Mr. President, can we briefly return to motions and resolutions.

ACTING PRESIDENT BRESLIN: Returning to motion and resolutions.

SENATOR KLEIN: Mr. President, on behalf of Senator Onorato, on page 26 I offer the following amendments to Calendar Number 782, Senate Print Number 5847E, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT BRESLIN: So ordered.

SENATOR KLEIN: Mr. President, on behalf of Senator Adams, I wish to call up Print Number 7578, recalled from the Assembly,

which is now at the desk.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: Calendar Number 764, by Senator Adams, Senate Print 7578, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

ACTING PRESIDENT BRESLIN: Senator Klein.

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

ACTING PRESIDENT BRESLIN: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT BRESLIN: Senator Klein.

SENATOR KLEIN: Mr. President, I now offer the following amendments.

ACTING PRESIDENT BRESLIN: The amendments are received.

SENATOR KLEIN: Mr. President, on behalf of Senator Stavisky, on page number 7 I

offer the following amendments to Calendar Number 139, Senate Print Number 1538D, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT BRESLIN: So ordered.

SENATOR KLEIN: On behalf of Senator Savino, on page 19 I offer the following amendments to Calendar Number 547, Senate Print Number 2978, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT BRESLIN: So ordered.

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

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

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

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

(Whereupon, the Senate stood at ease at 6:22 p.m.)

(Whereupon, the Senate reconvened at 7:24 p.m.)

ACTING PRESIDENT VALESKY: Senator Klein.

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

ACTING PRESIDENT VALESKY: There is a report of the Rules Committee at the desk.

The Secretary will read.

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

Senate Print 1103, by Senator Dilan, an act to amend the Social Services Law;

1237, by Senator Thompson, an act to amend the General Business Law;

1861D, by Senator Klein, an act to amend the Administrative Code of the City of New York;

2832A, by Senator L. Krueger, an act to amend the Environmental Conservation Law;

2950D, by Senator Klein, an act to amend the Penal Law;

5748A, by Senator Savino, an act to amend the Retirement and Social Security Law;

5793, by Senator L. Krueger, an act to amend the Business Corporation Law;

5913A, by Senator Oppenheimer, an act to amend the Criminal Procedure Law;

6150A, by Senator Espada, an act to amend the Public Authorities Law;

6781A, by Senator Stachowski, an act to amend the Racing, Parimutuel Wagering and Breeding Law;

6964, by Senator Valesky, an act to amend the Public Authorities Law;

7051, by Senator Savino, an act to amend the Retirement and Social Security Law;

7089, by Senator C. Johnson, an act to amend the Education Law;

7137A, by Senator Foley, an act to amend the Education Law;

7257, by Senator Valesky, an act to

amend the Tax Law;

7308, by Senator Peralta, an act to amend the General Business Law;

7449, by Senator C. Johnson, an act to legalize, validate, ratify and confirm;

7463, by Senator Oppenheimer, an act to amend Chapter 425 of the Laws of 2002;

7483A, by Senator Huntley, an act to amend the Public Health Law;

7500, by Senator Addabbo, an act to amend the Civil Service Law;

7614, by Senator C. Kruger, an act to amend the Public Health Law;

7672A, by Senator Klein, an act to amend the Real Property Law;

7676, by Senator Stachowski, an act to amend the Public Authorities Law;

7712, by Senator Thompson, an act to amend the Public Service Law;

7753, by Senator Oppenheimer, an act to amend the Environmental Conservation Law;

7915, by Senator Stachowski, an act to legalize, validate, ratify and confirm;

7946, by Senator Peralta, an act to

amend the Banking Law;

7968, by Senator Stewart-Cousins, an act to amend the Economic Development Law;

8056, by Senator C. Kruger, an act to amend the Estates, Powers and Trusts Law;

8058, by Senator Hassell-Thompson, an act to amend the Family Court Act;

8104, by Senator Stachowski, an act to amend the Public Health Law;

8126, by Senator C. Johnson, an act to amend the Real Property Tax Law;

8130, by Senator Peralta, an act to amend the Administrative Code of the City of New York;

8140A, by Senator Aubertine, an act in relation to authorizing;

8151, by Senator Addabbo, an act to amend the Election Law;

8152, by Senator Addabbo, an act to amend the Election Law;

8153, by Senator Addabbo, an act to amend the Election Law;

8164, by Senator Espada, an act to amend the Private Housing Finance Law;

8175, by Senator Klein, an act to

amend the Penal Law;

8183, by Senator C. Johnson, an act to amend the Alcoholic Beverage Control Law;

8202, by Senator Parker, an act authorizing and directing;

8225, by Senator Onorato, an act to amend the Retirement and Social Security Law;

8239, by Senator Foley, an act to amend the Public Authorities Law;

8261, by Senator Klein, an act to amend the Education Law;

8266, by Senator Smith, an act to amend the Vehicle and Traffic Law;

8267, by Senator Klein, an act to amend the General Business Law;

8280, by Senator Thompson, an act to amend the Environmental Conservation Law;

8281, by Senator Foley, an act to amend the Energy Law;

44, by Senator Fuschillo, an act to amend the Education Law;

And Senate Print 8052, by Senator McDonald, an act to amend the Highway Law.

All bills ordered direct to third reading.

ACTING PRESIDENT VALESKY: All those in favor of adopting the report of the Rules Committee signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT VALESKY: Opposed, nay.

(No response.)

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

Senator Klein.

SENATOR KLEIN: Mr. President, can we please go to a reading of the supplemental calendar.

ACTING PRESIDENT VALESKY: The Secretary will proceed with the reading of Senate Supplemental Calendar 69A.

THE SECRETARY: Calendar Number 1098, by Senator Dilan, Senate Print --

SENATOR KLEIN: Lay the bill aside for the day, please.

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

THE SECRETARY: Calendar Number 1105, by Senator Thompson --

SENATOR KLEIN: Lay the bill

aside for the day, please.

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

THE SECRETARY: Calendar Number 1125, by Senator Klein, Senate Print 1861D, an act to amend the Administrative --

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: In relation to Calendar Number --

SENATOR KLEIN: Lay the bill aside for the day, please.

ACTING PRESIDENT VALESKY: Senator Klein, if we could substitute the Assembly Bill for Calendar 1125 and then lay it aside for the day.

THE SECRETARY: In relation to Calendar Number 1126, Senator L. Krueger moves to discharge, from the Committee on Codes, Assembly Bill Number 428A and substitute it for the identical Senate Bill Number 2832A, Third Reading Calendar 1126.

ACTING PRESIDENT VALESKY: Substitution ordered.

Calendar Numbers 1125 and 1126 are laid aside for the day.

THE SECRETARY: In relation to Calendar Number 1127, Senator Klein moves to discharge, from the Committee on Rules, Assembly Bill Number 11111 and substitute it for the identical Senate Bill Number 2950D, Third Reading Calendar 1127.

ACTING PRESIDENT VALESKY: Substitution ordered.

THE SECRETARY: Calendar Number 1127, by Member of the Assembly Paulin, Assembly Print Number 11111, an act to amend the Penal Law.

ACTING PRESIDENT VALESKY: Read the last section.

SENATOR LIBOUS: Lay it aside.

SENATOR KLEIN: Lay the bill aside for the day, please.

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

THE SECRETARY: Calendar Number 1129, by Senator Savino, Senate Print 5748A, an act to amend the Retirement and Social Security Law.

SENATOR LIBOUS: Lay the bill aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 1130 --

SENATOR KLEIN: Lay the bill aside for the day, please.

ACTING PRESIDENT VALESKY: Senator Klein, Calendar Number 1129?

SENATOR KLEIN: No, 1130, I apologize.

ACTING PRESIDENT VALESKY: The Secretary will read the substitution.

THE SECRETARY: In relation to Calendar Number 1130, Senator L. Krueger moves to discharge, from the Committee on Corporations, Authorities and Commissions, Assembly Bill Number 1567 and substitute it for the identical Senate Bill Number 5793, Third Reading Calendar 1130.

ACTING PRESIDENT VALESKY: Substitution ordered.

THE SECRETARY: Calendar Number 1130, by Member of the Assembly Brodsky,

Assembly Print 1567, an act to amend the Business Corporation Law.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section --

SENATOR KLEIN: Lay the bill aside for the day, please.

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

THE SECRETARY: In relation to Calendar Number 1131, Senator Oppenheimer moves to discharge, from the Committee on Rules, Assembly Bill Number 10761A and substitute it for the identical Senate Bill Number 5913A, Third Reading Calendar 1131.

ACTING PRESIDENT VALESKY: Substitution ordered.

THE SECRETARY: Calendar Number 1131, by Member of the Assembly Castelli, Assembly Print Number 10761A, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section --

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: Calendar Number 1132, by Senator Espada, Senate Print 6150A, an act to amend the Public Authorities Law.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section --

SENATOR LIBOUS: Lay the bill aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 1133, Senator Stachowski moves to discharge, from the Committee on Rules, Assembly Bill Number 10222A and substitute it for the identical Senate Bill Number 6781A, Third Reading Calendar 1133.

ACTING PRESIDENT VALESKY: Substitution ordered.

THE SECRETARY: Calendar Number 1133, by Member of the Assembly Pretlow, Assembly Print Number 10222A, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

ACTING PRESIDENT VALESKY: Read the last section.

SENATOR LIBOUS: Lay the bill aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

Senator Klein.

SENATOR KLEIN: Mr. President, can we please lay the reminder of the calendar aside for the day.

ACTING PRESIDENT VALESKY: The remainder of Senate Supplemental Calendar 69A is laid aside for the day.

Senator Klein.

SENATOR KLEIN: Mr. President, can we also lay aside for the day Senate Supplemental Calendar 69B.

ACTING PRESIDENT VALESKY: Senate Supplemental Calendar 69B is laid aside for the day as well.

Senator Klein.

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

ACTING PRESIDENT VALESKY: There is no further business.

SENATOR KLEIN: There being no further business, Mr. President, I move that we adjourn till Thursday, June 24th, at 12:00 p.m.

ACTING PRESIDENT VALESKY: On motion, the Senate stands adjourned until Thursday, June 24th, at 12:00 p.m.

(Whereupon, at 7:34 p.m., the Senate adjourned.)