

1 NEW YORK STATE SENATE

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3
4 THE STENOGRAPHIC RECORD

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8
9 ALBANY, NEW YORK

10 June 24, 2010

11 1:00 p.m.

12
13
14 REGULAR SESSION

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18 SENATOR DIANE J. SAVINO, Acting President

19 ANGELO J. APONTE, Secretary

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

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

4 I ask everyone present to please
5 rise and recite with me the Pledge of
6 Allegiance.

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

9 ACTING PRESIDENT SAVINO: In the
10 absence of clergy, may we bow our heads for a
11 moment of silence.

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

14 ACTING PRESIDENT SAVINO: The
15 reading of the Journal.

16 The Secretary will read.

17 THE SECRETARY: In Senate,
18 Wednesday, June 23, the Senate met pursuant to
19 adjournment. The Journal of Tuesday, June 22,
20 was read and approved. On motion, Senate
21 adjourned.

22 ACTING PRESIDENT SAVINO: Without
23 objection, the Journal stands approved as
24 read.

25 Presentation of petitions.

1 Messages from the Assembly.
2 Messages from the Governor.
3 Reports of standing committees.
4 Reports of select committees.
5 Communications and reports from
6 state officers.

7 Motions and resolutions.

8 Senator Klein.

9 SENATOR KLEIN: Thank you, Madam
10 President. On behalf of Senator Addabbo, on
11 page number 37 I offer the following
12 amendments to Calendar Number 1104, Senate
13 Print Number 7591A, and ask that said bill
14 retain its place on Third Reading Calendar.

15 ACTING PRESIDENT SAVINO: So
16 ordered.

17 SENATOR KLEIN: Madam President,
18 on behalf of Senator Serrano, I wish to call
19 up Senate Print Number 7985, recalled from the
20 Assembly, which is now at the desk.

21 ACTING PRESIDENT SAVINO: The
22 Secretary will read.

23 THE SECRETARY: Calendar Number
24 935, by Senator Serrano, Senate Print 7985, an
25 act to amend Chapter 899 of the Laws of 1984.

1 ACTING PRESIDENT SAVINO: Senator
2 Klein.

3 SENATOR KLEIN: Madam President,
4 I now move to reconsider the vote by which
5 this bill was passed.

6 ACTING PRESIDENT SAVINO: The
7 Secretary will call the roll on
8 reconsideration.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 55.

11 ACTING PRESIDENT SAVINO: Senator
12 Klein.

13 SENATOR KLEIN: Madam President,
14 I now offer the following amendments.

15 ACTING PRESIDENT SAVINO:
16 Amendments received.

17 SENATOR KLEIN: On behalf of
18 Senator Valesky, I wish to call up Senate
19 Print Number 7544, recalled from the Assembly,
20 which is now at the desk.

21 ACTING PRESIDENT SAVINO: The
22 Secretary will read.

23 THE SECRETARY: Calendar Number
24 1102, by Senator Valesky, Senate Print 7544,
25 an act to amend the Retirement and Social

1 Security Law.

2 ACTING PRESIDENT SAVINO: Senator
3 Klein.

4 SENATOR KLEIN: Madam President,
5 I now move to reconsider the vote by which
6 this bill was passed.

7 ACTING PRESIDENT SAVINO: The
8 Secretary will call the roll on
9 reconsideration.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 55.

12 ACTING PRESIDENT SAVINO: Senator
13 Klein.

14 SENATOR KLEIN: Madam President,
15 I now offer the following amendments.

16 ACTING PRESIDENT SAVINO:
17 Amendments received.

18 Senator Klein.

19 SENATOR KLEIN: Madam President,
20 I believe there are substitutions at the desk.
21 I ask that we make the substitutions at this
22 time.

23 ACTING PRESIDENT SAVINO: The
24 Secretary will read.

25 THE SECRETARY: On page 6,

1 Senator Farley moves to discharge, from the
2 Committee on Rules, Assembly Bill Number 8199B
3 and substitute it for the identical Senate
4 Bill Number 1260B, Third Reading Calendar 91.

5 On page 15, Senator C. Johnson
6 moves to discharge, from the Committee on
7 Rules, Assembly Bill Number 10052A and
8 substitute it for the identical Senate Bill
9 Number 7369A, Third Reading Calendar 413.

10 On page 21, Senator Breslin moves
11 to discharge, from the Committee on Rules,
12 Assembly Bill Number 10908B and substitute it
13 for the identical Senate Bill Number 7118A,
14 Third Reading Calendar 609.

15 On page 38, Senator Valesky moves
16 to discharge, from the Committee on Commerce,
17 Economic Development and Small Business,
18 Assembly Bill Number 9991 and substitute it
19 for the identical Senate Bill Number 6964,
20 Third Reading Calendar 1134.

21 On page 38, Senator Savino moves to
22 discharge, from the Committee on Rules,
23 Assembly Bill Number 10109 and substitute it
24 for the identical Senate Bill Number 7051,
25 Third Reading Calendar 1135.

1 On page 38, Senator Peralta moves
2 to discharge, from the Committee on Codes,
3 Assembly Bill Number 2323 and substitute it
4 for the identical Senate Bill Number 7308,
5 Third Reading Calendar 1141.

6 On page 39, Senator C. Kruger moves
7 to discharge, from the Committee on Health,
8 Assembly Bill Number 10943 and substitute it
9 for the identical Senate Bill Number 7614,
10 Third Reading Calendar 1147.

11 On page 39, Senator Klein moves to
12 discharge, from the Committee on Rules,
13 Assembly Bill Number 10443B and substitute it
14 for the identical Senate Bill Number 7672A,
15 Third Reading Calendar 1148.

16 On page 39, Senator Peralta moves
17 to discharge, from the Committee on Banks,
18 Assembly Bill Number 2600A and substitute it
19 for the identical Senate Bill Number 7946,
20 Third Reading Calendar 1153.

21 On page 40, Senator C. Kruger moves
22 to discharge, from the Committee on Rules,
23 Assembly Bill Number 9857C and substitute it
24 for the identical Senate Bill Number 8056,
25 Third Reading Calendar 1155.

1 On page 40, Senator
2 Hassell-Thompson moves to discharge, from the
3 Committee on Rules, Assembly Bill Number 11100
4 and substitute it for the identical Senate
5 Bill Number 8058, Third Reading Calendar 1156.

6 On page 40, Senator C. Johnson
7 moves to discharge, from the Committee on
8 Rules, Assembly Bill Number 11237 and
9 substitute it for the identical Senate Bill
10 Number 8126, Third Reading Calendar 1158.

11 On page 40, Senator Addabbo moves
12 to discharge, from the Committee on Rules,
13 Assembly Bill Number 11352A and substitute it
14 for the identical Senate Bill Number 8151,
15 Third Reading Calendar 1161.

16 On page 40, Senator Addabbo moves
17 to discharge, from the Committee on Rules,
18 Assembly Bill Number 11353A and substitute it
19 for the identical Senate Bill Number 8152,
20 Third Reading Calendar 1162.

21 On page 40, Senator Addabbo moves
22 to discharge, from the Committee on Rules,
23 Assembly Bill Number 11354A and substitute it
24 for the identical Senate Bill Number 8153,
25 Third Reading Calendar 1163.

1 On page 41, Senator Espada moves to
2 discharge, from the Committee on Rules,
3 Assembly Bill Number 11320 and substitute it
4 for the identical Senate Bill Number 8164,
5 Third Reading Calendar 1164.

6 And on page 41, Senator Parker
7 moves to discharge, from the Committee on
8 Local Government, Assembly Bill Number 5602
9 and substitute it for the identical Senate
10 Bill Number 8202, Third Reading Calendar 1167.

11 ACTING PRESIDENT SAVINO:
12 Substitutions ordered.

13 Senator Klein.

14 SENATOR KLEIN: Madam President,
15 I believe there's a resolution at the desk by
16 Senator Perkins. I ask that the title of the
17 resolution be read and move for its immediate
18 adoption.

19 ACTING PRESIDENT SAVINO: Senator
20 Klein, has this resolution been deemed
21 privileged and submitted by the office of the
22 Temporary President?

23 SENATOR KLEIN: Yes, it has,
24 Madam President.

25 ACTING PRESIDENT SAVINO: The

1 Secretary will read.

2 THE SECRETARY: By Senator
3 Perkins, legislative resolution honoring SAGE
4 upon the occasion of their designation for
5 special recognition during Pride Month.

6 ACTING PRESIDENT SAVINO: Are
7 there any Senators wishing to be heard on the
8 resolution?

9 Seeing none, the question is on the
10 resolution. All those in favor signify by
11 saying aye.

12 (Response of "Aye.")

13 ACTING PRESIDENT SAVINO:
14 Opposed, nay.

15 (No response.)

16 ACTING PRESIDENT SAVINO: The
17 resolution is adopted.

18 Senator Perkins has offered up this
19 resolution for cosponsorship by the entire
20 house. Any Senator not wishing to be on the
21 resolution please notify the desk.

22 Senator Klein.

23 SENATOR KLEIN: Madam President,
24 I believe there's a resolution at the desk by
25 Senator Maziarz. I ask that the title of the

1 of the resolution be read and move for its
2 immediate adoption.

3 ACTING PRESIDENT SAVINO: Senator
4 Klein, has this resolution been deemed
5 privileged and submitted by the office of the
6 Temporary President?

7 SENATOR KLEIN: Yes, it has,
8 Madam President.

9 ACTING PRESIDENT SAVINO: The
10 Secretary will read.

11 THE SECRETARY: By Senator
12 Maziarz, legislative resolution mourning the
13 untimely death of Marine Lance Corporal
14 Timothy G. Serwinowski of North Tonawanda,
15 New York, and paying tribute to his courageous
16 actions as a member of the United States
17 Marine Corps.

18 ACTING PRESIDENT SAVINO: Senator
19 Maziarz.

20 SENATOR MAZIARZ: Thank you very
21 much, Madam President.

22 Madam President, I think that
23 probably some of the saddest days that we have
24 in this chamber are the days when we have to
25 stand up and talk about a resolution honoring

1 yet another New Yorker, a young person who
2 gave their life in the war against terror.

3 It's my very unfortunate
4 circumstance today to get up and talk about a
5 young man from my hometown who graduated from
6 the same high school that I graduated from
7 many years ago, Tim Serwinowski. Tim
8 graduated from North Tonawanda High School
9 just three years ago. He was 21 years old.
10 He joined the Marine Corps because he said he
11 wanted to be with the best.

12 He came home just before his
13 deployment to Afghanistan, and he went back to
14 his high school and he talked to his teachers.

15 And in the North Tonawanda High
16 School, in the library, they've put up the
17 pictures of all of the former students who are
18 serving in the armed forces. And he was very
19 surprised and I think very proud of the fact
20 that his younger sister, who will be
21 graduating this Sunday from NT, his younger
22 sister had brought in his photograph and his
23 photograph was hanging up there on the wall, a
24 wall that he walked by so many times when he
25 was a student at North Tonawanda.

1 Tim felt it was important, it was
2 important for people to step up and to do
3 their part in the war against terror.

4 Tim is survived by his mom and dad,
5 by several siblings. And I rise today, Madam
6 President, to ask my colleagues to honor his
7 service and his sacrifice. Today is Thursday.
8 And Tim was killed by a sniper in Afghanistan
9 just last Sunday. And his funeral is going to
10 be held on Saturday back in North Tonawanda, a
11 community that is so proud of his service, so
12 proud of his sacrifice. A young man whose
13 life was cut short by a sniper at such a very
14 young age, who had so much promise, but who
15 for the next several generations people in our
16 great community will look up to.

17 We certainly offer our condolences
18 to his mom, his dad, all of his brothers and
19 sisters. But at the same time, we thank them
20 for giving us Tim, for giving us a young man
21 who wanted to do his duty for his country and
22 his community.

23 Thank you, Madam President.

24 ACTING PRESIDENT SAVINO: I would
25 ask all the members to please rise and observe

1 a moment of silence for Marine Lance Corporal
2 Timothy G. Serwinowski.

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

5 ACTING PRESIDENT SAVINO: Are
6 there any other Senators wishing to be heard
7 on the resolution?

8 Seeing none, all those in favor of
9 adopting the resolution please signify by
10 saying aye.

11 (Response of "Aye.")

12 ACTING PRESIDENT SAVINO:
13 Opposed, nay.

14 (No response.)

15 ACTING PRESIDENT SAVINO: The
16 resolution is adopted.

17 Senator Maziarz has indicated that
18 he would like to open the resolution up to the
19 entire house for cosponsorship. Any Senator
20 not wishing to be on the resolution please
21 notify the desk.

22 Senator Klein.

23 SENATOR KLEIN: Madam President,
24 there will be an immediate meeting of the
25 Rules Committee in the Majority Conference

1 Room.

2 Pending the return of the Rules
3 Committee, may we please stand at ease. I
4 just want to remind my colleagues that there's
5 a small agenda, so we should be back here
6 pretty quickly.

7 ACTING PRESIDENT SAVINO: There
8 will be an immediate meeting of the Rules
9 Committee in the Majority Conference Room.

10 Pending the return of the Rules
11 Committee, the Senate stands at ease.

12 (Whereupon, the Senate stood at
13 ease at 1:14 p.m.)

14 (Whereupon, the Senate reconvened
15 at 1:46 p.m.)

16 ACTING PRESIDENT SAVINO: Senator
17 Klein.

18 SENATOR KLEIN: Madam President,
19 at this time can we please go to a reading of
20 the calendar.

21 ACTING PRESIDENT SAVINO: The
22 Secretary will read.

23 THE SECRETARY: Calendar Number
24 1098, by Senator Dilan, Senate Print 1103, an
25 act to amend the Social Services Law.

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

3 ACTING PRESIDENT SAVINO: The
4 bill is laid aside for the day.

5 THE SECRETARY: Calendar Number
6 1105, by Senator Thompson, Senate Print 1237,
7 an act to amend the General Business Law.

8 ACTING PRESIDENT SAVINO: Read
9 the last section.

10 THE SECRETARY: Section 8. This
11 act shall take effect on the 90th day.

12 ACTING PRESIDENT SAVINO: Call
13 the roll.

14 (The Secretary called the roll.)

15 ACTING PRESIDENT SAVINO:
16 Announce the results.

17 THE SECRETARY: Ayes, 57. Nays,
18 2. Senators --

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

21 ACTING PRESIDENT SAVINO: The
22 bill is laid aside for the day.

23 THE SECRETARY: Calendar Number
24 1125, by Senator Klein, Senate Print 1861D, an
25 act to amend the Administrative Code of the

1 City of New York.

2 ACTING PRESIDENT SAVINO: There
3 is a home-rule message at the desk.

4 Read the last section.

5 THE SECRETARY: Section 3. This
6 act shall take effect on the 60th day.

7 ACTING PRESIDENT SAVINO: Call
8 the roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT SAVINO:
11 Announce the results.

12 THE SECRETARY: In relation to
13 Calendar Number 1125: Ayes, 57. Nays, 2.
14 Senators DeFrancisco and Skelos recorded in
15 the negative.

16 ACTING PRESIDENT SAVINO: The
17 bill is passed.

18 THE SECRETARY: Calendar Number
19 1126, by Member of the Assembly Kavanagh --

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

22 ACTING PRESIDENT SAVINO: The
23 bill is laid aside for the day.

24 THE SECRETARY: Calendar Number
25 1127, by Member of the Assembly Paulin,

1 Assembly Print Number 11111, an act to amend
2 the Penal Law.

3 ACTING PRESIDENT SAVINO: Read
4 the last section.

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

7 ACTING PRESIDENT SAVINO: Call
8 the roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT SAVINO:
11 Announce the results.

12 THE SECRETARY: Ayes, 59.

13 ACTING PRESIDENT SAVINO: The
14 bill is passed.

15 THE SECRETARY: Calendar Number
16 1129, by Senator Savino Senate Print 5748A, an
17 act to amend the Retirement and Social
18 Security Law.

19 ACTING PRESIDENT SAVINO: Read
20 the last section.

21 THE SECRETARY: Section 4. This
22 act shall take effect immediately.

23 ACTING PRESIDENT SAVINO: Call
24 the roll.

25 (The Secretary called the roll.)

1 SENATOR SALAND: Madam President,
2 can you tell me, please, which bill we're on.

3 ACTING PRESIDENT SAVINO: 1129,
4 Senator Saland.

5 SENATOR SALAND: Thank you.

6 ACTING PRESIDENT SAVINO:
7 Announce the results.

8 THE SECRETARY: Those recorded in
9 the negative on Calendar Number 1129 are
10 Senators Bonacic, DeFrancisco, Fuschillo,
11 Griffo, Hannon, O. Johnson, Larkin, LaValle,
12 Leibell, Maziarz, Nozzolio, Ranzenhofer,
13 Saland, Skelos, Volker and Young. Also
14 Senators Libous and Winner.

15 Ayes, 41. Nays, 18.

16 ACTING PRESIDENT SAVINO: The
17 bill is passed.

18 THE SECRETARY: Calendar Number
19 1130 --

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

22 ACTING PRESIDENT SAVINO: The
23 bill is laid aside for the day.

24 THE SECRETARY: Calendar Number
25 1131, by Member of the Assembly Castelli,

1 Assembly Print Number 10761A, an act to amend
2 the Criminal Procedure Law.

3 ACTING PRESIDENT SAVINO: Read
4 the last section.

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

7 ACTING PRESIDENT SAVINO: Call
8 the roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT SAVINO:
11 Announce the results.

12 THE SECRETARY: Ayes, 59.

13 ACTING PRESIDENT SAVINO: The
14 bill is passed.

15 THE SECRETARY: Calendar Number
16 1132, by Senator Espada --

17 ACTING PRESIDENT SAVINO: We're
18 going to open the roll call on 1131 by reading
19 the last section. All those who wish to vote
20 in the negative please raise your hands so the
21 Secretary can see you.

22 The Secretary will read.

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

25 ACTING PRESIDENT SAVINO: Call

1 the roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 57. Nays,
4 2. Senators Duane and L. Krueger recorded in
5 the negative.

6 ACTING PRESIDENT SAVINO: The
7 bill is passed.

8 THE SECRETARY: Calendar Number
9 1132, by Senator Espada, Senate Print 6150A,
10 an act to amend the Public Authorities Law.

11 ACTING PRESIDENT SAVINO: Read
12 the last section.

13 THE SECRETARY: Section 4. This
14 act shall take effect immediately.

15 ACTING PRESIDENT SAVINO: Call
16 the roll.

17 (The Secretary called the roll.)

18 ACTING PRESIDENT SAVINO:
19 Announce the results.

20 THE SECRETARY: Ayes, 59.

21 ACTING PRESIDENT SAVINO: The
22 bill is passed.

23 THE SECRETARY: Calendar Number
24 1133, by Member of the Assembly Pretlow,
25 Assembly Print Number 10222A, an act to amend

1 the Racing, Pari-Mutuel Wagering and Breeding
2 Law.

3 ACTING PRESIDENT SAVINO: Read
4 the last section.

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

7 ACTING PRESIDENT SAVINO: Call
8 the roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT SAVINO:
11 Announce the results.

12 THE SECRETARY: Ayes, 59.

13 ACTING PRESIDENT SAVINO: The
14 bill is passed.

15 THE SECRETARY: In relation to
16 Calendar Number 1134, Senator Valesky moves to
17 discharge, from the Committee on Commerce,
18 Economic Development and Small Business,
19 Assembly Bill Number 9991 and substitute it
20 for the identical Senate Bill Number 6964,
21 Third Reading Calendar 1134.

22 ACTING PRESIDENT SAVINO:
23 Substitution ordered.

24 THE SECRETARY: Calendar Number
25 1134, by Member of the Assembly Magnarelli,

1 Assembly Print Number 9991, an act to amend
2 the Public Authorities Law.

3 ACTING PRESIDENT SAVINO: Read
4 the last section.

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

7 ACTING PRESIDENT SAVINO: Call
8 the roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT SAVINO:
11 Announce the results.

12 THE SECRETARY: Ayes, 59.

13 ACTING PRESIDENT SAVINO: The
14 bill is passed.

15 THE SECRETARY: Calendar Number
16 1135, substituted earlier today by Member of
17 the Assembly Abbate, Assembly Print Number
18 10109, an act to amend the Retirement and
19 Social Security Law.

20 ACTING PRESIDENT SAVINO: Read
21 the last section.

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

24 ACTING PRESIDENT SAVINO: Call
25 the roll.

1 (The Secretary called the roll.)

2 ACTING PRESIDENT SAVINO:

3 Announce the results.

4 THE SECRETARY: Ayes, 59.

5 ACTING PRESIDENT SAVINO: The
6 bill is passed.

7 THE SECRETARY: Calendar Number
8 1136, by Senator C. Johnson, Senate Print
9 7089, an act to amend the Education Law.

10 ACTING PRESIDENT SAVINO: Read
11 the last section.

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

14 ACTING PRESIDENT SAVINO: Call
15 the roll.

16 (The Secretary called the roll.)

17 ACTING PRESIDENT SAVINO:

18 Announce the results.

19 THE SECRETARY: Ayes, 59.

20 ACTING PRESIDENT SAVINO: The
21 bill is passed.

22 THE SECRETARY: Calendar Number
23 1137, by Senator --

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

1 ACTING PRESIDENT SAVINO: The
2 bill is laid aside for the day.

3 THE SECRETARY: Calendar Number
4 1139, by Senator Valesky, Senate Print --

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

7 ACTING PRESIDENT SAVINO: The
8 bill is laid aside for the day.

9 THE SECRETARY: Calendar Number
10 1142, by Senator C. Johnson, Senate Print
11 7449, an act to legalize, validate, ratify and
12 confirm.

13 ACTING PRESIDENT SAVINO: Read
14 the last section.

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

17 ACTING PRESIDENT SAVINO: Call
18 the roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT SAVINO:
21 Announce the results.

22 THE SECRETARY: Ayes, 59.

23 ACTING PRESIDENT SAVINO: The
24 bill is passed.

25 THE SECRETARY: Calendar Number

1 1143, by Senator Oppenheimer, Senate Print
2 7463, an act to amend Chapter 425 of the Laws
3 of 2002 amending the Education Law.

4 ACTING PRESIDENT SAVINO: Read
5 the last section.

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

8 ACTING PRESIDENT SAVINO: Call
9 the roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT SAVINO:
12 Announce the results.

13 THE SECRETARY: Ayes, 59.

14 ACTING PRESIDENT SAVINO: The
15 bill is passed.

16 THE SECRETARY: Calendar Number
17 1144, by Senator Huntley, Senate Print 7483A,
18 an act to amend the Public Health Law.

19 ACTING PRESIDENT SAVINO: Read
20 the last section.

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

23 ACTING PRESIDENT SAVINO: Call
24 the roll.

25 (The Secretary called the roll.)

1 ACTING PRESIDENT SAVINO:

2 Announce the results.

3 THE SECRETARY: Ayes, 59.

4 ACTING PRESIDENT SAVINO: The
5 bill is passed.

6 THE SECRETARY: Calendar Number
7 1145, by Senator Addabbo, Senate Print 7500,
8 an act to amend the Civil Service Law.

9 ACTING PRESIDENT SAVINO: Read
10 the last section.

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

13 ACTING PRESIDENT SAVINO: Call
14 the roll.

15 (The Secretary called the roll.)

16 ACTING PRESIDENT SAVINO:
17 Announce the results.

18 THE SECRETARY: Ayes, 59.

19 ACTING PRESIDENT SAVINO: The
20 bill is passed.

21 THE SECRETARY: Calendar Number
22 1147, substituted earlier today by Member of
23 the Assembly Gottfried, Assembly Print Number
24 10943, an act to amend the Public Health Law.

25 ACTING PRESIDENT SAVINO: Read

1 the last section.

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

4 ACTING PRESIDENT SAVINO: Call
5 the roll.

6 (The Secretary called the roll.)

7 ACTING PRESIDENT SAVINO:
8 Announce the results.

9 THE SECRETARY: Ayes, 59.

10 ACTING PRESIDENT SAVINO: The
11 bill is passed.

12 THE SECRETARY: Calendar Number
13 1148, substituted earlier today by Member of
14 the Assembly Bing, Assembly Print Number
15 10443B, an act to amend the Real Property Law.

16 ACTING PRESIDENT SAVINO: Read
17 the last section.

18 THE SECRETARY: Section 4. This
19 act shall take effect January 1, 2011.

20 ACTING PRESIDENT SAVINO: Call
21 the roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT SAVINO:
24 Announce the results.

25 THE SECRETARY: Ayes, 59.

1 ACTING PRESIDENT SAVINO: The
2 bill is passed.

3 THE SECRETARY: Calendar Number
4 1149, by Senator Stachowski, Senate Print
5 7676, an act to amend the Public Authorities
6 Law.

7 ACTING PRESIDENT SAVINO: Read
8 the last section.

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

11 ACTING PRESIDENT SAVINO: Call
12 the roll.

13 (The Secretary called the roll.)

14 ACTING PRESIDENT SAVINO:
15 Announce the results.

16 THE SECRETARY: Ayes, 59.

17 ACTING PRESIDENT SAVINO: The
18 bill is passed.

19 THE SECRETARY: Calendar Number
20 1150, by Senator Thompson, Senate Print 7712,
21 an act to amend the Public Service Law and the
22 Public Authorities Law.

23 ACTING PRESIDENT SAVINO: Read
24 the last section.

25 THE SECRETARY: Section 4. This

1 act shall take effect immediately.

2 ACTING PRESIDENT SAVINO: Call
3 the roll.

4 (The Secretary called the roll.)

5 ACTING PRESIDENT SAVINO:
6 Announce the results.

7 THE SECRETARY: Those recorded in
8 the negative on Calendar Number 1150 are
9 Senators DeFrancisco, Farley, O. Johnson,
10 Larkin, LaValle, Ranzenhofer and Young.

11 Ayes, 52. Nays, 7.

12 ACTING PRESIDENT SAVINO: The
13 bill is passed.

14 THE SECRETARY: Calendar Number
15 1151, by Senator Oppenheimer, Senate Print
16 7753, an act to amend the Environmental
17 Conservation Law.

18 ACTING PRESIDENT SAVINO: Read
19 the last section.

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

22 ACTING PRESIDENT SAVINO: Call
23 the roll.

24 (The Secretary called the roll.)

25 ACTING PRESIDENT SAVINO:

1 Announce the results.

2 THE SECRETARY: Ayes, 59.

3 ACTING PRESIDENT SAVINO: The
4 bill is passed.

5 THE SECRETARY: Calendar Number
6 1152, by Senator Stachowski, Senate Print
7 7915, an act to legalize, validate, ratify and
8 confirm.

9 ACTING PRESIDENT SAVINO: Read
10 the last section.

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

13 ACTING PRESIDENT SAVINO: Call
14 the roll.

15 (The Secretary called the roll.)

16 ACTING PRESIDENT SAVINO:
17 Announce the results.

18 THE SECRETARY: Ayes, 59.

19 ACTING PRESIDENT SAVINO: The
20 bill is passed.

21 THE SECRETARY: Calendar Number
22 1153, substituted earlier today by Member of
23 the Assembly Markey, Assembly Print Number
24 2600A --

25 SENATOR KLEIN: Lay the bill

1 aside for the day, please.

2 ACTING PRESIDENT SAVINO: The
3 bill is laid aside for the day.

4 THE SECRETARY: Calendar Number
5 1154, by Senator Stewart-Cousins, Senate Print
6 7968, an act to amend the Economic Development
7 Law.

8 ACTING PRESIDENT SAVINO: Read
9 the last section.

10 THE SECRETARY: Section 2. This
11 act shall take effect on the 180th day.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT SAVINO: Call
14 the roll.

15 (The Secretary called the roll.)

16 ACTING PRESIDENT SAVINO:
17 Announce the results.

18 THE SECRETARY: Ayes, 59.

19 ACTING PRESIDENT SAVINO: The
20 bill is passed.

21 THE SECRETARY: Calendar Number
22 1155, substituted earlier today by Member of
23 the Assembly Carrozza, Assembly Print Number
24 9857C, an act to amend the Estates, Powers and
25 Trusts Law.

1 ACTING PRESIDENT SAVINO: Read
2 the last section.

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

5 ACTING PRESIDENT SAVINO: Call
6 the roll.

7 (The Secretary called the roll.)

8 ACTING PRESIDENT SAVINO:
9 Announce the results.

10 THE SECRETARY: Ayes, 59.

11 ACTING PRESIDENT SAVINO: The
12 bill is passed.

13 THE SECRETARY: Calendar Number
14 1156, substituted earlier today by Member of
15 the Assembly Weinstein, Assembly Print Number
16 11100, an act to amend the Family Court Act
17 and the Domestic Relations Law.

18 ACTING PRESIDENT SAVINO: Read
19 the last section.

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

22 ACTING PRESIDENT SAVINO: Call
23 the roll.

24 (The Secretary called the roll.)

25 ACTING PRESIDENT SAVINO:

1 Announce the results.

2 THE SECRETARY: Ayes, 59.

3 ACTING PRESIDENT SAVINO: The
4 bill is passed.

5 THE SECRETARY: Calendar Number
6 1157, by Senator Stachowski --

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

9 ACTING PRESIDENT SAVINO: The
10 bill is laid aside for the day.

11 THE SECRETARY: Calendar Number
12 1158, substituted earlier today by Member of
13 the Assembly Weisenberg, Assembly Print Number
14 11237, an act to amend the Real Property Tax
15 Law.

16 ACTING PRESIDENT SAVINO: Read
17 the last section.

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

20 ACTING PRESIDENT SAVINO: Call
21 the roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT SAVINO:
24 Announce the results.

25 THE SECRETARY: Ayes, 59.

1 ACTING PRESIDENT SAVINO: The
2 bill is passed.

3 THE SECRETARY: Calendar Number
4 1159, by Senator Peralta, Senate Print 8130,
5 an act to amend the Administrative Code of the
6 City of New York.

7 ACTING PRESIDENT SAVINO: Read
8 the last section.

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

11 ACTING PRESIDENT SAVINO: Call
12 the roll.

13 (The Secretary called the roll.)

14 ACTING PRESIDENT SAVINO:
15 Announce the results.

16 THE SECRETARY: Ayes, 59.

17 ACTING PRESIDENT SAVINO: The
18 bill is passed.

19 THE SECRETARY: Calendar Number
20 1160, by Senator Aubertine, Senate Print
21 8140A, an act in relation to authorizing.

22 ACTING PRESIDENT SAVINO: There
23 is a home-rule message at the desk.

24 Read the last section.

25 THE SECRETARY: Section 5. This

1 act shall take effect immediately.

2 ACTING PRESIDENT SAVINO: Call
3 the roll.

4 (The Secretary called the roll.)

5 ACTING PRESIDENT SAVINO:
6 Announce the results.

7 THE SECRETARY: Ayes, 59.

8 ACTING PRESIDENT SAVINO: The
9 bill is passed.

10 THE SECRETARY: Calendar Number
11 1161, substituted earlier today by the
12 Assembly Committee on Rules, Assembly Print
13 Number 11352A, an act to amend the Election
14 Law.

15 ACTING PRESIDENT SAVINO: Read
16 the last section.

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

19 ACTING PRESIDENT SAVINO: Call
20 the roll.

21 (The Secretary called the roll.)

22 ACTING PRESIDENT SAVINO:
23 Announce the results.

24 THE SECRETARY: Ayes, 59.

25 ACTING PRESIDENT SAVINO: The

1 bill is passed.

2 THE SECRETARY: Calendar Number
3 1162, substituted earlier today by the
4 Assembly Committee on Rules, Assembly Print
5 Number 11353A, an act to amend the Election
6 Law.

7 ACTING PRESIDENT SAVINO: Read
8 the last section.

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

11 ACTING PRESIDENT SAVINO: Call
12 the roll.

13 (The Secretary called the roll.)

14 ACTING PRESIDENT SAVINO:
15 Announce the results.

16 THE SECRETARY: Ayes, 59.

17 ACTING PRESIDENT SAVINO: The
18 bill is passed.

19 THE SECRETARY: Calendar Number
20 1163, substituted earlier today by the
21 Assembly Committee on Rules, Assembly Print
22 Number 11354A, an act to amend the Election
23 Law.

24 ACTING PRESIDENT SAVINO: Read
25 the last section.

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

3 ACTING PRESIDENT SAVINO: Call
4 the roll.

5 (The Secretary called the roll.)

6 ACTING PRESIDENT SAVINO:
7 Announce the results.

8 THE SECRETARY: Ayes, 59.

9 ACTING PRESIDENT SAVINO: The
10 bill is passed.

11 THE SECRETARY: Calendar Number
12 1164, substituted earlier today by the
13 Assembly Committee on Rules, Assembly Print
14 Number 11320, an act to amend the Private
15 Housing Finance Law.

16 ACTING PRESIDENT SAVINO: Read
17 the last section.

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

20 ACTING PRESIDENT SAVINO: Call
21 the roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT SAVINO:
24 Announce the results.

25 THE SECRETARY: Ayes, 59.

1 ACTING PRESIDENT SAVINO: The
2 bill is passed.

3 THE SECRETARY: Calendar Number
4 1165, by Senator Klein, Senate Print 8175, an
5 act to amend the Penal Law.

6 ACTING PRESIDENT SAVINO: Read
7 the last section.

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

10 ACTING PRESIDENT SAVINO: Call
11 the roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT SAVINO:
14 Announce the results.

15 THE SECRETARY: Ayes, 57. Nays,
16 2. Senators Duane and Montgomery recorded in
17 the negative.

18 ACTING PRESIDENT SAVINO: The
19 bill is passed.

20 THE SECRETARY: Calendar Number
21 1166, by Senator C. Johnson --

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

24 ACTING PRESIDENT SAVINO: The
25 bill is laid aside for the day.

1 THE SECRETARY: Calendar Number
2 1167, substituted earlier today by Member of
3 the Assembly Boyland, Assembly Print Number
4 5602, an act authorizing and directing the
5 Department of Health.

6 ACTING PRESIDENT SAVINO: Read
7 the last section.

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

10 ACTING PRESIDENT SAVINO: Call
11 the roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT SAVINO:
14 Announce the results.

15 THE SECRETARY: Those recorded in
16 the negative on Calendar Number 1167 are
17 Senators DeFrancisco, Farley, Flanagan, Foley,
18 O. Johnson, Lanza and Larkin.

19 Ayes, 52. Nays, 7.

20 ACTING PRESIDENT SAVINO: The
21 bill is passed.

22 THE SECRETARY: Calendar Number
23 1169, by Senator Onorato, Senate Print 8225,
24 an act to amend the Retirement and Social
25 Security Law.

1 ACTING PRESIDENT SAVINO: Read
2 the last section.

3 THE SECRETARY: Section --

4 SENATOR SKELOS: Lay it aside,
5 please.

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

8 THE SECRETARY: Calendar Number
9 1170, by Senator Foley, Senate Print 8239, an
10 act to amend the Public Authorities Law.

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

13 ACTING PRESIDENT SAVINO: The
14 bill is laid aside for the day.

15 THE SECRETARY: Calendar Number
16 1171, by Senator Klein, Senate Print 8261, an
17 act to amend the Education Law.

18 ACTING PRESIDENT SAVINO: Read
19 the last section.

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

22 ACTING PRESIDENT SAVINO: Call
23 the roll.

24 (The Secretary called the roll.)

25 ACTING PRESIDENT SAVINO:

1 Announce the results.

2 THE SECRETARY: Ayes, 59.

3 ACTING PRESIDENT SAVINO: The
4 bill is passed.

5 THE SECRETARY: Calendar Number
6 1172, by Senator Smith, Senate Print 8266, an
7 act to amend the Vehicle and Traffic Law and
8 the State Finance Law.

9 ACTING PRESIDENT SAVINO: Read
10 the last section.

11 THE SECRETARY: Section 3. This
12 act shall take effect on the 180th day.

13 ACTING PRESIDENT SAVINO: Call
14 the roll.

15 (The Secretary called the roll.)

16 ACTING PRESIDENT SAVINO:
17 Announce the results.

18 THE SECRETARY: Ayes, 59.

19 ACTING PRESIDENT SAVINO: The
20 bill is passed.

21 THE SECRETARY: Calendar Number
22 1173, by Senator Klein, Senate Print 8267, an
23 act to amend the General Business Law.

24 ACTING PRESIDENT SAVINO: Read
25 the last section.

1 THE SECRETARY: Section 4. This
2 act shall take effect immediately.

3 ACTING PRESIDENT SAVINO: Call
4 the roll.

5 (The Secretary called the roll.)

6 ACTING PRESIDENT SAVINO:
7 Announce the results.

8 THE SECRETARY: Ayes, 58. Nays,
9 1. Senator O. Johnson recorded in the
10 negative.

11 ACTING PRESIDENT SAVINO: The
12 bill is passed.

13 THE SECRETARY: Calendar Number
14 1174, by Senator Thompson --

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

17 ACTING PRESIDENT SAVINO: The
18 bill is laid aside for the day.

19 THE SECRETARY: Calendar Number
20 1175, by Senator Foley, Senate Print 8281, an
21 act to amend the Energy Law and the Executive
22 Law.

23 ACTING PRESIDENT SAVINO: Read
24 the last section.

25 THE SECRETARY: Section 11. This

1 act shall take effect January 1, 2011.

2 ACTING PRESIDENT SAVINO: Call
3 the roll.

4 (The Secretary called the roll.)

5 ACTING PRESIDENT SAVINO:
6 Announce the results.

7 THE SECRETARY: Ayes, 57. Nays,
8 2. Senators DeFrancisco and O. Johnson
9 recorded in the negative.

10 ACTING PRESIDENT SAVINO: The
11 bill is passed.

12 THE SECRETARY: Calendar Number
13 1176, by Senator Fuschillo, Senate Print 44,
14 an act to amend the Education Law.

15 ACTING PRESIDENT SAVINO: Read
16 the last section.

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

19 ACTING PRESIDENT SAVINO: Call
20 the roll.

21 (The Secretary called the roll.)

22 ACTING PRESIDENT SAVINO:
23 Announce the results.

24 THE SECRETARY: Ayes, 59.

25 ACTING PRESIDENT SAVINO: The

1 bill is passed.

2 THE SECRETARY: Calendar Number
3 1177, by Senator McDonald, Senate Print 8052,
4 an act to amend the Highway Law.

5 ACTING PRESIDENT SAVINO: Read
6 the last section.

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

9 ACTING PRESIDENT SAVINO: Call
10 the roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT SAVINO:
13 Announce the results.

14 THE SECRETARY: Ayes, 59.

15 ACTING PRESIDENT SAVINO: The
16 bill is passed.

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

19 SENATOR KLEIN: Madam President,
20 at this time can we please go to a reading of
21 the supplemental calendar.

22 ACTING PRESIDENT SAVINO: Senator
23 Klein, before we proceed with the supplemental
24 calendar we must adopt the report of the Rules
25 Committee.

1 The Secretary will read.

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

5 Senate Print 5909, by Senator
6 Nozzolio, an act in relation to participation;

7 6813, by Senator Libous, an act to
8 authorize;

9 6926A, by Senator Winner, an act to
10 authorize;

11 7045, by Senator Morahan, an act to
12 authorize;

13 7046, by Senator Morahan, an act to
14 authorize;

15 7074, by Senator Marcellino, an act
16 to amend Chapter 226 of the Laws of 2003;

17 7182A, by Senator Larkin, an act to
18 authorize;

19 7600B, by Senator McDonald, an act
20 to provide;

21 7736, by Senator Volker, an act to
22 amend Chapter 185 of the Laws of 2005;

23 7947A, by Senator Seward, an act to
24 amend the Highway Law;

25 8031, by Senator Leibell, an act to

1 authorize;

2 8087, by Senator Robach, an act to
3 amend Chapter 633 of the Laws of 2006;

4 8179, by Senator Bonacic, an act to
5 amend the Not-for-Profit Corporation Law;

6 And Senate Print 8180, by Senator
7 Little, an act in relation to making certain
8 findings.

9 All bills ordered direct to third
10 reading.

11 ACTING PRESIDENT SAVINO: All
12 those in favor of adopting the Rules Committee
13 report please signify by saying aye.

14 (Response of "Aye.")

15 ACTING PRESIDENT SAVINO:
16 Opposed, nay.

17 (No response.)

18 ACTING PRESIDENT SAVINO: The
19 Rules Committee report is adopted.

20 Senator Klein.

21 SENATOR KLEIN: Madam President,
22 can we now go to a reading of the supplemental
23 calendar.

24 ACTING PRESIDENT SAVINO: The
25 Secretary will read.

1 THE SECRETARY: In relation to
2 Calendar Number 1128, Senator Nozzolio moves
3 to discharge, from the Committee on Rules,
4 Assembly Bill Number 8851 and substitute it
5 for the identical Senate Bill Number 5909,
6 Third Reading Calendar 1128.

7 ACTING PRESIDENT SAVINO:
8 Substitution ordered.

9 THE SECRETARY: Calendar Number
10 1128, by Member of the Assembly Finch,
11 Assembly Print Number 8851, an act in relation
12 to participation.

13 ACTING PRESIDENT SAVINO: Read
14 the last section.

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

17 ACTING PRESIDENT SAVINO: Call
18 the roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT SAVINO:
21 Announce the results.

22 THE SECRETARY: Ayes, 59.

23 ACTING PRESIDENT SAVINO: The
24 bill is passed.

25 THE SECRETARY: In relation to

1 Calendar Number 1138, Senator Libous moves to
2 discharge, from the Committee on Rules,
3 Assembly Bill Number 9913 and substitute it
4 for the identical Senate Bill Number 6813,
5 Third Reading Calendar 1138.

6 ACTING PRESIDENT SAVINO:
7 Substitution ordered.

8 THE SECRETARY: Calendar Number
9 1138, by Member of the Assembly Crouch,
10 Assembly Print Number 9913, an act to
11 authorize the Village of Port Dickinson.

12 ACTING PRESIDENT SAVINO: There
13 is a home-rule message at the desk.

14 Read the last section.

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

17 ACTING PRESIDENT SAVINO: Call
18 the roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT SAVINO:
21 Announce the results.

22 THE SECRETARY: Ayes, 59.

23 ACTING PRESIDENT SAVINO: The
24 bill is passed.

25 THE SECRETARY: Calendar Number

1 1140, by Senator Winner, Senate Print 6926A,
2 an act to authorize the County of Chemung.

3 ACTING PRESIDENT SAVINO: There
4 is a home-rule message at the desk.

5 Read the last section.

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

8 ACTING PRESIDENT SAVINO: Call
9 the roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT SAVINO:
12 Announce the results.

13 THE SECRETARY: Ayes, 59.

14 ACTING PRESIDENT SAVINO: The
15 bill is passed.

16 THE SECRETARY: In relation to
17 Calendar Number 1146, Senator Morahan moves to
18 discharge, from the Committee on Rules,
19 Assembly Bill Number 9746 and substitute it
20 for the identical Senate Bill Number 7045,
21 Third Reading Calendar 1146.

22 ACTING PRESIDENT SAVINO:
23 Substitution ordered.

24 THE SECRETARY: Calendar Number
25 1146, by Member of the Assembly Jaffee,

1 Assembly Print Number 9746, an act to
2 authorize the Community Outreach Center.

3 ACTING PRESIDENT SAVINO: Read
4 the last section.

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

7 ACTING PRESIDENT SAVINO: Call
8 the roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT SAVINO:
11 Announce the results.

12 THE SECRETARY: Ayes, 57. Nays,
13 2. Senators Bonacic and Larkin recorded in
14 the negative.

15 ACTING PRESIDENT SAVINO: The
16 bill is passed.

17 THE SECRETARY: In relation to
18 Calendar Number 1168, Senator Morahan moves to
19 discharge, from the Committee on Rules,
20 Assembly Bill Number 9748 and substitute it
21 for the identical Senate Bill Number 7046,
22 Third Reading Calendar 1168.

23 ACTING PRESIDENT SAVINO:
24 Substitution ordered.

25 THE SECRETARY: Calendar Number

1 1168, by Member of the Assembly Jaffee,
2 Assembly Print Number 9748, an act to
3 authorize.

4 ACTING PRESIDENT SAVINO: Read
5 the last section.

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

8 ACTING PRESIDENT SAVINO: Call
9 the roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT SAVINO:
12 Announce the results.

13 THE SECRETARY: Ayes, 57. Nays,
14 2. Senators Bonacic and Larkin recorded in
15 the negative.

16 ACTING PRESIDENT SAVINO: The
17 bill is passed.

18 THE SECRETARY: In relation to
19 Calendar Number 1178, Senator Marcellino moves
20 to discharge, from the Committee on Local
21 Government, Assembly Bill Number 10213 and
22 substitute it for the identical Senate Bill
23 Number 7074, Third Reading Calendar 1178.

24 ACTING PRESIDENT SAVINO:
25 Substitution ordered.

1 THE SECRETARY: Calendar Number
2 1178, by Member of the Assembly Montesano,
3 Assembly Print Number 10213, an act to amend
4 Chapter 226 of the Laws of 2003.

5 ACTING PRESIDENT SAVINO: Read
6 the last section.

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

9 ACTING PRESIDENT SAVINO: Call
10 the roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT SAVINO:
13 Announce the results.

14 THE SECRETARY: Ayes, 59.

15 ACTING PRESIDENT SAVINO: The
16 bill is passed.

17 THE SECRETARY: Calendar Number
18 1179, by Senator Larkin, Senate Print 7182A,
19 an act to authorize the Village of
20 Cornwall-on-Hudson.

21 ACTING PRESIDENT SAVINO: There
22 is a home-rule message at the desk.

23 Read the last section.

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

1 ACTING PRESIDENT SAVINO: Call
2 the roll.

3 (The Secretary called the roll.)

4 ACTING PRESIDENT SAVINO:
5 Announce the results.

6 THE SECRETARY: Ayes, 59.

7 ACTING PRESIDENT SAVINO: The
8 bill is passed.

9 THE SECRETARY: In relation to
10 Calendar Number 1181, Senator McDonald moves
11 to discharge, from the Committee on Education,
12 Assembly Bill Number 10355B and substitute it
13 for the identical Senate Bill Number 7600B,
14 Third Reading Calendar 1181.

15 ACTING PRESIDENT SAVINO:
16 Substitution ordered.

17 THE SECRETARY: Calendar Number
18 1181, by Member of the Assembly Gordon,
19 Assembly Print Number 10355B, an act to
20 provide for the creation.

21 ACTING PRESIDENT SAVINO: Read
22 the last section.

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

25 ACTING PRESIDENT SAVINO: Call

1 the roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT SAVINO:

4 Announce the results.

5 THE SECRETARY: Ayes, 59.

6 ACTING PRESIDENT SAVINO: The
7 bill is passed.

8 THE SECRETARY: In relation to
9 Calendar Number 1183, Senator Volker moves to
10 discharge, from the Committee on Rules,
11 Assembly Bill Number 10979 and substitute it
12 for the identical Senate Bill Number 7736,
13 Third Reading Calendar 1183.

14 ACTING PRESIDENT SAVINO:
15 Substitution ordered.

16 THE SECRETARY: Calendar Number
17 1183, by Member of the Assembly Burling,
18 Assembly Print Number 10979, an act to amend
19 Chapter 185 of the Laws of 2005.

20 ACTING PRESIDENT SAVINO: There
21 is a home-rule message at the desk.

22 Read the last section.

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

25 ACTING PRESIDENT SAVINO: Call

1 the roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT SAVINO:

4 Announce the results.

5 THE SECRETARY: Ayes, 59.

6 ACTING PRESIDENT SAVINO: The
7 bill is passed.

8 THE SECRETARY: Calendar Number
9 1184, by Senator Seward, Senate Print 7947A,
10 an act to amend the Highway Law.

11 ACTING PRESIDENT SAVINO: Read
12 the last section.

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

15 ACTING PRESIDENT SAVINO: Call
16 the roll.

17 (The Secretary called the roll.)

18 ACTING PRESIDENT SAVINO: Senator
19 Seward, to explain his vote.

20 SENATOR SEWARD: Thank you, Madam
21 President.

22 This legislation would name a
23 portion of State Route 32 in Greene County as
24 Trooper David J. Lane Memorial Highway.

25 Trooper Lane died in the line of

1 duty in an automobile accident while on patrol
2 on November 4, 2009. He was a four-year
3 veteran of the New York State Police and had
4 actually served two tours of duty, one in Iraq
5 and one in Afghanistan, as part of the 32nd
6 Airborne Division of the U.S. Army.

7 And so by designating this highway
8 after Trooper Lane, it will forever remind
9 motorists of his service to not only his
10 country but to the State of New York, and of
11 his selflessness and his way of serving
12 others, which is certainly well worth
13 remembering.

14 Thank you. I vote aye.

15 ACTING PRESIDENT SAVINO: Senator
16 Seward will be recorded in the affirmative on
17 Calendar 1184.

18 Announce the results.

19 THE SECRETARY: Ayes, 59. Nays,
20 0.

21 ACTING PRESIDENT SAVINO: The
22 bill is passed.

23 THE SECRETARY: In relation to
24 Calendar Number 1185, Senator Leibell moves to
25 discharge, from the Committee on Rules,

1 Assembly Bill Number 10779 and substitute it
2 for the identical Senate Bill Number 8031,
3 Third Reading Calendar 1185.

4 ACTING PRESIDENT SAVINO:
5 Substitution ordered.

6 THE SECRETARY: Calendar Number
7 1185, by Member of the Assembly Galef,
8 Assembly Print Number 10779, an act to
9 authorize.

10 ACTING PRESIDENT SAVINO: Read
11 the last section.

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

14 ACTING PRESIDENT SAVINO: Call
15 the roll.

16 (The Secretary called the roll.)

17 ACTING PRESIDENT SAVINO:
18 Announce the results.

19 THE SECRETARY: Ayes, 57. Nays,
20 2. Senators Bonacic and Larkin recorded in
21 the negative.

22 ACTING PRESIDENT SAVINO: The
23 bill is passed.

24 THE SECRETARY: In relation to
25 Calendar Number 1186, Senator Robach moves to

1 discharge, from the Committee on Health,
2 Assembly Bill Number 11289 and substitute it
3 for the identical Senate Bill Number 8087,
4 Third Reading Calendar 1186.

5 ACTING PRESIDENT SAVINO:
6 Substitution ordered.

7 THE SECRETARY: Calendar Number
8 1186, by Member of the Assembly Morelle,
9 Assembly Print Number 11289, an act to amend
10 Chapter 633 of the Laws of 2006.

11 ACTING PRESIDENT SAVINO: Read
12 the last section.

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

15 ACTING PRESIDENT SAVINO: Call
16 the roll.

17 (The Secretary called the roll.)

18 ACTING PRESIDENT SAVINO:
19 Announce the results.

20 THE SECRETARY: Ayes, 59.

21 ACTING PRESIDENT SAVINO: The
22 bill is passed.

23 THE SECRETARY: In relation to
24 Calendar Number 1187, Senator Bonacic moves to
25 discharge, from the Committee on Rules,

1 Assembly Bill Number 11516 and substitute it
2 for the identical Senate Bill Number 8179,
3 Third Reading Calendar 1187.

4 ACTING PRESIDENT SAVINO:
5 Substitution ordered.

6 THE SECRETARY: Calendar Number
7 1187, by the Assembly Committee on Rules,
8 Assembly Print Number 11516, an act to amend
9 the Not-for-Profit Corporation Law.

10 ACTING PRESIDENT SAVINO: Read
11 the last section.

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

14 ACTING PRESIDENT SAVINO: Call
15 the roll.

16 (The Secretary called the roll.)

17 ACTING PRESIDENT SAVINO:
18 Announce the results.

19 THE SECRETARY: Ayes, 59.

20 ACTING PRESIDENT SAVINO: The
21 bill is passed.

22 THE SECRETARY: Calendar Number
23 1188, by Senator Little, Senate Print 8180, an
24 act in relation to making certain findings and
25 determinations.

1 ACTING PRESIDENT SAVINO: There
2 is a home-rule message at the desk.

3 Read the last section.

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

6 ACTING PRESIDENT SAVINO: Call
7 the roll.

8 (The Secretary called the roll.)

9 ACTING PRESIDENT SAVINO:
10 Announce the results.

11 THE SECRETARY: Ayes, 59.

12 ACTING PRESIDENT SAVINO: The
13 bill is passed.

14 Senator Klein, that completes the
15 reading of the noncontroversial supplemental
16 calendar.

17 SENATOR KLEIN: Madam President,
18 can we please stand at ease until 3 o'clock.

19 ACTING PRESIDENT SAVINO: The
20 Senate will stand at ease until 3 o'clock.

21 (Whereupon, the Senate stood at
22 ease at 2:20 p.m.)

23 ACTING PRESIDENT SAVINO: Senator
24 Klein.

25 SENATOR KLEIN: Madam President,

1 can you please recognize Senator Skelos.

2 ACTING PRESIDENT SAVINO: Senator
3 Skelos.

4 SENATOR SKELOS: There will be an
5 immediate Republican conference, please.

6 ACTING PRESIDENT SAVINO: There
7 will be an immediate meeting of the Republican
8 Conference in the Republican Conference Room.

9 The Senate will stand at ease until
10 3:00 p.m.

11 (Whereupon, the Senate reconvened
12 at 4:12 p.m.)

13 ACTING PRESIDENT SAVINO: Senator
14 Klein.

15 SENATOR KLEIN: Madam President,
16 I'd like to withdraw the lay aside for the day
17 on Calendar Number 1139, Senate Bill 7257.

18 ACTING PRESIDENT SAVINO: The lay
19 aside is lifted.

20 The Secretary will read the title
21 of the bill, noncontroversial.

22 THE SECRETARY: Calendar Number
23 1139, by Senator Valesky, Senate Print 7257,
24 an act to amend the Tax Law.

25 ACTING PRESIDENT SAVINO: Read

1 the last section.

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

4 ACTING PRESIDENT SAVINO: Senator
5 Hannon.

6 SENATOR HANNON: Madam President,
7 could we find out what this bill is, since you
8 just did a lay aside without any prior notice?
9 Could we at least put the bill up?

10 ACTING PRESIDENT SAVINO: It's on
11 the first calendar of the day, and it's
12 Calendar Number 1139. The bill number is
13 7257.

14 SENATOR HANNON: Can I ask for an
15 explanation, then, since I don't have that
16 calendar right here, since we've been on a
17 two-hour recess.

18 ACTING PRESIDENT SAVINO: Senator
19 Hannon, your counsel was informed by our
20 counsel that we were going to lift this
21 lay-aside.

22 SENATOR HANNON: I was not
23 informed.

24 I would like to look at the bill.
25 I'm sure it's worthwhile; I don't have it in

1 front of me.

2 ACTING PRESIDENT SAVINO: The
3 bill is on the noncontroversial calendar. If
4 you'd like, you can lay the bill aside.

5 SENATOR HANNON: Lay it aside.

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

8 Senator Klein.

9 SENATOR KLEIN: Madam President,
10 can we please go to a reading of the
11 controversial calendar.

12 ACTING PRESIDENT SAVINO: The
13 Secretary will proceed with the reading of the
14 controversial calendar.

15 I would ask you to ring the bills
16 and ask all the members to return. And we
17 will be taking up Calendar Number 1139.

18 The Secretary will read.

19 THE SECRETARY: Calendar Number
20 1169, by Senator Onorato, Senate Print 8225,
21 an act to amend the Retirement and Social
22 Security Law.

23 SENATOR MAZIARZ: Madam
24 President, which calendar number are we on?

25 ACTING PRESIDENT SAVINO: Senator

1 Maziarz, we are going to take up Calendar
2 Number 1139. Senator Valesky is the sponsor.

3 SENATOR DeFRANCISCO: You said
4 Senator Onorato.

5 ACTING PRESIDENT SAVINO: The
6 Secretary read the wrong bill.

7 We will proceed with Calendar
8 Number 1139, which is on the controversial
9 calendar, and then go to Calendar 1169, which
10 is also on the controversial calendar.

11 The Secretary will read.

12 THE SECRETARY: Calendar Number
13 1139, by Senator Valesky, Senate Print 7257,
14 an act to amend the Tax Law.

15 ACTING PRESIDENT SAVINO: Are
16 there any other Senators who wish to be heard
17 on the bill?

18 Seeing none, the debate is closed.
19 The Secretary will ring the bells.

20 SENATOR KLEIN: Explanation.

21 ACTING PRESIDENT SAVINO: Senator
22 Valesky, an explanation has been requested by
23 Senator Klein.

24 SENATOR VALESKY: Yes. Yes.
25 Madam President, this bill seeks to clarify in

1 statute that those farmers who participate in
2 the Farmland Protection Program and set aside
3 a portion of their land and purchase that land
4 for development rights -- or, rather, to
5 protect that land for development rights --
6 can still qualify for the farmers' school
7 property tax credit.

8 ACTING PRESIDENT SAVINO: Are
9 there any other Senators who wish to be heard
10 on the bill?

11 Seeing none, again, the debate is
12 now closed. The Secretary will ring the
13 bells.

14 We ask all members to please come
15 to the chamber to vote.

16 Read the last section.

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

19 ACTING PRESIDENT SAVINO: Call
20 the roll.

21 (The Secretary called the roll.)

22 ACTING PRESIDENT SAVINO:
23 Announce the results.

24 THE SECRETARY: Ayes, 61.

25 ACTING PRESIDENT SAVINO: The

1 bill is passed.

2 THE SECRETARY: Calendar Number
3 1169, by Senator Onorato, Senate Print 8225,
4 an act to amend the Retirement and Social
5 Security Law.

6 SENATOR MAZIARZ: Explanation,
7 please.

8 ACTING PRESIDENT SAVINO: Senator
9 Onorato, an explanation has been requested.

10 SENATOR ONORATO: Madam
11 President, this bill comes at the request of
12 the New York Power Authority.

13 I'll read the letter. "The Power
14 Authority of the State of New York and the
15 utility workers union, Local 1-2 of the United
16 Utility Workers, agreed during collective
17 bargaining negotiations" --

18 ACTING PRESIDENT SAVINO: Can we
19 have some order, please.

20 SENATOR ONORATO: -- "in 2008 to
21 jointly support legislation to amend the
22 New York State Retirement and Social Security
23 Law for the benefit of certain Authority
24 employees working at its Charles Poletti Power
25 Plant located in Astoria, New York. As a

1 result of the Poletti Plant's cessation of
2 operations in January 2010, a small designated
3 group of Authority employees may lose their
4 jobs.

5 "This bill, drafted by the
6 Authority and the union workers, enables these
7 employees to retire without penalty after
8 25 years rather than 30 years of service. The
9 Authority supports the passage of this
10 legislation, which is designed to address a
11 unique situation affecting long-term employees
12 who face the prospect of unemployment in these
13 challenging economic times."

14 SENATOR MAZIARZ: Madam
15 President, through you, would my good friend
16 and colleague Senator Onorato yield for just a
17 couple of questions.

18 ACTING PRESIDENT SAVINO: Senator
19 Onorato, will you yield for a question?

20 SENATOR ONORATO: Yes, I will.

21 ACTING PRESIDENT SAVINO: The
22 Senator yields.

23 SENATOR MAZIARZ: Thank you very
24 much, Senator Onorato. I very much appreciate
25 that.

1 Senator, could you tell me the
2 number of employees that will be impacted by
3 this legislation?

4 SENATOR ONORATO: I believe it's
5 going to be 12.

6 SENATOR MAZIARZ: Twelve was the
7 answer? Thank you.

8 One other question, through you,
9 Madam President, if the Senator would continue
10 to yield.

11 SENATOR ONORATO: Yes, I will.

12 SENATOR MAZIARZ: Do you know the
13 approximate cost of this incentive for those
14 12 people?

15 SENATOR ONORATO: A one-time cost
16 of \$2.57 million, which will be absorbed by
17 the New York Power Authority.

18 SENATOR MAZIARZ: Thank you very
19 much, Senator.

20 On the bill, Madam President.

21 ACTING PRESIDENT SAVINO: Senator
22 Maziarz, on the bill.

23 SENATOR MAZIARZ: Thank you very
24 much, Madam President.

25 The reason I asked my good friend

1 and colleague and someone I have a great deal
2 of respect for, Senator Onorato, the chairman
3 of the Labor Committee, about that particular
4 bill is I think we should understand that when
5 the Power Authority is spending 2-plus million
6 dollars, that whenever the Power Authority
7 spends money, it all comes from only one
8 place, the only place the Power Authority
9 makes money, and that of course is at the
10 Niagara Generating Station in Niagara County
11 in Western New York.

12 So although I don't begrudge these
13 people -- they worked a long time at the
14 Poletti Plant, and for their own interest the
15 Power Authority decided to close the Poletti
16 Plant. But I do, quite frankly, resent the
17 fact that here we have again, you know,
18 benefits that are generated at Niagara, money
19 that is made at Niagara, 2-plus million
20 dollars, that is going to assist another area
21 of the State of New York.

22 On the roll call, Madam President,
23 I will be voting in the negative. Thank you.

24 Thank you, Senator Onorato.

25 ACTING PRESIDENT SAVINO: Senator

1 Maziarz will be recorded in the negative on
2 Calendar Number 1169.

3 Are there any other Senators
4 wishing to be heard?

5 Seeing none, debate is closed. The
6 Secretary will ring the bells.

7 And we ask all members to please
8 come to the chamber and to stay in the
9 chamber.

10 Read the last section.

11 THE SECRETARY: Section 5. This
12 act shall take effect immediately.

13 ACTING PRESIDENT SAVINO: Call
14 the roll.

15 (The Secretary called the roll.)

16 ACTING PRESIDENT SAVINO: Senator
17 Onorato.

18 SENATOR ONORATO: To explain my
19 vote.

20 ACTING PRESIDENT SAVINO: Senator
21 Onorato, to explain his vote.

22 SENATOR ONORATO: I would urge my
23 colleagues to just take a moment and reflect.

24 Earlier today we passed a bill for
25 Senator Larkin to allow some people in his own

1 district to participate in a 20-year
2 retirement.

3 These fellows that we're talking
4 about are going to lose their jobs. All we're
5 asking is to give them a break, like we do
6 throughout the year. Almost everyone in this
7 chamber has introduced legislation very, very
8 similar to this without ever facing what we're
9 just facing now. So I'd really ask you to
10 reconsider your position on this.

11 I vote aye.

12 ACTING PRESIDENT SAVINO: Senator
13 Onorato will be recorded in the affirmative.

14 Announce the results.

15 THE SECRETARY: Those recorded in
16 the negative on Calendar Number 1169 are
17 Senators Alesi, Bonacic, DeFrancisco, Farley,
18 Flanagan, Fuschillo, Golden, Griffio, Hannon,
19 O. Johnson, Lanza, Larkin, LaValle, Leibell,
20 Libous, Little, Marcellino, Maziarz, McDonald,
21 Nozzolio, Ranzenhofer, Robach, Saland, Seward,
22 Skelos, Volker, Winner and Young.

23 Absent from voting: Senator Duane.

24 Ayes, 32. Nays, 28.

25 ACTING PRESIDENT SAVINO: The

1 bill is passed.

2 Senator Klein, that completes the
3 reading of the controversial calendar.

4 SENATOR KLEIN: Madam President,
5 can we briefly return to motions and
6 resolutions.

7 ACTING PRESIDENT SAVINO:
8 Returning to motions and resolutions.

9 SENATOR KLEIN: Madam President,
10 on behalf of Senator Duane, on page 31 I offer
11 the following amendments to Calendar Number
12 900, Senate Print Number 5007, and ask that
13 said bill retain its place on Third Reading
14 Calendar.

15 ACTING PRESIDENT SAVINO: So
16 ordered.

17 SENATOR KLEIN: On behalf of
18 Senator Parker, on page number 18 I offer the
19 following amendments to Calendar Number 518,
20 Senate Print Number 4291B, and ask that said
21 bill retain its place on Third Reading
22 Calendar.

23 ACTING PRESIDENT SAVINO: So
24 ordered.

25 SENATOR KLEIN: Madam President,

1 on behalf of Senator Duane, I wish to call up
2 Print Number 2813B, recalled from the
3 Assembly, which is now at the desk.

4 ACTING PRESIDENT SAVINO: The
5 Secretary will read.

6 THE SECRETARY: Calendar Number
7 197, by Senator Aubertine, Senate Print 2813B,
8 an act to amend the Public Authorities Law.

9 ACTING PRESIDENT SAVINO: Senator
10 Klein.

11 SENATOR KLEIN: Madam President,
12 I now move to reconsider the vote by which
13 this bill was passed.

14 ACTING PRESIDENT SAVINO: The
15 Secretary will call the roll on
16 reconsideration.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 61.

19 ACTING PRESIDENT SAVINO: Senator
20 Klein.

21 SENATOR KLEIN: Madam President,
22 I now offer the following amendments.

23 ACTING PRESIDENT SAVINO:
24 Amendments received.

25 Could we have some order in the

1 chamber, please.

2 SENATOR KLEIN: Madam President,
3 could I just -- the bill that I recalled,
4 Senator Duane's bill, it seems that Senator
5 Aubertine's bill was read. Is that correct?

6 SENATOR LIBOUS: That's correct.

7 ACTING PRESIDENT SAVINO: Senator
8 Klein, the motion slip had the wrong name on
9 it, but the bill was a Senator Aubertine bill.

10 SENATOR KLEIN: Thank you, Madam
11 President.

12 SENATOR LIBOUS: I'm sorry, Jeff,
13 what's the clarification on that?

14 ACTING PRESIDENT SAVINO: Senator
15 Libous, it was a mistake.

16 SENATOR LIBOUS: He said it was a
17 Senator Duane bill, you said --

18 ACTING PRESIDENT SAVINO: No, it
19 is a Senator Aubertine bill. The motion slip
20 that Senator Klein read from had a mistake on
21 it.

22 SENATOR LIBOUS: Thank you. I
23 didn't understand what you were saying.

24 ACTING PRESIDENT SAVINO: Senator
25 Klein.

1 SENATOR KLEIN: Madam President,
2 on behalf of Senator Addabbo, on page 37 I
3 offer the following amendments to Calendar
4 Number 1104, Senate Print Number 7591B.

5 ACTING PRESIDENT SAVINO:
6 Amendments received.

7 Senator Klein.

8 SENATOR KLEIN: Madam President,
9 at this time can we please go to a reading of
10 the supplemental active list.

11 ACTING PRESIDENT SAVINO: The
12 Secretary will read.

13 THE SECRETARY: Calendar Number
14 104, by Member of the Assembly Peoples-Stokes,
15 Assembly Print Number 9252A, an act to amend
16 the Agriculture and Markets Law.

17 ACTING PRESIDENT SAVINO: Read
18 the last section.

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

21 ACTING PRESIDENT SAVINO: Call
22 the roll.

23 (The Secretary called the roll.)

24 ACTING PRESIDENT SAVINO:
25 Announce the results.

1 THE SECRETARY: Ayes, 61.

2 ACTING PRESIDENT SAVINO: The
3 bill is passed.

4 THE SECRETARY: Calendar Number
5 199, by Member of the Assembly Spano, Assembly
6 Print Number 8182, an act to amend the Racing,
7 Pari-Mutuel Wagering and Breeding Law.

8 ACTING PRESIDENT SAVINO: Read
9 the last section.

10 SENATOR LIBOUS: Lay it aside.

11 ACTING PRESIDENT SAVINO: The
12 bill is laid aside.

13 THE SECRETARY: Calendar Number
14 243, by Senator Parker, Senate Print 6355A, an
15 act to amend the Education Law.

16 ACTING PRESIDENT SAVINO: Read
17 the last section.

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

20 ACTING PRESIDENT SAVINO: Call
21 the roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT SAVINO:
24 Announce the results.

25 THE SECRETARY: Ayes, 61.

1 ACTING PRESIDENT SAVINO: The
2 bill is passed.

3 THE SECRETARY: Calendar Number
4 413, substituted earlier by Member of the
5 Assembly Paulin, Assembly Print Number 10052A,
6 an act to amend the Executive Law.

7 ACTING PRESIDENT SAVINO: Read
8 the last section.

9 THE SECRETARY: Section 2. This
10 act shall take effect April 1, 2011.

11 ACTING PRESIDENT SAVINO: Call
12 the roll.

13 (The Secretary called the roll.)

14 ACTING PRESIDENT SAVINO:
15 Announce the results.

16 THE SECRETARY: Ayes, 58. Nays,
17 3. Senators DeFrancisco, Larkin and
18 Ranzenhofer recorded in the negative.

19 ACTING PRESIDENT SAVINO: The
20 bill is passed.

21 THE SECRETARY: Calendar Number
22 622, by Senator Squadron, Senate Print 5287D,
23 an act to amend the Environmental Conservation
24 Law.

25 ACTING PRESIDENT SAVINO: Read

1 the last section.

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

4 ACTING PRESIDENT SAVINO: Call
5 the roll.

6 (The Secretary called the roll.)

7 ACTING PRESIDENT SAVINO: Senator
8 Ranzenhofer, to explain his vote.

9 SENATOR RANZENHOFER: Yes, very
10 briefly, Madam President, this is going to be
11 an unfunded mandate on school districts. And
12 for that reason, I'll be voting no.

13 ACTING PRESIDENT SAVINO: Senator
14 Ranzenhofer will be recorded in the negative.

15 Announce the results.

16 THE SECRETARY: Those recorded in
17 the negative on Calendar Number 622 are
18 Senators Alesi, DeFrancisco, Farley, Golden,
19 Griffo, O. Johnson, Larkin, LaValle, Leibell,
20 Libous, Little, Nozzolio, Ranzenhofer, Robach,
21 Saland, Seward, Winner and Young.

22 Ayes, 43. Nays, 18.

23 ACTING PRESIDENT SAVINO: The
24 bill is passed.

25 THE SECRETARY: Also Senator

1 Skelos.

2 Ayes, 42. Nays, 19.

3 ACTING PRESIDENT SAVINO: The
4 bill is still passed.

5 THE SECRETARY: Calendar Number
6 631, by Senator Addabbo, Senate Print 7222, an
7 act to amend the Election Law.

8 ACTING PRESIDENT SAVINO: Read
9 the last section.

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

12 ACTING PRESIDENT SAVINO: Call
13 the roll.

14 (The Secretary called the roll.)

15 ACTING PRESIDENT SAVINO:
16 Announce the results.

17 THE SECRETARY: Those recorded in
18 the negative on Calendar Number 631 are
19 Senators DeFrancisco, Farley, Golden, Griffio,
20 Hannon, Larkin, LaValle, Libous, Leibell,
21 Little, Marcellino, Nozzolio, Saland, Seward,
22 Skelos, Volker, Winner and Young. Also
23 Senator Ranzenhofer.

24 Ayes, 42. Nays, 19.

25 ACTING PRESIDENT SAVINO: The

1 bill is passed.

2 THE SECRETARY: Calendar Number
3 707, by Senator Parker, Senate Print 2087B, an
4 act to amend the Public Health Law.

5 ACTING PRESIDENT SAVINO: Read
6 the last section.

7 THE SECRETARY: Section 5. This
8 act shall take effect on the first of
9 November.

10 ACTING PRESIDENT SAVINO: Call
11 the roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT SAVINO:
14 Announce the results.

15 THE SECRETARY: Ayes, 61.

16 ACTING PRESIDENT SAVINO: The
17 bill is passed.

18 THE SECRETARY: Calendar Number
19 711, by Senator Sampson, Senate Print 4535, an
20 act to amend the Civil Practice Law and Rules.

21 ACTING PRESIDENT SAVINO: Read
22 the last section.

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

25 ACTING PRESIDENT SAVINO: Call

1 the roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT SAVINO:

4 Announce the results.

5 THE SECRETARY: Ayes, 61.

6 ACTING PRESIDENT SAVINO: The
7 bill is passed.

8 THE SECRETARY: Calendar Number
9 719, by Senator Serrano, Senate Print 7359A,
10 an act to amend the Navigation Law.

11 ACTING PRESIDENT SAVINO: Read
12 the last section.

13 THE SECRETARY: Section 5. This
14 act shall take effect on the 30th day.

15 ACTING PRESIDENT SAVINO: Call
16 the roll.

17 (The Secretary called the roll.)

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

20 ACTING PRESIDENT SAVINO: The
21 bill is laid aside for the day.

22 THE SECRETARY: Calendar Number
23 740, by Senator McDonald, Senate Print 7731,
24 an act to amend Chapter 542 of the Laws of
25 1997.

1 ACTING PRESIDENT SAVINO: There
2 is a home-rule message at the desk.

3 Read the last section.

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

6 ACTING PRESIDENT SAVINO: Call
7 the roll.

8 (The Secretary called the roll.)

9 ACTING PRESIDENT SAVINO:
10 Announce the results.

11 THE SECRETARY: Ayes, 61.

12 ACTING PRESIDENT SAVINO: The
13 bill is passed.

14 THE SECRETARY: Calendar Number
15 787, by Member of the Assembly Clark, Assembly
16 Print Number 3233B, an act to amend the
17 Executive Law.

18 ACTING PRESIDENT SAVINO: Read
19 the last section.

20 SENATOR LIBOUS: Lay it aside.

21 ACTING PRESIDENT SAVINO: The
22 bill is laid aside.

23 THE SECRETARY: Calendar Number
24 805, by Senator Addabbo, Senate Print --

25 SENATOR LIBOUS: Lay it aside.

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

3 THE SECRETARY: Calendar Number
4 883, by Senator Savino, Senate Print 7899, an
5 act to amend the Retirement and Social
6 Security Law.

7 ACTING PRESIDENT SAVINO: Read
8 the last section.

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

11 ACTING PRESIDENT SAVINO: Call
12 the roll.

13 (The Secretary called the roll.)

14 ACTING PRESIDENT SAVINO:
15 Announce the results.

16 THE SECRETARY: Ayes, 61.

17 ACTING PRESIDENT SAVINO: The
18 bill is passed.

19 THE SECRETARY: Calendar Number
20 884, by Senator Savino, Senate Print 7956, an
21 act to amend the Civil Service Law.

22 ACTING PRESIDENT SAVINO: Read
23 the last section.

24 SENATOR LIBOUS: Lay it aside.

25 ACTING PRESIDENT SAVINO: The

1 bill is laid aside.

2 THE SECRETARY: Calendar Number
3 896, by Senator Stavisky, Senate Print 1550A,
4 an act to amend the Education Law.

5 ACTING PRESIDENT SAVINO: Read
6 the last section.

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

9 ACTING PRESIDENT SAVINO: Call
10 the roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT SAVINO:
13 Announce the results.

14 THE SECRETARY: Ayes, 61.

15 ACTING PRESIDENT SAVINO: The
16 bill is passed.

17 THE SECRETARY: Calendar Number
18 898, by Senator Oppenheimer, Senate Print
19 4134B, an act to authorize the lease of lands.

20 ACTING PRESIDENT SAVINO: Read
21 the last section.

22 THE SECRETARY: Section 22. This
23 act shall take effect immediately.

24 ACTING PRESIDENT SAVINO: Call
25 the roll.

1 (The Secretary called the roll.)

2 ACTING PRESIDENT SAVINO:

3 Announce the results.

4 THE SECRETARY: Ayes, 61.

5 ACTING PRESIDENT SAVINO: The
6 bill is passed.

7 THE SECRETARY: Calendar Number
8 904, by Member of the Assembly Glick, Assembly
9 Print Number 10123, an act to amend Chapter
10 537 of the Laws of 2008.

11 ACTING PRESIDENT SAVINO: Read
12 the last section.

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

15 ACTING PRESIDENT SAVINO: Call
16 the roll.

17 (The Secretary called the roll.)

18 ACTING PRESIDENT SAVINO:

19 Announce the results.

20 THE SECRETARY: Ayes, 59. Nays,
21 2. Senators Fuschillo and LaValle recorded in
22 the negative.

23 ACTING PRESIDENT SAVINO: The
24 bill is passed.

25 THE SECRETARY: Calendar Number

1 919, by Senator C. Johnson, Senate Print 7653,
2 an act to amend the Real Property Tax Law.

3 ACTING PRESIDENT SAVINO: Read
4 the last section.

5 THE SECRETARY: Section 12. This
6 act shall take effect January 1, 2011.

7 ACTING PRESIDENT SAVINO: Call
8 the roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT SAVINO:
11 Announce the results.

12 THE SECRETARY: Ayes, 61.

13 ACTING PRESIDENT SAVINO: The
14 bill is passed.

15 THE SECRETARY: Calendar Number
16 953, by Senator Oppenheimer, Senate Print
17 7655, an act to amend the Agriculture and
18 Markets Law.

19 ACTING PRESIDENT SAVINO: Read
20 the last section.

21 THE SECRETARY: Section 2. This
22 act shall take effect April 1, 2011.

23 ACTING PRESIDENT SAVINO: Call
24 the roll.

25 (The Secretary called the roll.)

1 ACTING PRESIDENT SAVINO:

2 Announce the results.

3 THE SECRETARY: Ayes, 61.

4 ACTING PRESIDENT SAVINO: The
5 bill is passed.

6 THE SECRETARY: Calendar Number
7 1031, by Senator Serrano, Senate Print 8011A,
8 an act to amend the Parks, Recreation and
9 Historic Preservation Law.

10 ACTING PRESIDENT SAVINO: Read
11 the last section.

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

14 ACTING PRESIDENT SAVINO: Call
15 the roll.

16 (The Secretary called the roll.)

17 ACTING PRESIDENT SAVINO: Senator
18 Young, to explain her vote.

19 SENATOR YOUNG: Thank you, Madam
20 President.

21 This bill strictly applies to
22 Allegany State Park in Cattaraugus County in
23 my district. It sets the terms, requirements
24 and enforcement of subsurface access permits
25 for oil and gas drilling within the park. It

1 would be regulated by our New York State
2 Office of Parks and the Department of
3 Environmental Conservation.

4 And the need for this bill is
5 because a large company, US Energy, claims
6 that it leases the subsurface mineral rights
7 to drill 3,000 acres within the park, but
8 US Energy has not been able to show that they
9 have clear title to those rights.

10 And Allegany State Park is a jewel
11 in New York State. It's our largest state
12 park. It's just a wonderful place to go. And
13 I would urge all of my colleagues, if you ever
14 want to drive way out west, come out and camp.
15 They actually have cabins that are retrofitted
16 so you don't have to bring a thing with you,
17 not even a sleeping bag.

18 But I would urge all of my
19 colleagues to vote in favor of this bill.
20 Thank you.

21 ACTING PRESIDENT SAVINO: Senator
22 Young will be recorded in the affirmative.

23 Announce the results.

24 THE SECRETARY: Ayes, 59. Nays,
25 2. Senators Flanagan and Lanza recorded in

1 the negative.

2 ACTING PRESIDENT SAVINO: The
3 bill is passed.

4 THE SECRETARY: Calendar Number
5 1099, by Member of the Assembly Schimminger,
6 Assembly Print Number --

7 SENATOR LIBOUS: Lay it aside.

8 ACTING PRESIDENT SAVINO: The
9 bill is laid aside.

10 THE SECRETARY: Calendar Number
11 1115, by Member of the Assembly Silver --

12 SENATOR LIBOUS: Lay it aside.

13 ACTING PRESIDENT SAVINO: The
14 bill is laid aside.

15 THE SECRETARY: Calendar Number
16 1120, by Senator Klein, Senate Print 8171, an
17 act to amend the Public Health Law.

18 SENATOR LIBOUS: Lay it aside.

19 ACTING PRESIDENT SAVINO: The
20 bill is laid aside.

21 Senator Klein, that completes the
22 reading of the noncontroversial supplemental
23 active list.

24 SENATOR KLEIN: Madam President,
25 at this time can we please go to a reading of

1 the controversial supplemental active list.

2 ACTING PRESIDENT SAVINO: The
3 Secretary will read.

4 THE SECRETARY: Calendar Number
5 199, by Member of the Assembly Spano, Assembly
6 Print Number 8182, an act to amend the Racing,
7 Parimutuel Wagering and Breeding Law.

8 ACTING PRESIDENT SAVINO: Are
9 there any Senators wishing to be heard?

10 SENATOR MARCELLINO: Explanation,
11 please.

12 ACTING PRESIDENT SAVINO: Senator
13 Adams, an explanation has been requested.

14 SENATOR ADAMS: Who asked for an
15 explanation? Who was that? Oh.

16 This is a departmental bill, and
17 it's at the request of the New York State
18 Racing and Wagering Board. This bill would
19 empower the Racing and Wagering Board to
20 impose fines on off-track betting corporations
21 and other persons or corporations
22 participating in off-track betting.

23 Under the current statutory
24 framework, the only recourse that the board
25 has when OTB violates a statute is to suspend

1 the OTB's plan of operation, something that is
2 untenable. It would have an adverse affect
3 across the board and on the entire racing
4 industry.

5 This proposal will remedy an
6 adverse court determination that sustained a
7 challenge to a fine on the basis that the
8 board did not have the statutory power to fine
9 OTB corporations for other than Article 10,
10 which are simulcasting violations.

11 The maximum fine will be \$50,000
12 for each violation, to be paid into the State
13 Treasury.

14 ACTING PRESIDENT SAVINO: Are
15 there any other Senators wishing to be heard?

16 Seeing none, debate is closed. The
17 Secretary will ring the bells.

18 Read the last section.

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

21 ACTING PRESIDENT SAVINO: Call
22 the roll.

23 (The Secretary called the roll.)

24 ACTING PRESIDENT SAVINO:
25 Announce the results.

1 THE SECRETARY: Those recorded in
2 the negative on Calendar Number 199 are
3 Senators Alesi, Bonacic, DeFrancisco, Farley,
4 Flanagan, Fuschillo, Golden, Griffio, Hannon,
5 O. Johnson, Lanza, Larkin, LaValle, Leibell,
6 Libous, Little, Marcellino, Maziarz, McDonald,
7 Nozzolio, Padavan, Ranzenhofer, Robach,
8 Saland, Seward, Skelos, Volker, Winner and
9 Young.

10 Absent from voting: Senator
11 Bonacic.

12 Ayes, 32. Nays, 29.

13 ACTING PRESIDENT SAVINO: The
14 bill is passed.

15 THE SECRETARY: Calendar Number
16 787, by Member of the Assembly Clark, Assembly
17 Print Number 3233B, an act to amend the
18 Executive Law.

19 ACTING PRESIDENT SAVINO: Are
20 there any Senators wishing to be heard on the
21 bill?

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

24 ACTING PRESIDENT VALESKY: Read
25 the last section.

1 THE SECRETARY: Section 4. This
2 act shall take effect April 1, 2011.

3 ACTING PRESIDENT VALESKY: Call
4 the roll.

5 (The Secretary called the roll.)

6 ACTING PRESIDENT VALESKY:
7 Announce the results.

8 THE SECRETARY: Those recorded in
9 the negative on Calendar Number 787 are
10 Senators Alesi, Bonacic, DeFrancisco, Farley,
11 Flanagan, Fuschillo, Golden, Griffio, Hannon,
12 O. Johnson, Lanza, Larkin, LaValle, Leibell,
13 Libous, Little, Marcellino, Maziarz, McDonald,
14 Nozzolio, Padavan, Ranzenhofer, Robach,
15 Saland, Seward, Skelos, Volker, Winner and
16 Young.

17 Absent from voting: Senator
18 Bonacic.

19 Ayes, 32. Nays, 29.

20 ACTING PRESIDENT VALESKY: The
21 bill is passed.

22 THE SECRETARY: Calendar Number
23 805, by Senator Addabbo, Senate Print 3251B,
24 an act to amend the Election Law.

25 ACTING PRESIDENT VALESKY: Seeing

1 no Senators who wish to be heard, debate is
2 closed.

3 The Secretary will ring the bells.

4 Read the last section.

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

7 ACTING PRESIDENT VALESKY: Call
8 the roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Those recorded in
11 the negative on Calendar Number 805 are
12 Senators Alesi, Bonacic, DeFrancisco, Farley,
13 Flanagan, Fuschillo, Golden, Griffio, Hannon,
14 O. Johnson, Lanza, Larkin, LaValle, Leibell,
15 Libous, Little, Marcellino, Maziarz, McDonald,
16 Nozzolio, Padavan, Ranzenhofer, Robach,
17 Saland, Seward, Skelos, Volker, Winner and
18 Young.

19 Absent from voting: Senator
20 Bonacic.

21 Ayes, 32. Nays, 29.

22 ACTING PRESIDENT VALESKY: The
23 bill is passed.

24 THE SECRETARY: Calendar Number
25 884, by Senator Savino, Senate Print 7956, an

1 act to amend the Civil Service Law.

2 ACTING PRESIDENT VALESKY: Are
3 there any Senators who wish to be heard?

4 Senator Saland.

5 SENATOR SALAND: Just one
6 question, if the sponsor would yield, please.

7 ACTING PRESIDENT VALESKY:
8 Senator Savino, do you yield for a question
9 from Senator Saland?

10 SENATOR SAVINO: Certainly,
11 Mr. President.

12 ACTING PRESIDENT VALESKY: The
13 sponsor yields.

14 SENATOR SALAND: Senator Savino,
15 has this been requested by either the school
16 boards or the school superintendents?

17 SENATOR SAVINO: Through you,
18 Mr. President, this bill actually was a
19 request from the School Boards Association to
20 direct the Civil Service Department to develop
21 an exam for the position of Director of
22 Facilities I, II and III.

23 SENATOR SALAND: Thank you.

24 SENATOR SAVINO: Thank you.

25 ACTING PRESIDENT VALESKY: Are

1 there any other Senators who wish to be heard?

2 Seeing none, the debate is closed.

3 The Secretary will ring the bells
4 and read the last section.

5 THE SECRETARY: Section 4. This
6 act shall take effect immediately.

7 ACTING PRESIDENT VALESKY: Call
8 the roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT VALESKY:
11 Announce the results.

12 THE SECRETARY: Those recorded in
13 the negative on Calendar Number 884 are
14 Senators Bonacic, DeFrancisco, Fuschillo,
15 O. Johnson, Nozzolio, Ranzenhofer, Saland,
16 Skelos and Volker. Also Senator Leibell.
17 Also Senator Hannon.

18 Ayes, 50. Nays, 11.

19 ACTING PRESIDENT VALESKY: The
20 bill is passed.

21 THE SECRETARY: Calendar Number
22 1099, by Member of the Assembly Schimminger,
23 Assembly Print Number 10857A, an act to amend
24 the Alcoholic Beverage Control Law.

25 ACTING PRESIDENT VALESKY: Are

1 there any Senators who wish to be heard?

2 Senator Klein.

3 SENATOR KLEIN: Mr. President, I
4 ask that we open the roll for two bills on the
5 controversial calendar, Calendar Number 1099
6 and Calendar Number 1115, for Senator Padavan.

7 ACTING PRESIDENT VALESKY: On
8 Calendar Number 1099, read the last section.

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

11 ACTING PRESIDENT VALESKY: Call
12 the roll.

13 (The Secretary called the roll.)

14 ACTING PRESIDENT VALESKY:
15 Senator Padavan, how do you vote?

16 SENATOR PADAVAN: On 1099, I vote
17 aye.

18 ACTING PRESIDENT VALESKY:
19 Senator Padavan to be recorded in the
20 affirmative.

21 The roll call is withdrawn, and the
22 bill is laid aside.

23 The Secretary will read Calendar
24 Number 1115.

25 THE SECRETARY: Calendar Number

1 1115, by Member of the Assembly Silver,
2 Assembly Print Number 10918, an act to amend
3 the Banking Law.

4 ACTING PRESIDENT VALESKY: Read
5 the last section.

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

8 ACTING PRESIDENT VALESKY: Call
9 the roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT VALESKY:
12 Senator Padavan, how do you vote?

13 SENATOR PADAVAN: I vote aye.

14 ACTING PRESIDENT VALESKY:
15 Senator Padavan to be recorded in the
16 affirmative.

17 The roll call is withdrawn, and the
18 bill is laid aside.

19 The Secretary will return to
20 Calendar Number 1099, controversial.

21 THE SECRETARY: Calendar Number
22 1099, by Member of the Assembly Schimminger,
23 Assembly Print Number 10857A, an act to amend
24 the Alcoholic Beverage Control Law.

25 ACTING PRESIDENT SAVINO: Are

1 there any Senators wishing to be heard?

2 Senator Golden.

3 SENATOR GOLDEN: Madam President,
4 will the sponsor yield for a question?

5 ACTING PRESIDENT SAVINO: Senator
6 Squadron?

7 SENATOR SQUADRON: I'll be happy
8 to yield, Madam President.

9 ACTING PRESIDENT SAVINO: Senator
10 Squadron will be happy to yield, Senator
11 Golden.

12 SENATOR GOLDEN: Can we get an
13 explanation of the bill first?

14 ACTING PRESIDENT SAVINO: Senator
15 Squadron, an explanation has been requested by
16 Senator Golden.

17 SENATOR SQUADRON: Absolutely.

18 This bill is a departmental put
19 forward by the State Liquor Authority. And
20 what it does is it makes it a whole lot easier
21 to define some things that are currently in
22 the Alcoholic Beverage Control Law,
23 particularly when an establishment has become
24 a focal point of police activity or has become
25 a focal point for noise, disturbance,

1 misconduct or other disorders.

2 Currently it's a very difficult
3 standard. It's unclear exactly what it means.
4 And in some cases it's been very, very
5 difficult to pursue the specific focal points,
6 the places that really do have problems, and
7 leave the others aside.

8 What this bill would do is it would
9 be very clear that if you have six police
10 complaints within a 60-day period that are
11 received by the local police force and
12 forwarded to the State Liquor Authority, that
13 would give the State Liquor Authority cause to
14 pursue revocation of the license.

15 Any fraudulent complaints wouldn't
16 count. Any complaints that were inaccurate or
17 had errors wouldn't count. It would be a
18 clear standards that the sorts of complaints
19 that the police department feels are worth
20 forwarding to the Liquor Authority would then
21 give the Liquor Authority the right and the
22 ability to pursue a revocation.

23 Right now, in fact, the incentive
24 is too often, if you have some problematic
25 patrons, is to push them out onto the sidewalk

1 a couple of feet from your storefront, because
2 it's very, very hard to then connect that to
3 the knowledge of the licensee or someone with
4 managerial authority. And that's bad for
5 communities, it's bad for the Liquor
6 Authority, it's bad for the good bar and
7 restaurant providers who are trying to do
8 things the right way.

9 This clear standard is an important
10 part of giving the State Liquor Authority the
11 ability it needs to separate the good
12 operators from the bad ones.

13 ACTING PRESIDENT SAVINO: Senator
14 Golden, would you like Senator Squadron to
15 yield?

16 SENATOR GOLDEN: Yes, Madam
17 President, if he would, please.

18 ACTING PRESIDENT SAVINO: Senator
19 Squadron?

20 SENATOR SQUADRON: Yes, Madam
21 President.

22 SENATOR GOLDEN: Senator --
23 through you, Madam President -- who would
24 determine what was fraudulent, what's not
25 fraudulent in a complaint?

1 SENATOR SQUADRON: Well, the bill
2 defines clear and compelling evidence of
3 fraudulent intent on the part of the
4 complainant. Presumably the police
5 department -- well, certainly the police
6 department has the authority to make that
7 assessment, since they are the ones who are
8 forwarding the complaints to the Liquor
9 Authority. They're under no obligation --
10 except in very rare cases, very, very serious
11 crimes, are they under any obligation to
12 forward the complaint to the Liquor Authority.

13 So the first answer to your
14 question is the police department. The second
15 answer is the Liquor Authority would have the
16 ability to make the determination. And the
17 third is that the establishment would have
18 that as a potential defense in the event that
19 they did end up in a revocation proceeding.

20 SENATOR GOLDEN: Thank you.

21 Through you, Madam President, if
22 the sponsor will continue to yield.

23 ACTING PRESIDENT SAVINO: Senator
24 Squadron, do you continue to yield?

25 SENATOR SQUADRON: Yes.

1 ACTING PRESIDENT SAVINO: Senator
2 Squadron yields.

3 SENATOR GOLDEN: In a community
4 board situation when the police department are
5 brought in and they do their quarterly or
6 monthly assessments at the community boards
7 and the question's asked that they responded
8 to one of the local taverns and they've
9 responded to, say, one tavern 15 times, that
10 would not be considered a -- one of those
11 exceeding the number six, there would have to
12 actually be a complaint made that there was a
13 noise complaint or a fight at that location?

14 SENATOR SQUADRON: Through you,
15 Madam President, I'm having a little trouble
16 understanding the question.

17 Fifteen calls -- again, these are
18 complaints sent by the police department to
19 the Liquor Authority. So if the police
20 department has 15 complaints to send to the
21 Liquor Authority within that 60-day period,
22 that seems to me to be significantly more than
23 six.

24 SENATOR GOLDEN: Madam President,
25 if the sponsor would yield for another

1 question.

2 ACTING PRESIDENT SAVINO: Senator
3 Squadron, will you continue to yield?

4 SENATOR SQUADRON: Absolutely.

5 And just to clarify on the previous
6 question, it's the sixth incident reported to
7 the Authority, is the language in the law.

8 I will yield to another question.

9 ACTING PRESIDENT SAVINO: Senator
10 Squadron yields.

11 SENATOR GOLDEN: And who would do
12 the reporting? The complainant in the
13 situation, such as a noise complaint, the
14 police department responds, he gets to the
15 location, they don't have the -- what do you
16 call it, the decibel machine to study how loud
17 the premises -- who makes the determination on
18 noise? Do they actually need the decibel
19 reader to be able to make that determination?

20 SENATOR SQUADRON: Through you,
21 Madam President. On the very narrow question
22 of noise, as I'm sure Senator Golden knows,
23 within the City of New York there are pretty
24 specific requirements in terms of when you
25 have a noise complaint having to do with our

1 local environmental protection agency.

2 So I'm sure in the case of the City
3 of New York, on the narrow question of noise,
4 that would continue to hold and be unaffected
5 by this bill.

6 As I said before, the reporting
7 authority is not the complainant, it's the
8 local law enforcement agency would do the
9 reporting to the Liquor Authority. And they
10 would do it -- and again, in the bill here, in
11 Line 6, if you're following along with me, the
12 sixth incident reported to the Authority by a
13 law enforcement agency of noise or disturbance
14 or misconduct or disorder on or about the
15 licensed premises or related to the operation
16 of the premises or the conduct of its patrons.

17 So in terms of sort of the broader
18 question that I think Senator Golden may be
19 getting at, I don't think a noise meter would
20 be required for that broader definition.

21 SENATOR GOLDEN: Okay. Thank
22 you, Madam President. On the bill.

23 ACTING PRESIDENT SAVINO: Senator
24 Golden, on the bill.

25 SENATOR GOLDEN: I believe this

1 commissioner is doing an outstanding job in
2 trying to clear the backlog in the SLA and
3 trying to move the process, and I think he's
4 done a significant job at doing that. And I
5 think he has been a good commissioner.

6 I just think that six complaints in
7 60 days I think is just unreasonable in
8 certain neighborhoods where you have a series
9 of locations on a given block or in Manhattan
10 in a given row. The reason we put the laws
11 in, the 250 feet, the 300-feet rule, is
12 because of the number of bars that exist
13 within a community. And with two or three or
14 four on a block, they cause significant
15 problems.

16 I believe that this is giving too
17 much power to the State Liquor Authority. And
18 I believe even though this individual that we
19 have today, the commissioner, is doing a great
20 job, I don't know what the commissioner that
21 will follow him will be doing and how good and
22 effective that individual will be.

23 So I will be voting no on this
24 bill.

25 ACTING PRESIDENT SAVINO: Senator

1 Golden will be recorded in the negative.

2 Senator Robach.

3 SENATOR ROBACH: I had one quick
4 question, because this is really going to
5 predicate my entire vote, I'll let you know up
6 front. I'm not sure I got, from the questions
7 back and forth, if I got the answer I'm
8 looking for.

9 Would these six complaints -- I
10 heard you use different words. Would this be
11 founded complaints by some process or would
12 this just be on the complaints and someone
13 would be presumed guilty just by the six
14 complaints, or in violation?

15 Because, you know, and I'll tell
16 you my concern, you know, this happens all the
17 time. There are, you know, places where
18 people move into a neighborhood, get a
19 reasonably good deal on a property or whatnot,
20 and then act like the facility or the place
21 that may play music even legally in the time
22 frame -- and their city permit in the City of
23 Rochester entertainment district, that then
24 say, you know, "We don't like the music."
25 They may call every day of the week. That

1 would give, if one person did that, that would
2 be six complaints.

3 Now, if those complaints are
4 founded and someone is in violation, they
5 should accept the penalty. But if it's only
6 predicated on complaints, then I think I have
7 to vote no. Because that would almost be an
8 incentive for even another competitor or
9 businessperson to make the complaint if they
10 knew that was the environment.

11 So it's very, very important to me
12 that I clearly understand, before I vote, if
13 this is based on complaints or on some finding
14 and some process that someone is in violation
15 of some portion of the liquor law or other
16 very important code violations.

17 SENATOR SQUADRON: I'd be happy
18 to yield for a question, Madam President.

19 ACTING PRESIDENT SAVINO: Thank
20 you, Senator Squadron.

21 SENATOR SQUADRON: In response to
22 Senator Robach, it's actually not a complaint
23 at all that is the governing principle. It is
24 upon the sixth incident reported to the
25 Authority by a law enforcement agency. So it

1 is an incident report from the local law
2 enforcement agency to the Liquor Authority.

3 SENATOR ROBACH: Okay. So there
4 is no -- when you say "incident," that means
5 there's no part of that process, there's no
6 dialogue of yes, this is what was purported,
7 but this isn't what -- there's no
8 give-and-take portion or defense time for that
9 business.

10 SENATOR SQUADRON: Through you,
11 Madam President. The law enforcement agency
12 is under no obligation to report a call or an
13 issue to the Liquor Authority.

14 The law enforcement -- this does
15 empower law enforcement, which I know that I
16 have colleagues who are significant supporters
17 of law enforcement. This empowers law
18 enforcement to make the determination that an
19 incident, an incident report is worth
20 forwarding to the Liquor Authority.

21 The number of incidents, by the
22 way, the types of incidents that they're
23 required to send to the Liquor Authority
24 are -- it's a relatively small list:
25 Gambling, illicit drugs, prostitution. And

1 violent crimes, weapons possession. So not
2 issues of nuisance or quality of life.

3 Among those, it is -- I'm going to
4 be very clear on this -- we are empowering the
5 local law enforcement agency to forward an
6 incident report, and this would be the sixth
7 within 60 days, to the Liquor Authority if the
8 law enforcement agency believes that this
9 establishment is a focal point of police
10 activity and is significantly disturbing to
11 the peace and doing other significant illegal
12 activity or activity outside of the ABC Law.

13 SENATOR ROBACH: Okay. Thank
14 you, Senator Squadron.

15 ACTING PRESIDENT SAVINO: Senator
16 Saland.

17 SENATOR SALAND: Thank you.
18 Would Senator Squadron yield?

19 ACTING PRESIDENT SAVINO: Senator
20 Squadron, will you yield?

21 SENATOR SQUADRON: I'd be happy
22 to.

23 ACTING PRESIDENT SAVINO: Senator
24 Squadron yields.

25 SENATOR SALAND: Through you,

1 Madam President. Senator Squadron, as you
2 were speaking I believe you said the
3 following. Please correct me if I'm wrong.
4 You said under this particular proposal it
5 would be easier to define a whole lot of
6 activities that are currently difficult to
7 define. Is that correct?

8 SENATOR SQUADRON: I'm sorry,
9 would Senator Saland mind repeating the
10 question?

11 ACTING PRESIDENT SAVINO: Senator
12 Saland, could you please repeat the question.

13 SENATOR SALAND: Certainly. I
14 believe when you were asked to explain the
15 bill you said that under this particular bill
16 it would be easier to define a whole lot of
17 activities which are currently difficult to
18 define. Is that correct?

19 SENATOR SQUADRON: Through you,
20 Madam President, I may have said that. And if
21 I did, I misspoke.

22 It would be easier to define
23 whether an establishment is a focal point of
24 police activity that engages in -- that leads
25 to these negative effects on the community and

1 potentially engages in illegal activity.

2 SENATOR SALAND: If the Senator
3 will continue to yield.

4 ACTING PRESIDENT SAVINO: Senator
5 Squadron, do you continue to yield?

6 SENATOR SQUADRON: I'd be happy
7 to.

8 ACTING PRESIDENT SAVINO: Senator
9 Squadron yields.

10 SENATOR SALAND: Senator, I also
11 believe that you said any fraudulent
12 complaints or inaccurate complaints wouldn't
13 count. Am I correct?

14 SENATOR SQUADRON: I believe I
15 did say that, Madam President.

16 SENATOR SALAND: And if the
17 Senator will continue to yield.

18 ACTING PRESIDENT SAVINO: Senator
19 Squadron, do you continue to yield?

20 SENATOR SQUADRON: Yes.

21 SENATOR SALAND: And here I'm a
22 little fuzzy, so please help me.

23 I believe initially you said, in
24 response to a question by Senator Golden, that
25 the police department would determine, in

1 essence, the complaint. And then you went on
2 to say the Liquor Authority, and then you
3 named a third category. And I'm not quite
4 sure what that third category was. Could you
5 tell me?

6 SENATOR SQUADRON: Through you,
7 Madam President. The police department, as
8 I've said, in the vast majority of sorts of
9 incidents where there would be any question
10 can choose whether to forward the complaint to
11 the Liquor Authority. The Liquor Authority
12 then is able to, they're not required, to
13 bring a revocation proceeding.

14 And then I believe my best
15 recollection was that the third category was
16 the one that Senator Saland asked about
17 previously, the fraudulent standard and the
18 inaccurate standard.

19 SENATOR SALAND: If the Senator
20 would continue to yield.

21 ACTING PRESIDENT SAVINO: Senator
22 Squadron, do you continue to yield?

23 SENATOR SQUADRON: Yes.

24 ACTING PRESIDENT SAVINO: Senator
25 Squadron yields.

1 SENATOR SALAND: Could you tell
2 us the standard of evidence that might be used
3 or would be used in making the determination
4 as to whether in fact the complaints warranted
5 proceeding?

6 SENATOR SQUADRON: Through you,
7 Madam President, the standard by which the
8 Liquor Authority -- to clarify, the standard
9 by which the Liquor Authority would pursue a
10 revocation proceeding against an
11 establishment? Is that the standard that
12 Senator Saland is asking about?

13 SENATOR SALAND: Through you,
14 Madam President. I will ask you by what
15 standard would the police determine whether or
16 not to pursue the complaint or forward the
17 complaint to the SLA.

18 And, secondly, were the complaints
19 forwarded and six of them to be received
20 within this 60-day period, what would be the
21 means by which or the standard of evidence
22 that the SLA would use to determine whether or
23 not in fact there was cause?

24 SENATOR SQUADRON: To that single
25 two-part question -- and just a correction,

1 it's not complaint -- and I know I did use
2 that phrase, I just want to clarify -- it's
3 incident. And there's a significant
4 difference, as I appreciate some of my
5 colleagues have helped us tease out today.

6 The standard by which the police or
7 law enforcement, local or otherwise, would
8 send an incident to the Liquor Authority would
9 be, as I said, at their discretion. Except
10 for, again, a small and highly significant
11 list of very serious crimes. So I guess that
12 standard would be one of law enforcement
13 discretion.

14 And the standard by which the
15 Liquor Authority would decide whether or not
16 to bring a revocation proceeding would be
17 exactly as it is today. As you may know, this
18 is a new subdivision 4 in Section 118 of the
19 Alcoholic Beverage Control Law, which is
20 revocation of license for cause. So the
21 existing standard.

22 SENATOR SALAND: And that's here.
23 And please correct me if I'm wrong. And if
24 Senator will continue to yield.

25 ACTING PRESIDENT SAVINO: Senator

1 Squadron?

2 SENATOR SQUADRON: Yes.

3 SENATOR SALAND: Would that be,
4 in effect, a mere preponderance of the
5 credible evidence? I believe it would be,
6 but, you know, I'm . . .

7 SENATOR SQUADRON: Through you,
8 Madam President, I think I'm going to have to
9 defer to Senator Saland on this one again. I
10 just want to clarify we're talking about
11 existing law and the existing standard, we're
12 not talking about a changed standard.

13 SENATOR SALAND: Correct. I
14 realize --

15 SENATOR SQUADRON: And it sounds
16 to me like Senator Saland is familiar with the
17 current standard, and so I'll stipulate that
18 he is.

19 SENATOR SALAND: So as I look at
20 this new subsection 4, which parallels the
21 language in the existing subsection 3 which
22 defines "cause," it says that there are a host
23 of things -- sustain a continuing pattern of
24 noise, disturbance, misconduct, disorder on or
25 about the licensed premises.

1 Some of these things are not
2 readily defined and really I have to believe
3 would amount to judgment calls on the part of
4 the police officer, would they not?

5 SENATOR SQUADRON: Through you,
6 Madam President. I believe subsection 3
7 actually references the powers and the
8 decisions of the State Liquor Authority, not
9 of the law enforcement. And in terms of that
10 judgment, that's one that's long established.
11 There's enormous case law about this law
12 that -- this bill that we're discussing today
13 is largely based on clarifying or correcting
14 where some of that case law has led.

15 SENATOR SALAND: Thank you,
16 Senator.

17 If the Senator would continue to
18 yield.

19 ACTING PRESIDENT SAVINO: Senator
20 Squadron, do you continue to yield?

21 SENATOR SQUADRON: Yes.

22 SENATOR SALAND: I do understand
23 that part of it. But what you said was that
24 the police were going to be part of
25 determining what comes through the truth

1 filter, what is it that actually gets to the
2 SLA.

3 And my question, then, is as the
4 police attempt to determine these different
5 classifications -- sustain a continued pattern
6 of noise, disturbance, misconduct, or
7 disorder -- there are going to be judgments
8 that the police are going to have to make that
9 aren't necessarily laid out hard and cold in a
10 very easy pattern to follow. Is that correct?

11 SENATOR SQUADRON: Just to
12 clarify it, I believe Senator Saland is now
13 talking about the role of law enforcement in
14 forwarding an incident report to the Liquor
15 Authority in the proposed subsection 4 that
16 we're discussing.

17 SENATOR SALAND: Correct. Your
18 bill says that it will be presumed, upon the
19 sixth incidence reported to the Authority by a
20 law enforcement agency. And that's what I'm
21 focusing on.

22 SENATOR SQUADRON: Right. And
23 yes, I believe the law enforcement agency is
24 given here some guidance on what sorts of
25 incidents to forward to the Liquor Authority.

1 SENATOR SALAND: If the Senator
2 will continue to yield.

3 ACTING PRESIDENT SAVINO: Senator
4 Squadron, will you continue to yield?

5 SENATOR SQUADRON: Yes.

6 ACTING PRESIDENT SAVINO: The
7 Senator yields.

8 SENATOR SALAND: You go on to
9 say, in the last few lines of your bill, that
10 "absent clear and convincing evidence of
11 either fraudulent intent on the part of any
12 complainant or a factual error relied upon by
13 the Authority."

14 Clear and convincing evidence is
15 certainly a standard that's higher than a mere
16 preponderance of the evidence. And while it
17 is a higher standard, certainly when you have
18 a he said/she said situation, probably in each
19 and every instance it's going to be extremely
20 difficult to establish clear and convincing
21 evidence.

22 And if, for example, with regard
23 particularly to the question of fact, if you
24 have an individual who allegedly was guilty of
25 being disorderly or engaging in misconduct and

1 he maintains, "No, I wasn't there, I was at my
2 apartment," and he is alleged to have in fact
3 been a perpetrator of something that occurred
4 that caused the misconduct, he has to prove it
5 by clear and convincing evidence.

6 So if he says "I was in my
7 apartment and I was there all night," and he
8 doesn't have somebody in his apartment to
9 document that he was there, then it's not
10 clear and convincing evidence and the
11 establishment winds up having to suffer
12 because of that clear and convincing evidence
13 standard.

14 Would it not be fairer to merely
15 stick with the mere preponderance level?
16 Because effectively, you've raised the bar and
17 made it extremely difficult for an
18 establishment, particularly when third parties
19 are responsible for the complaint, to defend
20 themselves.

21 SENATOR SQUADRON: I understand
22 Senator Saland's concern, but I actually -- I
23 would take the conclusion to a different
24 place. The clear and compelling evidence of
25 fraudulent intent relates simply to whether

1 each or any of these six incidents that are
2 forwarded along by law enforcement within a
3 60-day period are able to be used in a
4 calculation of cause.

5 Which then takes us back to the
6 existing subsection 3. Which, as you know,
7 has under current law and would continue to
8 have, if this bill becomes law, a standard of,
9 you know, include the existence of a
10 sustained, continued pattern of noise,
11 disturbance, misconduct, disorder on or about
12 the licensed premises.

13 So the standard by which any one of
14 the six incidents is invalidated in terms of
15 crossing the threshold to start considering
16 whether or not to bring a proceeding, as you
17 would under current law, is a little bit
18 higher.

19 I don't believe that that actually
20 makes the establishment -- the standard of
21 defense for an establishment higher than it is
22 today. It does mean that there's a higher
23 standard to throw any of these six out once
24 law enforcement has chosen to forward them
25 along to the Liquor Authority.

1 SENATOR SALAND: Thank you,
2 Senator Squadron.

3 On the bill, Madam President.

4 ACTING PRESIDENT SAVINO: Senator
5 Saland, on the bill.

6 SENATOR SALAND: Madam President,
7 notwithstanding Senator Squadron's comments
8 with regard to the clear and convincing
9 standard with the defense, clearly, by the
10 rules of construction, clear and convincing
11 precedes both the fraudulent intent section
12 and the factual error section, separated by an
13 "or."

14 If in fact the factual error is
15 merely one of a mere preponderance of the
16 evidence, then it should be placed -- and I
17 hate to be too lawyerlike -- before the use of
18 the clear and convincing standard.

19 This really puts a number of
20 licensees at risk for events that may well be
21 beyond their control. It does set up the
22 opportunity, almost like a spite fence
23 situation, where someone can make repeated
24 phone calls alleging some type of misconduct.
25 To the extent that the law enforcement

1 authority chooses to report them, they
2 certainly are doing what they're lawfully
3 obligated to do.

4 But then to make it difficult for
5 the entity to defend themselves through the
6 use of this clear and convincing standard is,
7 I think, a bit over the top and very
8 burdensome and could wind up with any number
9 of licensees being punished due to their
10 inability to establish that higher evidentiary
11 standard.

12 I would suggest that the bill
13 certainly is well intended and certainly
14 should be in some form -- but not necessarily
15 this form -- used as a tool to deal with those
16 hot spots that do cause problems in
17 communities. But I think this bill needs a
18 bit more work, notwithstanding the fact that
19 it's at the request of the State Liquor
20 Authority. And I would certainly intend to be
21 voting in the negative, Madam President.

22 ACTING PRESIDENT SAVINO: Senator
23 Saland will be recorded in the negative.

24 Senator Lanza.

25 SENATOR LANZA: Thank you, Madam

1 President. Would Senator Squadron yield for a
2 few questions.

3 ACTING PRESIDENT SAVINO: Senator
4 Squadron, will you yield?

5 SENATOR SQUADRON: I'd be happy
6 to, Madam President, to Senator Lanza.

7 SENATOR LANZA: Thank you,
8 Senator Squadron. Through you, Madam
9 President.

10 Senator Squadron, the licensed
11 premises under this legislation would include
12 restaurants, bars, catering halls, liquor
13 stores and the like; is that correct?

14 SENATOR SQUADRON: Senator Lanza,
15 I believe it's on-premises, but I can confirm
16 that for you.

17 SENATOR LANZA: Through you,
18 Madam President.

19 ACTING PRESIDENT SAVINO: Senator
20 Squadron, do you continue to yield?

21 SENATOR SQUADRON: Yes.

22 SENATOR LANZA: Well, for
23 instance, catering halls. That would be
24 on-premises, that would be included here --

25 SENATOR SQUADRON: Yes.

1 SENATOR LANZA: -- in restaurants
2 and the like?

3 Senator Squadron, as has been said
4 here, we understand the intention here. And I
5 do believe that it's laudable. The question,
6 though, turns on the distinction between those
7 who are truly committing violations and
8 creating a public nuisance as opposed to
9 frivolous accusations. And you've said a
10 number of times that this is about incidents
11 and not complaints.

12 And my question is -- or my
13 understanding, I should say, is isn't every
14 incident borne by a complaint? For instance,
15 I know in New York City, if a complaint is
16 made by anyone about an establishment and the
17 police respond, whether or not they've made a
18 finding of fault or not, an incident report is
19 created. Isn't that the case?

20 SENATOR SQUADRON: Through you,
21 Madam President, yes.

22 SENATOR LANZA: Would Senator
23 Squadron continue to yield.

24 ACTING PRESIDENT SAVINO: Senator
25 Squadron, do you continue to yield?

1 SENATOR SQUADRON: Yes.

2 ACTING PRESIDENT SAVINO: Senator
3 Squadron yields.

4 SENATOR LANZA: And so as Senator
5 Saland discussed, the due process protections
6 that presently exist would perhaps fly out the
7 window here, because in the absence of this
8 being a finding -- let me present the question
9 this way.

10 If your intent is to target the
11 violators, why not stick with a finding
12 standard as opposed to an incident, which
13 really is nothing more than a complaint
14 standard?

15 SENATOR SQUADRON: First, just a
16 point of clarification. It is not an incident
17 standard. It is an incident reported by law
18 enforcement standard.

19 So I said yes, quite simply, to the
20 question about in what cases incident reports
21 are made up. We can't -- it would be a
22 mistake for us to then suggest that all
23 incident reports will get forwarded by law
24 enforcement to the Liquor Authority.

25 SENATOR LANZA: Would Senator

1 Squadron continue to yield.

2 ACTING PRESIDENT SAVINO: Senator
3 Squadron, do you continue to yield?

4 SENATOR SQUADRON: Yes.

5 ACTING PRESIDENT SAVINO: Senator
6 Squadron yields.

7 SENATOR LANZA: Senator Squadron,
8 there's nothing in this legislation that would
9 prevent law enforcement from forwarding every
10 single incident report that they receive; is
11 that correct?

12 SENATOR SQUADRON: Through you,
13 Madam President, that is correct.

14 But then, again, I would caution
15 Senator Lanza and my colleagues from, from
16 that fact, making the further leap that the
17 simple fact of incidents, six within 60 days
18 being forwarded to the State Liquor Authority,
19 would lead to a revocation proceeding. It
20 wouldn't.

21 In fact, the entire bill we're
22 discussing today does two things. It empowers
23 locale law enforcement, and it clearly defines
24 or more clearly defines the words "for cause"
25 in existing law.

1 SENATOR LANZA: Would Senator
2 Squadron continue to yield.

3 SENATOR SQUADRON: Yes.

4 ACTING PRESIDENT SAVINO: Senator
5 Squadron yields.

6 SENATOR LANZA: Thank you.

7 You know, the problem that we're
8 having here is let's suppose -- you know, and
9 everyone has different sensitivities. Some
10 people can tolerate more than others. For
11 some, just hearing people congregating near a
12 restaurant or the catering hall might be
13 enough to prompt a complaint. It might not be
14 fraudulent, it might not be maliciously
15 intended, it might just be that that person is
16 offended by people congregating and making
17 some noise.

18 Under those circumstances -- and
19 sometimes, as we know in communities,
20 sometimes people decide that they just don't
21 like the fact that there's a restaurant down
22 the block or a bar on the corner or a catering
23 hall near where they live. What's to prevent
24 someone from placing complaints, which then
25 lead to incident reports, and the police

1 department just wanting -- because these are
2 difficult situations in communities, and
3 leading to the police department, quite
4 frankly, just wanting to wash their hands of
5 the situation and decide to just forward every
6 single complaint that they have about an
7 establishment without establishing whether or
8 not there's a finding of fault or not to the
9 Liquor Authority to let them deal with it.

10 Under that circumstance, wouldn't
11 it then require the SLA to revoke the license?

12 SENATOR SQUADRON: Through you,
13 Madam President, no, it wouldn't.

14 I would also -- Senator Lanza did
15 ask as part of that, what would prevent that.
16 I mean, some of the steps along that way would
17 be prevented by the good judgment of local law
18 enforcement, among other things.

19 But to get to the conclusion where
20 Senator Lanza was, and to say again, no, the
21 Liquor Authority would not -- this is very
22 important, the Liquor Authority would not be
23 required -- I'll say it again, the Liquor
24 Authority would not be required to revoke a
25 license in the case that Senator Lanza

1 described in which we can't trust the good
2 judgment of local law enforcement.

3 In fact, if you look at existing
4 law, if you look at Section 118 of the
5 ABC Law, revocation of license for cause:
6 "Any license or permit issued pursuant to this
7 chapter may" -- I'm going to repeat that,
8 although it's only listed in the law once --
9 "may be revoked, cancelled, suspended and/or
10 subjected to the imposition of a civil penalty
11 for cause, and must be revoked for the
12 following causes."

13 Now, the following causes are not
14 in the bill under discussion. They're very
15 serious issues, as we've talked about before.

16 Then I'm going to take you into
17 subsection 2 of Section 118: "Notwithstanding
18 the issuance of a license or permit by way of
19 renewal, the Liquor Authority may" -- again,
20 I'm going to repeat "may", though it's not in
21 the law -- "may revoke, cancel or suspend such
22 license or permit and/or may impose a civil
23 penalty against any holder of such license or
24 permit."

25 So that's a long way of saying no.

1 SENATOR LANZA: Would Senator
2 Squadron continue to yield.

3 ACTING PRESIDENT SAVINO: Senator
4 Squadron, do you continue to yield?

5 SENATOR SQUADRON: Yes.

6 SENATOR LANZA: Thank you,
7 Senator Squadron.

8 So you're saying that even if the
9 SLA were to receive six complaints, they could
10 choose to ignore them?

11 SENATOR SQUADRON: Sorry, can you
12 repeat that?

13 SENATOR LANZA: Even if the SLA
14 were to receive the requisite number of
15 complaints here, they could choose to ignore
16 those?

17 SENATOR SQUADRON: That's
18 correct.

19 SENATOR LANZA: Thank you,
20 Madam President.

21 ACTING PRESIDENT SAVINO: Senator
22 Alesi.

23 SENATOR ALESI: Thank you,
24 Madam President. Would Senator Squadron yield
25 for just a couple of questions?

1 ACTING PRESIDENT SAVINO: Senator
2 Squadron, will you yield to Senator Alesi?

3 SENATOR SQUADRON: Yes, I will,
4 thank you.

5 ACTING PRESIDENT SAVINO: Senator
6 Squadron yields.

7 SENATOR ALESI: Thank you,
8 Senator.

9 Through you, Madam President, were
10 you contacted directly by the SLA with this
11 request, or did you craft the legislation
12 yourself?

13 SENATOR SQUADRON: Through you,
14 Madam President, this is a departmental
15 pass-down by the SLA. And on which I worked
16 with them.

17 SENATOR ALESI: If you'll
18 continue to yield, then.

19 So working with them and through
20 them, answering their request to solve a
21 problem that persists primarily where?

22 SENATOR SQUADRON: Through you,
23 Madam President, I was quite pleased -- I work
24 with the SLA quite frequently, because in some
25 parts of my district I do have an absolute

1 profusion of bars and restaurants that create
2 an incredible burden for some of my
3 constituents -- and in fact, I would argue,
4 and many of the local businesses in my
5 district would too, also create an incredible
6 burden for those law-abiding establishments
7 that happen to find themselves in an
8 incredibly dense area with a justifiably,
9 incredibly frustrated set of residents.

10 And it's very, very hard sometimes
11 for the Liquor Authority, for local law
12 enforcement under current law to separate the
13 wheat from the chaff, as it were.

14 So in terms of my personal
15 experience, to answer your question, I would
16 say my district.

17 SENATOR ALESI: Thank you. With
18 regard to those law-abiding establishments
19 that you were talking about -- Madam
20 President, would the Senator continue to
21 yield?

22 SENATOR SQUADRON: Yes.

23 ACTING PRESIDENT SAVINO: The
24 Senator yields.

25 SENATOR ALESI: Senator, I am

1 assuming that maybe there's a string of
2 establishments around, let's say, a very
3 condensed neighborhood in more of a highly
4 populated, vertically populated, dense area.
5 But it could be anywhere. It could be any
6 place where there might be good operators and
7 bad operators, and that could apply in a rural
8 setting or an urban setting.

9 Would that be true?

10 SENATOR SQUADRON: Through you,
11 Madam President, this law would apply
12 statewide, yes.

13 SENATOR ALESI: Thank you. Would
14 the Senator continue to yield.

15 SENATOR SQUADRON: Yes.

16 ACTING PRESIDENT SAVINO: Senator
17 Squadron yields.

18 SENATOR ALESI: Thank you,
19 Senator.

20 So in a circumstance where you have
21 someone who complains because of a continuing
22 and persistent problem, either with the
23 operation of the business or the conduct of
24 the patrons, who would be most likely person
25 or group, in your opinion or in the SLA's

1 opinion, to call the police and complain?

2 SENATOR SQUADRON: Through you,
3 Madam President, I'm not entirely sure I
4 understand the question. I certainly can't
5 speak for the SLA.

6 In the case of an incident, I would
7 assume someone who is either a victim of the
8 incident or is witnessing the incident.

9 SENATOR ALESI: Thank you,
10 Senator.

11 Madam President, will the Senator
12 continue to yield?

13 ACTING PRESIDENT SAVINO: Senator
14 Squadron, do you continue to yield?

15 SENATOR SQUADRON: Yes.

16 ACTING PRESIDENT SAVINO: The
17 Senator yields.

18 SENATOR ALESI: So again, with
19 regard to operators that as you describe are
20 good operators, or those that are law-abiding
21 and conforming and all the rest of that, is it
22 conceivable to you or to the SLA that the one
23 calling the police might be one of those good
24 operators?

25 Because it has nothing to do with

1 the operation of the business and everything
2 to do with the conduct of its patrons, who
3 very well might have been drinking or partying
4 somewhere else as a weekly baseball team or a
5 biking group or some other group and have
6 gotten themselves into a rowdy situation and
7 systematically move on to another operation,
8 and the one calling the police for the help is
9 the actual owner of one of those good
10 operations that you're concerned about.

11 SENATOR SQUADRON: Through you,
12 Madam President. As the former owner of a
13 liquor license and an establishment, I am all
14 too familiar with the risks of competitors or
15 bad operators trying to do all sorts of bad
16 things to other establishments. So yes, that
17 is conceivable to me.

18 I would also say, though, that
19 under the ABC Law, proprietors are responsible
20 for the good conduct of those who they're
21 serving and who they have served, in fact. So
22 that's a standard that exists, again, under
23 current law and an entire section of the ABC
24 Law.

25 And then, again, I would point you

1 again to this nagging "fraudulent intent on
2 the part of the complainant" phrase in the
3 proposed bill.

4 SENATOR ALESI: Will the Senator
5 continue to yield.

6 ACTING PRESIDENT SAVINO: Senator
7 Squadron, do you continue to yield?

8 SENATOR SQUADRON: Yes.

9 ACTING PRESIDENT SAVINO: The
10 Senator yields.

11 SENATOR ALESI: Thank you,
12 Senator. You made the point that those
13 operators are responsible for the good conduct
14 of their patrons. And through you, Madam
15 President, Senator Squadron, wouldn't you
16 agree that part of that responsibility would
17 be to call the police if patrons were
18 misbehaving to a level that it was annoying or
19 unsafe not only to the premises and the
20 operation of the business but also to some of
21 the other patrons that are there that are not
22 misbehaving?

23 Wouldn't the act of the owner
24 himself or herself calling the police be one
25 of those responsible acts that they're

1 required to do in the operation of their
2 business?

3 SENATOR SQUADRON: Through you,
4 Madam President, I actually have to admit it's
5 been a number of years and I don't recall if
6 that's an affirmative obligation of the owner
7 to actually call law enforcement.

8 Certainly, as I said before, the
9 condition of the premises and of folks who
10 have been served by you are your
11 responsibility. We can try to get
12 qualification on whether that affirmative
13 obligation exists for the license holder.

14 SENATOR ALESI: Perfect. Thank
15 you, Senator.

16 ACTING PRESIDENT SAVINO: Senator
17 Alesi, on the bill.

18 SENATOR ALESI: The point, to be
19 clear, is that there maybe an occasion or a
20 continuing set of circumstances -- and I can
21 just use an example where a softball team or
22 biking group or some other group comes
23 regularly to a neighboring establishment, does
24 their drinking, gets intoxicated, and then
25 moves on to another one, maybe just to get

1 something to eat.

2 But they're in a situation where
3 they're intoxicated, where they're rowdy,
4 where they're detrimental to the operation of
5 a good, ongoing, well-managed, responsible
6 operator. And that operator himself or
7 herself finds themselves in a position on a
8 regular basis of having to call the police,
9 and maybe six times or seven times or eight
10 times or 10 times in the course of 60 days.

11 And because of that, under this
12 law -- because it doesn't say "the continuing
13 operation and the behavior of its patrons," it
14 says "or the behavior of its patrons." Simply
15 by acting responsibly and trying to preserve
16 the business that you've worked so hard for,
17 to maintain a good reputation, that you put
18 your life savings into, maybe, by calling the
19 police you're actually, under this law,
20 creating a situation with the State Liquor
21 Authority that you absolutely would not want
22 to.

23 And so the unintended consequences
24 could be very detrimental to the business,
25 number one. And number two, it might even put

1 some good operators in a situation where
2 they'd be reluctant to call the police.

3 Thank you, Senator Squadron. Thank
4 you, Madam President.

5 ACTING PRESIDENT SAVINO: Senator
6 Squadron.

7 SENATOR SQUADRON: A point of
8 clarification on Senator Alesi's comments on
9 the bill.

10 It sounds to me -- and I just want
11 to point Senator Alesi to existing law.
12 Senator Alesi is concerned about the existing
13 subsection 3 of Section 118 of the ABC Law,
14 which is the responsibility -- which is the
15 fact that a license can be revoked for cause
16 for a sustained and continuing pattern of
17 noise, disturbance, misconduct or disorder on
18 or about the licensed premises.

19 With or without this bill, that's
20 an existing responsibility, that's an existing
21 potential cause for revocation, unchanged by
22 this. It sounds like Senator Alesi may want
23 to review the next section.

24 SENATOR ALESI: Madam President,
25 if I may respond to that, I can tell you this,

1 first and foremost, through my own experience,
2 that I know of an establishment which is a
3 licensed cigar-smoking establishment, and the
4 only reason in many cases people come to that
5 is because after they've been out drinking and
6 partying and doing everything they want to do
7 all night, it's the one place they can go
8 legally to smoke. And they bring their
9 problems with them.

10 And so I can tell you, under those
11 circumstances, that on a couple of occasions
12 if the proprietor has felt it necessary to
13 call the police, under this law the way it's
14 written right now, that operator or other
15 operators in those circumstances would be
16 bringing down a difficult situation on
17 themselves for doing the right thing and for
18 acting responsibly.

19 So again, I thank the Senator for
20 his efforts. But I can tell you that under
21 these circumstances, it could create
22 difficulty for honest and legitimate
23 operators.

24 ACTING PRESIDENT SAVINO: Senator
25 DeFrancisco.

1 SENATOR DeFRANCISCO: On the
2 bill. I don't have any further questions of
3 Senator Squadron. I just want to point out a
4 couple of things here that are, I think, very
5 important.

6 Normally in this society when
7 you're accused of something, the burden is on
8 the person who's doing the accusing. And I
9 think that's what our whole criminal justice
10 system is based on. And I would think most
11 people think that makes a pretty good idea.

12 And the standard under existing law
13 for the ABC Board is that if there is this
14 persistent pattern of noise, disturbance, et
15 cetera, that's a cause, if proven, just
16 slightly tipping the scales in your favor,
17 preponderance of the evidence. Just slightly
18 tipping the scales in your favor as a
19 complainant. The board can revoke your
20 business license, the board can go forward and
21 issue various fines and so forth. But the
22 system is it's not that hard to prove the
23 preponderance of the evidence. But there's
24 complaints, and somebody's got to prove that.

25 What this bill does is put

1 everything on its head. On six incident
2 reports -- and I don't know how things are
3 done in New York City, but I'm sure they're
4 done properly in Staten Island, because
5 Senator Lanza brought this up. The police, if
6 they're getting complaints about a bar or a
7 restaurant, are going to file the incident
8 reports. They're not going to be subjecting
9 themselves to harassment from somebody in the
10 community because they won't even investigate
11 and file a report. That's a report. That's
12 not a finding, that's an incident report.

13 Under this bill, if there's six
14 reports -- six reports, six complaints that
15 are on a police paper, an incident report --
16 that are brought to the attention of the SLA,
17 you're presumed, as a bar owner or restaurant
18 owner, to have violated the law. And the only
19 way you can try to disprove that -- you're
20 presumed. You disprove it, you've got to
21 prove by clear and convincing evidence that
22 what was complained about was either
23 fraudulent, somebody did it fraudulently, or
24 there was a factual error.

25 I never heard of a legal standard

1 of a factual error. It's either factual or
2 it's not factual. And I know our newest
3 Attorney General clearly understands these
4 burdens of proof. And while he's sitting next
5 to the sponsor, he might want to explain them
6 to him. Because this puts everything on its
7 head.

8 And if you don't think that
9 competing bars call other bars and complain
10 about them, I can tell you many incidents in
11 the Syracuse area. And there are very
12 sensitive people, as Senator Lanza said, who
13 would rather not have the restaurant there or
14 the bar there. If they know they have this
15 law where it's presumed if they make these
16 calls and their friends make six of these
17 calls and the police come six times, that the
18 proof has been done and the bar has to prove
19 this incredible standard of clear and
20 convincing evidence, disprove that they did
21 anything wrong -- I just can't believe it. I
22 just can't believe that this is what the
23 sponsor could possibly want. I can't believe
24 that you want to flip the jurisprudence of
25 this state on its head.

1 Now, let me give you an example of
2 how you can handle this. Very simply, if the
3 SLA really wants this bill or wants to do --
4 you know, the problem with the board has been,
5 for my understanding, is complaints are sent
6 in and they don't do a darn thing. They don't
7 investigate them, they don't have the hearing.

8 Well, why don't you just require
9 that the SLA do the job under the existing
10 law? And if they do the job under the
11 existing law, they don't need any more powers.
12 They just have to prove their case by the
13 preponderance of the evidence.

14 The problem isn't that it's not
15 easy enough to prove their cases, the problem
16 is they either don't have enough manpower or
17 they don't investigate these to have enough
18 hearings to get rid of the bad bar owners and
19 restaurant owners. Because you don't want to
20 lose the good ones. And Senator Alesi had
21 some great points concerning this, that in
22 many cases you're protecting your business by
23 calling the police yourself.

24 So I would hope -- I mean, I know
25 Senator Squadron has the pride of authorship

1 here. But maybe, maybe, with the consultation
2 of the other lawyers or lawyers that are on
3 the Democrat conference -- because I'm not so
4 sure he'll listen to me -- to just go through
5 this with him, sit down and make sure he
6 understands what he's doing. Because this is
7 a very, very bad law that sets the
8 jurisprudence of this state on its head.

9 And for those who claim to want to
10 protect the rights of the individual, the
11 accused -- and many, many bills come up here
12 every week about how to make the standard
13 better for the accused and those who are
14 convicted -- you are putting the accused on
15 the defensive having to prove that the person,
16 the accused, is not guilty by clear and
17 convincing evidence.

18 So I would hope that Senator
19 Squadron would lay this bill aside, get some
20 advice from somebody who understands the way
21 the legal system works, and modify the bill so
22 that --

23 SENATOR SQUADRON: Point of
24 order, Madam President.

25 ACTING PRESIDENT SAVINO:

1 Senator Squadron --

2 SENATOR DeFRANCISCO: -- modify
3 the bill so it makes sense.

4 ACTING PRESIDENT SAVINO: Senator
5 Squadron, what's your point of --

6 SENATOR SQUADRON: Point of
7 personal privilege.

8 I'm new here, as Senator
9 DeFrancisco points out. I didn't know that
10 only those of us who are members of the bar
11 were qualified to put forward bills that
12 change the law as legislators. So I just
13 wanted clarification from Senator DeFrancisco
14 on that point.

15 Thank you.

16 SENATOR DeFRANCISCO: Well, if
17 Senator Squadron was listening, maybe this is
18 part of the problem in drafting the bill, that
19 he doesn't clearly listen to what people are
20 saying.

21 I didn't say that he's not
22 qualified. Anybody can put a bill in. That
23 doesn't mean it's going to be a good bill.
24 What I'm suggesting is that he get somebody
25 with some legal experience that understands

1 what the burdens of proof are, the
2 preponderance of the evidence, the clear and
3 convincing evidence, and who has the burden of
4 proof. And what this is doing is flipping
5 that burden of proof on its head.

6 And I'm only saying that he should
7 get some advice from whether it's staff or
8 whether the other attorneys. And if he thinks
9 after that getting that advice that this bill
10 makes sense, then certainly he should go
11 forward. But I think he's making a huge
12 mistake by doing this, because it's a very,
13 very bad bill.

14 Thank you, Madam President.

15 ACTING PRESIDENT SAVINO: Are
16 there any other Senators wishing to be heard
17 on the bill?

18 Senator Schneiderman.

19 SENATOR SCHNEIDERMAN: Thank you,
20 Madam President.

21 I want to commend Senator Squadron
22 on a good law-and-order bill. I want to
23 commend my colleagues that support this effort
24 to deal with a very serious problem in our
25 criminal justice system, which is, quite

1 frankly, bars and other establishments that
2 serve as a focal point -- and that's a term of
3 art in the law -- for all sorts of criminal
4 misconduct.

5 I remember when I was representing
6 community groups during the crack epidemic
7 that very frequently the base for crack
8 dealers were in bars. And it was almost
9 impossible to get the State Liquor Authority
10 to take action. It was a ponderous
11 proceeding. I agree with some of Senator
12 DeFrancisco's comments, although they're at
13 odds with his conclusion, that it is very hard
14 to get the SLA to act.

15 Part of the reason is that the
16 current law, which Senator Squadron is seeking
17 to correct, has this bizarre standard in it
18 that requires the SLA to prove that no one in
19 management knew what was going on. It's very,
20 very -- or that someone in management did know
21 what was going on. So you have to be able to
22 prove that someone in a defined category of
23 management knew what was happening.

24 This bill simply says there's no
25 management exception. The SLA does not bear

1 the burden of proof of showing and proving
2 that someone in management knew about this.
3 And it provides for a different standard.

4 All this bill does, ladies and
5 gentlemen, is create a permissible punishment
6 with a hearing, and with the due process that
7 is provided under SLA hearings, if there is a
8 sustained pattern of conduct, and it provides
9 additional definition in the law as to what
10 that pattern is.

11 And, I'm sorry, if you have six
12 police incident reports to the Authority
13 within 60 days, that doesn't mean the SLA has
14 to act. If they saw that it was the same
15 crank calling in six times and no one else had
16 ever called in, presumably they wouldn't act.
17 You get to have a hearing in which you can
18 challenge what they're doing --

19 ACTING PRESIDENT SAVINO:
20 Senator -- Senator DeFrancisco, why do you
21 rise?

22 SENATOR DeFRANCISCO: I would ask
23 if Senator Schneiderman would be willing to
24 answer some questions.

25 ACTING PRESIDENT SAVINO: Senator

1 Schneiderman, would you yield to Senator
2 DeFrancisco?

3 SENATOR SCHNEIDERMAN: Through
4 you, Madam President, I'd be happy to. Let me
5 just finish this point. And then it's always
6 a pleasure to engage with Senator DeFrancisco
7 in a high level of legal dialogue.

8 This is a good bill, Madam
9 President. All it does is remove a ridiculous
10 requirement -- impossible under the law, I
11 hope you will concede, Senator -- to require
12 the SLA to prove that someone in management
13 knew what was going on is a much steeper
14 burden. And the problem we face, certainly in
15 my community, is not the SLA running amok and
16 throwing all these bars out of business, it's
17 the inability of communities plagued by crime
18 and violence to get the SLA to take any action
19 against establishments that tolerate that.

20 So let's be clear what we're doing.
21 We're removing an impediment to action to help
22 our law enforcement authorities. We are
23 making it a permissible punishment, with all
24 the due process already provided under law for
25 SLA hearings, if there are six incident

1 reports within 60 days. This does not require
2 the SLA to do anything, it does not remove
3 anyone's right to a hearing, it does not
4 remove anyone's right to submit any legal or
5 factual argument. This simply removes a
6 barrier to any action. And our communities
7 are suffering right now because of the bad
8 establishments that use this loophole to stay
9 in business longer than they should.

10 So I support this tough-on-crime
11 law-and-order bill, as I've supported so many
12 tough-on-crime, law-and-order bills in the
13 Senate --

14 (Laughter.)

15 SENATOR SCHNEIDERMAN: -- more
16 often when the majorities were reversed, I
17 will admit. But I think this is something
18 that is, you know, in the legal world I came
19 out of in corporate law, you called a
20 no-brainer.

21 Gentlemen, if you were as creative
22 in the invention of possible violations of due
23 process for people when we're considering the
24 laws against poor people of color who commit
25 street crimes, I think we would have a lot

1 more grounds for agreement.

2 I think this is a good bill,
3 Mr. President. And I would yield to Senator
4 DeFrancisco for a question. I see he's
5 getting legal advice as well.

6 (Laughter.)

7 SENATOR DeFRANCISCO: No, for the
8 record he made a comment that I don't want to
9 repeat on the floor. It had nothing to do
10 with advice.

11 Senator Schneiderman, you would be
12 willing to answer a question?

13 SENATOR SCHNEIDERMAN: Yes, I
14 would be willing to attempt to answer your
15 studious legal inquiry.

16 SENATOR DeFRANCISCO: Well, okay.
17 The current Section 118 consists of three
18 paragraphs. And this is a totally new
19 paragraph. Do you see that? Number 4 is a
20 totally new paragraph to Section 118 of the
21 ABC board. Do you see that?

22 SENATOR SCHNEIDERMAN: I do not
23 now, but I'm sure I will soon.

24 This is a new paragraph --

25 SENATOR DeFRANCISCO: Correct.

1 SENATOR SCHNEIDERMAN: -- under
2 the provisions that provide that a license or
3 permit may be revoked or a civil penalty may
4 be imposed, yes. This is a new paragraph that
5 provides further definition to the provisions
6 of paragraph 3 that provide for the possible
7 action by the SLA against an establishment for
8 the existence of a sustained and continued
9 pattern of noise, disturbance, misconduct or
10 disorder on or about the licensed premises
11 related to the operation of the premises -- so
12 not just people wandering by -- or the conduct
13 or its patrons which adversely affects the
14 health, welfare and safety of the inhabitants
15 of the area.

16 Again, Mr. President, a crank call
17 is not something that justifies a finding that
18 the health, welfare and safety of the
19 inhabitants of the area are being threatened.
20 This provision provides definition to the
21 for-cause standard and what constitutes a
22 pattern of noise, disturbance, misconduct or
23 disorder.

24 SENATOR DeFRANCISCO: So your
25 answer is yes, this is a new section?

1 SENATOR SCHNEIDERMAN: I think my
2 answer stands.

3 SENATOR DeFRANCISCO: Thank you.
4 Because I can read the bill as well.

5 Senator Schneiderman, would you
6 yield to another question?

7 ACTING PRESIDENT VALESKY:
8 Senator Schneiderman, do you continue to
9 yield?

10 SENATOR SCHNEIDERMAN: I would be
11 happy to yield, Mr. President.

12 ACTING PRESIDENT VALESKY: The
13 Senator yields.

14 SENATOR DeFRANCISCO: You said
15 this section, being a new section, takes away
16 the requirement that the owner or the operator
17 has to know about what's going on. Would you,
18 now that you've read it once, would you read
19 it to yourself again and tell me where it says
20 that?

21 SENATOR SCHNEIDERMAN: No,
22 it's -- through you, Mr. President, the
23 problem is not that the owner or operator has
24 to know about it. The problem is that current
25 law, and this is case law, requires the SLA to

1 prove that someone knew.

2 And as you know as an experienced
3 trial attorney and widely respected legal
4 scholar, that it is very difficult, virtually
5 impossible to prove someone knew something.
6 It's a very, very high standard. So this
7 corrects something that is in case law, not in
8 the statute.

9 SENATOR DeFRANCISCO: And,
10 Senator Schneiderman, would you answer another
11 question?

12 ACTING PRESIDENT VALESKY:
13 Senator Schneiderman?

14 SENATOR SCHNEIDERMAN: I would be
15 very happy to.

16 ACTING PRESIDENT VALESKY: The
17 Senator yields.

18 SENATOR DeFRANCISCO: Do you
19 agree that this bill changes the burden of
20 proof?

21 SENATOR SCHNEIDERMAN: Through
22 you, Mr. President, this bill, eliminates the
23 current interpretation of the law in the
24 courts that does impose the burden of proof on
25 the SLA to prove that someone in management

1 knew about the misconduct before any action
2 could be taken against a bar -- no matter how
3 many complaints there are, no matter how many
4 bad incidents of misconduct there are.

5 Yes, so in that sense it removes
6 this burden of proof from the SLA and provides
7 for a more objective standard. But it is all
8 under the provisions of Section 118 that are
9 permissible, Mr. President, that enable the
10 SLA to move forward with process, with a
11 hearing, and, you know, do not require it to
12 do anything.

13 SENATOR DeFRANCISCO: And,
14 Senator Schneiderman, would you answer another
15 question?

16 ACTING PRESIDENT VALESKY:
17 Senator Schneiderman?

18 SENATOR SCHNEIDERMAN: If it's as
19 good as the last one, I'd be happy to,
20 Mr. President.

21 SENATOR DeFRANCISCO: Well, I'd
22 better not say anything.

23 Senator Schneiderman, under
24 existing law, in order to show cause to take
25 some type of action against the restaurant,

1 you have to prove it by the preponderance of
2 the evidence.

3 And secondly, under this bill, if
4 there's six complaints or six incident
5 reports, the existence of this continuous
6 pattern of noise, disturbance, misconduct is
7 presumed; is that correct?

8 SENATOR SCHNEIDERMAN: No.

9 SENATOR DeFRANCISCO: Oh, it's
10 not?

11 SENATOR SCHNEIDERMAN: You're
12 confusing two sections of the law, through
13 you, Mr. President.

14 The revocation of license for cause
15 provision which is at the beginning of the
16 Section 118, the standard there is not being
17 changed. The standard of burden of proof in
18 SLA proceedings and hearings and moving
19 forward for cause is not changed. Everyone
20 has the same due process rights they have now.

21 The only thing this does is remove
22 a bad judicial interpretation of law that
23 makes it hard for our citizens to bring
24 complaints, it makes it hard for our law
25 enforcement officers to take action, it makes

1 it hard to keep our streets safe for our
2 children because it imposes on the SLA this
3 ridiculously high standard that they have to
4 come in and find an employee, identify them,
5 who's in management as defined by the case
6 law, and prove that that person knew.

7 And it removes that. And I would
8 respectfully submit this is an unreasonable
9 burden on a law enforcement agency seeking to
10 protect the public health and welfare. All of
11 the existing requirements of due process still
12 apply.

13 And again, this requires that the
14 pattern -- this change does not affect the
15 requirement that this pattern of misconduct --
16 noise, disturbance, misconduct or disorder --
17 adversely affects the health, welfare, safety
18 of the inhabitants of the area. That's a
19 finding the SLA must make. I still think this
20 is a very difficult case for the SLA to make.
21 It just removes the most ridiculous
22 requirement, but it is still a hard case to
23 make.

24 I don't think you need to worry so
25 much about the due process rights of people

1 who engage in a sustained and continuing
2 pattern of noise, disturbance, misconduct or
3 disorder that adversely affects -- not might
4 adversely affect, not could adversely
5 affect -- adversely affects the health,
6 welfare and safety of the inhabitants of the
7 area.

8 In my district there are bars whose
9 pattern of misconduct adversely affects the
10 health, welfare and safety of the area, and it
11 is hard as can be to get the SLA to take
12 action because of the standard removed by
13 Senator Squadron's excellent law-and-order
14 bill.

15 SENATOR DeFRANCISCO: I forgot my
16 question, but it was certainly a wonderful
17 campaign speech.

18 Would you suffer another question
19 and possibly answer it in some brevity so that
20 people remember the question.

21 ACTING PRESIDENT VALESKY:
22 Senator Schneiderman?

23 SENATOR SCHNEIDERMAN: Well, I'm
24 sorry for -- we all are having memory problems
25 at this point in the session. But I will

1 attempt to be as brief as possible. But
2 Senator DeFrancisco's probing into this area
3 of the law does get me a little fired up. I
4 care greatly about the health, welfare and
5 safety of people who live in neighbors with
6 bars.

7 ACTING PRESIDENT VALESKY:

8 Senator DeFrancisco, continue.

9 SENATOR DeFRANCISCO: And I can
10 assure Senator Schneiderman that I do the
11 same. But I also would like to have a fair
12 process whereby individuals have an
13 opportunity to actually defend themselves.

14 Would you agree, Senator
15 Schneiderman, that this conduct -- a pattern
16 of noise, disturbance, misconduct -- is
17 presumed, under this bill, after the sixth
18 incident report and the way it's disproved is
19 for the bar owner or restaurant owner to
20 prove -- the only way he can disprove it is to
21 prove by clear and convincing evidence of
22 either fraudulent intent on the part of any
23 complainant or a factual error. Isn't that
24 what the bill says?

25 SENATOR SCHNEIDERMAN: Through

1 you, Mr. President. That is correct. But all
2 that goes into is the determination that the
3 SLA can find cause to proceed. When the SLA
4 finds cause to proceed, all the due process
5 standards that exist in law are in place.

6 And through you, Mr. President, if
7 there's so much concern over people's right to
8 a hearing and right to due process, I assume
9 everyone on the other side of the aisle that
10 has raised these issues fully supports our
11 efforts to substantially increase funding for
12 indigent defense services, because there are a
13 lot of people who aren't getting fair hearings
14 in this state, Mr. President. I don't think
15 that many of them are bar owners.

16 And I hope that there's equal
17 support for due process rights and legal
18 rights and the right to a legal defense for
19 everyone in this state, and not just people
20 who have certain connections.

21 SENATOR DeFRANCISCO: On the
22 bill.

23 ACTING PRESIDENT VALESKY:
24 Senator DeFrancisco, on the bill.

25 SENATOR DeFRANCISCO: You know,

1 that's -- this is the law-and-order person who
2 wants indigent defendants to be able to get
3 defense. But he's okay with the concept that
4 you're presumed guilty because there's six
5 incident reports, and to prove your innocence
6 you've got to prove it by clear and convincing
7 evidence.

8 And anybody that reads this bill
9 knows that that's what this says, irrespective
10 of Senator Schneiderman's great concern for
11 the citizens of his district.

12 Secondly, as far as the law and
13 order business about the irrelevant comments
14 he made concerning the indigent defense, I
15 think he was a sponsor of the bill that sealed
16 records of drug dealers, three prior drug
17 deals -- three prior drug deals -- that now
18 school districts cannot possibly learn about
19 because he's more concerned about the
20 defendants who have been convicted of drug
21 offenses.

22 So if you want to start the
23 rhetoric, I'd be more than happy to
24 participate.

25 All I ask people to do is read the

1 bill and see if it says what I say it says
2 rather than rely on case law that has nothing
3 to do with this bill because the bill does not
4 deal with the case law that Senator
5 Schneiderman claims. And I would hope that --
6 well, I'd better not say anything further.

7 I'm going to vote no on this
8 particular bill.

9 ACTING PRESIDENT VALESKY: Thank
10 you, Senator Schneiderman.

11 Senator Diaz, do you wish to speak
12 on the bill?

13 SENATOR DIAZ: Thank you. No,
14 would the sponsor yield for a question or two?

15 ACTING PRESIDENT VALESKY:
16 Senator Squadron, do you yield to a question
17 from Senator Diaz?

18 SENATOR SQUADRON: I'd be happy
19 to.

20 ACTING PRESIDENT VALESKY: The
21 sponsor yields.

22 SENATOR DIAZ: Senator Squadron,
23 if I got you right, this bill will help
24 communities to be safer and to lower the noise
25 and all the crime that might occur in places

1 that sell liquor.

2 SENATOR SQUADRON: Through you,
3 Madam President, that is what this bill would
4 do. And it would in fact empower law
5 enforcement to do something about those kinds
6 of things.

7 SENATOR DIAZ: Madam President,
8 would the sponsor yield for another question?

9 ACTING PRESIDENT SAVINO:
10 Senator Squadron, do you continue to yield?

11 SENATOR SQUADRON: Yes.

12 ACTING PRESIDENT SAVINO:
13 Senator Squadron yields.

14 SENATOR DIAZ: Let me see if I
15 get you right, Senator Squadron. Do you think
16 that there would be any -- anyone, any parent
17 or any community resident in the State of
18 New York that would like for their
19 neighborhood -- that would not like for their
20 neighborhood to be safer and to be quiet?

21 SENATOR SQUADRON: Through you,
22 Madam President, I believe that New Yorkers
23 across the state want exactly what Senator
24 Diaz just expressed.

25 SENATOR DIAZ: Will the sponsor

1 yield for another question?

2 ACTING PRESIDENT SAVINO:

3 Senator Squadron, do you continue to yield?

4 SENATOR SQUADRON: Yes.

5 SENATOR DIAZ: Senator Squadron,
6 I want to really get you right. If the people
7 of the State of New York would love to have
8 quiet neighborhoods, if the people of the
9 State of New York would like to get their
10 neighborhoods safe and get rid of those
11 noises, what are we debating this bill for so
12 long? You let me know.

13 SENATOR SQUADRON: Through you,
14 Madam President, without the leadership that
15 we currently have in the State Senate and the
16 ability that we have to really look at ways
17 that the law isn't working for the safety of
18 communities, for the quality of life of
19 communities -- I've only been here a year and
20 a half, but I suppose it just wasn't as much
21 of a priority.

22 SENATOR DIAZ: Madam President,
23 would the sponsor yield for another question,
24 please.

25 ACTING PRESIDENT SAVINO:

1 Senator Squadron, will you continue to yield?

2 SENATOR SQUADRON: Yes, Madam
3 President.

4 SENATOR DIAZ: So, Senator
5 Squadron, if I assume that we are trying to
6 prevent this bill from happening, would I be
7 wrong if I assume that those that would like
8 to prevent such a bill like this would love to
9 have their neighborhoods full of noises and
10 crime and misconduct?

11 SENATOR SQUADRON: Through you,
12 Madam President. Senator Diaz, I'm reluctant
13 to make conclusions about other people's
14 motivations, but I'm also reluctant to
15 disagree with you, what with your experience
16 both in communities and in the Senate.

17 SENATOR DIAZ: Thank you.
18 On the bill, please.

19 ACTING PRESIDENT SAVINO: Senator
20 Diaz, on the bill.

21 SENATOR DIAZ: I come from a
22 community that would love to see, would love
23 to see a bill like this pass. A bill, a law
24 that will bring noises down, a law that will
25 bring fighting at 12 o'clock at night -- those

1 places that sell liquors, I mean, they're the
2 pits. They are the pits. I mean, such -- so
3 much noise and people yelling at one another
4 and people cannot sleep, people that work,
5 working-class people that have to go to bed,
6 that have to get up, they are all night long
7 listening to all those noises and people in
8 those -- I don't understand why we are
9 debating such a bill. This bill is a bill
10 that should have been passed one hour ago.

11 I praise, I praise the sponsor for
12 such a bill. Not only for my district, for
13 the whole State of New York. The whole State
14 of New York. I believe, Madam President,
15 there is not one single resident of the State
16 of New York that doesn't want to see their
17 neighborhood quiet. And these are people that
18 go to work, that could have their rest and
19 could have their dream without listening to
20 those noises. And sometimes foul languages.
21 Sometime foul languages, Madam President.
22 Sometimes yelling, cursing.

23 And people have to -- the people of
24 the state have to be put through this?
25 Whoever vote against this should be voted out

1 by their people. This is a good bill. And
2 I'm not -- I'm not too fond of you.

3 (Laughter.)

4 SENATOR SQUADRON: Point of
5 personal privilege.

6 ACTING PRESIDENT SAVINO: Senator
7 Squadron.

8 SENATOR SQUADRON: I have to say
9 that despite everything, I am actually quite
10 fond of Senator Diaz --

11 (Laughter.)

12 ACTING PRESIDENT SAVINO: Senator
13 Diaz, Senator Diaz, I should assume you will
14 be recorded in the affirmative.

15 SENATOR DIAZ: Ooooh, yes.

16 (Laughter.)

17 ACTING PRESIDENT SAVINO: Senator
18 L. Krueger, on the bill.

19 SENATOR LIZ KRUEGER: Thank you.
20 On the bill.

21 Well, I think everything has been
22 said. I will say my community has huge
23 numbers of restaurants and bars and taverns
24 that are good neighbors. And we are delighted
25 that residents go and tourists come and that

1 great economic activity happens. But there
2 are a few that are a nightmare, and we need
3 this law. And I stand to say not only am I
4 voting for this bill, but I am in 100 percent
5 agreement with Senator Diaz --

6 SENATOR DIAZ: You are in
7 agreement with me?

8 (Laughter.)

9 SENATOR LIZ KRUEGER: -- and that
10 too does not happen that often on the floor of
11 the Senate.

12 So thank you very much, Senator
13 Squadron and Senator Diaz. I vote yes.

14 (Laughter.)

15 ACTING PRESIDENT SAVINO: Senator
16 Liz Krueger to be recorded in the affirmative.

17 Are there any other Senators
18 wishing to be heard? Any other protestations
19 of fondness or affection?

20 The debate is closed. The
21 Secretary will ring the bells. We ask all
22 members to please come to the chamber.

23 Read the last section.

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

1 ACTING PRESIDENT SAVINO: Call
2 the roll.

3 (The Secretary called the roll.)

4 ACTING PRESIDENT SAVINO: Senator
5 Squadron, to explain his vote.

6 SENATOR SQUADRON: Thank you,
7 Madam President.

8 I want to thank my colleagues for a
9 robust and fascinating debate. I admit that I
10 disagreed with almost all of what Senator
11 DeFrancisco said, except that I did learn,
12 which he had suggested, so I appreciate that.

13 I do want to just point out why
14 this bill is so important. There were
15 numerous factual inaccuracies in the
16 statements, and we can leave those for another
17 day, we can discuss those in the weeks to
18 come. The fact is right now it is almost
19 impossible to separate a good establishment
20 from a bad establishment. It is almost
21 impossible to shut down an establishment that
22 is a focal point of police activity, that is a
23 place where crimes are committed on the
24 street, in the establishment.

25 And what this bill does is this

1 empowers law enforcement, at the local level
2 and at the state level, to do something about
3 persistent problems that make communities less
4 safe and that can ruin quality of life across
5 the state. It's disappointing to me that so
6 many are so afraid of a piece of legislation
7 that would do that.

8 I'm voting aye, Madam President.

9 ACTING PRESIDENT SAVINO: Senator
10 Robach, to explain his vote.

11 SENATOR ROBACH: Yes, Madam
12 President, to explain my vote.

13 I think everybody has the same
14 goal. No one wants bad establishments. No
15 one wants people to break the law. I think
16 the difference is we're going by what the bill
17 says and what it will do, which makes this now
18 an issue of due process, not whether anybody
19 wants illegal bars or restaurants violating
20 the law.

21 I would suggest I would be more
22 comfortable if it was three incidents but they
23 were really founded and people had the
24 opportunity to go through the process, rather
25 than six complaints.

1 I'd go on, furthermore, maybe the
2 City of New York should do what the City of
3 Rochester does, which in addition to the SLA
4 law, if these problems are occurring that
5 spill outside the establishment, there is a
6 point system that goes to closing any
7 establishment, whether it's a bodega, a store,
8 selling to underage people, but it's based on
9 founded information with a process of who's
10 really doing what.

11 And that has always been and always
12 will be the best way to separate the
13 lawbreakers from the law-abiders, in business,
14 in life and anything else.

15 And so for that reason, while I
16 appreciate the intent, I feel very compelled
17 to vote no and I hope we'll revisit this
18 issue. I vote in the negative, Madam
19 President.

20 ACTING PRESIDENT SAVINO: Senator
21 Robach to be recorded in the negative.

22 Senator Winner, to explain his
23 vote.

24 SENATOR WINNER: Thank you, Madam
25 President, just briefly to explain my vote.

1 I listened to this debate and I
2 also listened to our conversations that we had
3 and our discussions in the committee, which
4 unfortunately this bill was not reported from.
5 For some reason this bill was yanked out of
6 the committee process and not given the type
7 of deliberation that I think it deserved.

8 Because while I understand the
9 argument that Senator Schneiderman is making
10 with regard to the case law, the issue of
11 scienter is the only issue that needs to be
12 dealt with in this legislation.

13 This legislation, if it dealt
14 simply with the issue of knowledge and the
15 issue of participation by employees of
16 establishments, would be a far better bill,
17 rather than setting up some convoluted
18 six-incident system which is subject to
19 litigation in the end as to whether or not it
20 is factually accurate to a circumstance where
21 anybody who -- the SLA, who relies upon this
22 legislation in order to attempt to revoke a
23 license, now will be in the position to have
24 to go in and defend whether or not the fourth
25 incident report was in fact factual or not,

1 rather than saying that the bar itself is a
2 bad bar and should be shut down because of the
3 fact that those types of disturbs have
4 occurred.

5 The fact of the matter is if you
6 just dealt with the issue of knowledge and had
7 the SLA do its job, then you would have a much
8 better proposal that this convoluted
9 six-incident type of situation, which I think,
10 based upon our discussions in committee, was
11 certainly a bad, bad way to go about this.

12 And so for those reasons, Madam
13 President, I think that this legislation
14 should be defeated. I vote no.

15 ACTING PRESIDENT SAVINO: Senator
16 Winner to be recorded in the negative.

17 I would ask all the members who
18 would like to be recorded in the negative to
19 please raise your hand again so the Secretary
20 can get an accurate count.

21 Senator Alesi, to explain his vote.

22 SENATOR ALESI: Thank you, Madam
23 President.

24 First of all, I am excited that
25 there have been changes at the State Liquor

1 Authority. And I think almost all of us here
2 are excited by that, and we look forward to
3 vast improvements there.

4 With respect to this particular
5 bill, I would agree with Senator Squadron on
6 one issue. It's not often I get a chance to
7 debate the wisdom of two Harvard lawyers
8 simultaneously. But he did say one thing that
9 struck me. He said that as far as input on
10 improving this bill, you don't necessarily
11 have to be an attorney.

12 I would agree with that. As
13 somebody who has operated businesses all his
14 adult life across this state, I think that it
15 would be prudent to understand that this isn't
16 just about laws and the technicalities of
17 laws, we're talking about business. Business.
18 Business that relies on jobs, jobs that rely
19 on purveyors and suppliers and everything
20 else. It's part of our commerce.

21 Senator Squadron said right now
22 it's very hard to tell the good ones from the
23 bad ones. But this bill is not going to do
24 anything to change that. This bill is going
25 make it harder for honest, decent businesses

1 to continue to compete and survive.

2 I would love to help with some
3 input that would just massage this bill a
4 little bit so that we can protect those
5 business and the people that depend on them
6 for their employment. But right now I simply
7 have to vote no. As much as I appreciate the
8 effort to change the way things are, can't
9 vote for this bill. Not good for business.

10 ACTING PRESIDENT SAVINO: Senator
11 Alesi to be recorded in the negative.

12 Senator Diaz, to explain his vote.

13 SENATOR DIAZ: Yes, thank you.

14 This is a law-and-order bill. Law
15 and order. It seems to me, Madam President,
16 that a place that six times, six times -- one,
17 two, three, four, five, six times -- the
18 police have to come because of a neighbor
19 calling because of something, a fight or
20 something, it seems to me that something's
21 wrong with that place. Something is
22 definitely wrong with that place.

23 We're not talking about one time,
24 we're talking about six times that the police
25 has to come to that place to that area because

1 something is happening in that place. And
2 this is a law and order.

3 See, I want to finish with
4 something that maybe sounds crazy. If I
5 divorce my wife once, I could blame her and I
6 could say the woman was the bad one. And
7 people might believe me. If I divorce my
8 wife, the second wife, I could say the woman
9 was the wrong one and people will say, Well,
10 let me give you the benefit of the doubt. But
11 if I do it three times, people are going to
12 tell me, Something's wrong with you. You are
13 the wrong one.

14 And when we're talking about six
15 times, six times -- and let me count again:
16 One, two, three, four, five, six times that
17 the police has to come to that place, and we
18 are talking about decent people, that we have
19 to separate the decent owners from the wrong
20 people? Something is wrong there. Something
21 is definitely wrong. That's a hangout place
22 that brings trouble to the community.

23 We should all vote no and close
24 them out.

25 ACTING PRESIDENT SAVINO: Senator

1 Diaz to be recorded in the affirmative.

2 Senator DeFrancisco, to explain his
3 vote.

4 SENATOR DeFRANCISCO: If a young
5 man or woman got accused of a crime six times,
6 the police had to go see this person six
7 times -- let me count them for you: One, two,
8 three --

9 (Laughter.)

10 SENATOR DeFRANCISCO: -- four,
11 five, six, six times -- and I don't know about
12 the divorce, but six times -- does that mean
13 he is assumed or presumed guilty because he's
14 been accused six times? And then does he then
15 have to prove his innocence by clear and
16 convincing evidence because six people have
17 complained about this individual? I don't
18 think so, and I don't think the rules should
19 be any different here.

20 I vote no.

21 ACTING PRESIDENT SAVINO: Senator
22 DeFrancisco will be recorded in the negative.

23 Senator Valesky, to explain his
24 vote.

25 SENATOR VALESKY: Yes, Madam

1 President, I'm going to vote no because
2 Senator DeFrancisco convinced me to just now.

3 ACTING PRESIDENT SAVINO: Senator
4 Valesky will be recorded in the negative.

5 Senator Montgomery, to explain her
6 vote.

7 SENATOR MONTGOMERY: Yes, Madam
8 President. I rise to thank Senator Squadron
9 for this legislation.

10 I believe it is a clear statement
11 to constituents, certainly that I represent.
12 One of the number-one issues when I go to
13 every community board in my district -- and at
14 least two of those community boards I share
15 with Senator Squadron, so we hear the same
16 thing -- there are problems with the Liquor
17 Authority, we need to have more cooperation,
18 we need more support from the Liquor Authority
19 when we make complaints about problems
20 regarding establishments in our district.

21 So this really gives that State
22 Liquor Authority some teeth. I think it's
23 probably one of the most important pieces of
24 legislation as it relates to communities that
25 we serve and the interest of the people in

1 having their quality-of-life issues addressed
2 by the appropriate authority, and that is the
3 State Liquor Authority.

4 So I thank Senator Squadron, and I
5 vote aye.

6 ACTING PRESIDENT SAVINO: Senator
7 Montgomery will be recorded in the
8 affirmative.

9 Are there any other Senators
10 wishing to explain their vote?

11 Announce the results.

12 THE SECRETARY: Those recorded in
13 the negative on Calendar Number 1099 are
14 Senators Alesi, Aubertine, Bonacic,
15 DeFrancisco, Flanagan, Foley, Golden, Griffio,
16 C. Johnson, O. Johnson, Lanza, Larkin,
17 Leibell, Libous, Little, McDonald, Nozzolio,
18 Ranzenhofer, Robach, Saland, Savino, Seward,
19 Skelos, Valesky, Winner and Young. Also
20 Senator Farley.

21 Ayes, 34. Nays, 27.

22 ACTING PRESIDENT SAVINO: The
23 bill is passed.

24 THE SECRETARY: Calendar Number
25 1115, by Member of the Assembly Silver,

1 Assembly Print Number 10918, an act to amend
2 the Banking Law.

3 ACTING PRESIDENT SAVINO: Senator
4 Farley.

5 SENATOR FARLEY: Thank you, Madam
6 President. I want to speak on this bill.

7 There are state-chartered banks and
8 federal-chartered banks. And if there's any
9 consistency on the Banking Committee, which
10 I've been on for over 34 years, the members
11 have tried to protect and nourish the state
12 charters. As a matter of fact, our
13 Superintendent of Banks has made it his
14 highest priority.

15 This particular bill, in my
16 judgment, drives a stake right into the heart
17 of the state charters, no question about it.
18 When Chase flipped to its federal charter, we
19 lost 25 percent of the funding of the Banking
20 Department. You've got a big building right
21 down here called KeyBank, as you come into the
22 capital. They were concerned about the lack
23 of us doing a wild card and a few other
24 things. They flipped to the federal charter,
25 moved to Cleveland, and thousands of jobs went

1 with them.

2 Let me just speak to this
3 particular bill. It was introduced in
4 response to complaints that three federally
5 chartered banks initially charged some victims
6 of a fire in Chinatown the standard bank fees
7 for replacing the locks in safe deposit boxes
8 and issuing new keys. I understand, after
9 some inquiries by legislators and so forth,
10 these three federal banks waived the fees.

11 Despite this fact that the issue
12 was resolved in these cases, we are now
13 presented with a bill that would prohibit any
14 fees to gain access to safe deposit boxes for
15 the individuals unable to access it due to an
16 act of God, common disaster, emergency
17 situation, et cetera.

18 Although I'm sympathetic to the
19 people that were involved in the fire, I feel
20 that this bill is an overreaction, to say the
21 least, and will simply accelerate the shift of
22 bank from the state charter to the federal
23 charter.

24 I have several concerns. First,
25 because of federal preemption. Everything

1 that we do only applies to state-chartered
2 banks. It's ironic that this action of these
3 federal banks, a bill was introduced that
4 would single out state banks for new
5 regulations and restrictions.

6 As banks grow larger and acquire
7 each other, New York State has lost much of
8 the jurisdiction over the banking
9 institutions. This type of legislation gives
10 another reason for banks to flip to a federal
11 charter.

12 When I first came in here 34 years
13 ago, New York was the center of -- New York
14 City in particular was the center of the
15 financial world. That is changing rapidly.
16 This bill sends a message to our
17 state-chartered banks that because some
18 legislators are unhappy with the actions of a
19 federal bank that they'll impose new
20 restrictions.

21 Actually, the superintendent is
22 going to have to rule on every fee or any
23 change that could happen to a safe deposit
24 box. Let me just say something about safe
25 deposit boxes in banks. For many, it's a

1 traffic builder. For many, they give you a
2 free safe deposit box if you have a checking
3 account. For some, they have different fees
4 for different things.

5 The superintendent is going to have
6 to rule on every single fee to make sure that
7 it's reasonable. This is an incredible burden
8 on state banks only, and it's also a burden on
9 the State Banking Department. I don't need to
10 ask the sponsor if he checked with the State
11 Banking Department, because I happen to know
12 they're very much opposed to this.

13 This superintendent must make an
14 arbitrary judgment on all safe deposit fees.
15 Incidentally, this bill takes place
16 immediately. As a matter of fact, the effect
17 means that start-chartered banks will not even
18 be able to rent a new safe deposit box until
19 the superintendent approves their fees.

20 You know, this is absolute
21 insanity. It doesn't make any sense. And in
22 the Banking Committee -- and Senator Onorato
23 and Senator Hassell-Thompson, who served there
24 for many years, and Senator Savino -- almost
25 every member changed their vote from yes to

1 without recommendation. And of course many
2 people voted no.

3 It's simply an issue that is not
4 truly understood. And let me just say, you
5 know, I waited around here to speak against
6 this bill, because you know what, it really
7 doesn't mean an awful lot because people are
8 well-meaning and nobody likes to have to be
9 charged a fee for anything. But it is just
10 driving, again, more businesses out of
11 New York State and going after the very people
12 that we want to protect, the state charters.
13 It's a very, very bad bill.

14 As I stand here now with this
15 exciting debate that goes on, I'm missing my
16 granddaughter's high school graduation, which
17 is going on right now in Schenectady, where
18 she's receiving a prize. This job really can
19 wear on somebody.

20 But I would urge my colleagues,
21 many of whom I've served with for many
22 years -- it's one of the largest committees in
23 the Senate -- to vote no on this legislation.
24 It's not needed. I'm confident that the
25 superintendent opposes it. And I'm confident

1 that anybody that understands anything about
2 banking would vote no.

3 Thank you.

4 ACTING PRESIDENT SAVINO: Senator
5 Farley to be recorded in the negative.

6 Are there any other Senators
7 wishing to be heard?

8 Seeing none, the debate is closed.
9 The Secretary will ring the bells. We ask all
10 members to please return to the chamber.

11 Read the last section.

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

14 ACTING PRESIDENT SAVINO: Call
15 the roll.

16 (The Secretary called the roll.)

17 ACTING PRESIDENT SAVINO:
18 Announce the results.

19 THE SECRETARY: Those recorded in
20 the negative on Calendar Number 1115 are
21 Senators Alesi, Bonacic, DeFrancisco, Farley,
22 Flanagan, Foley, Fuschillo, Golden, Griffio,
23 Hannon, O. Johnson, Lanza, Larkin, LaValle,
24 Leibell, Libous, Little, Marcellino, Maziarz,
25 McDonald, Nozzolio, Ranzenhofer, Robach,

1 Saland, Seward, Skelos, Volker, Winner and
2 Young.

3 Ayes, 32. Nays, 29.

4 ACTING PRESIDENT SAVINO: The
5 bill is passed.

6 THE SECRETARY: Calendar Number
7 1120, by Senator Klein, Senate Print 8171, an
8 act to amend Public Health Law.

9 ACTING PRESIDENT SAVINO: Are
10 there any Senators wishing to be heard on the
11 bill?

12 Senator Saland.

13 SENATOR SALAND: Explanation.

14 ACTING PRESIDENT SAVINO: Senator
15 Klein, an explanation has been requested.

16 SENATOR KLEIN: Thank you, Madam
17 President.

18 This bill amends the Public Health
19 Law to establish a uniform statewide health
20 inspection grading system for restaurants and
21 other public service establishments. The way
22 it would work, it would be a letter grade of
23 A, B, or C, and it has a standard of making
24 sure that the grade has to be based on the
25 general cleanliness of the facility or its

1 food-handling practices.

2 Also, there's an expedited appeals
3 process which will be established so that
4 restaurants can appeal inferior assigned
5 grades. In other words, if there's a letter
6 grade of A originally and the next inspection
7 there's a B, there's an expedited appeals
8 process that has to take place between 7 and
9 21 days. During that time period the
10 restaurant posts their previous grade until
11 the new one is either overturned or validated
12 by the local Health Department.

13 ACTING PRESIDENT SAVINO: Senator
14 Saland.

15 SENATOR SALAND: Thank you, Madam
16 President. Madam President, would Senator
17 Klein yield to a question?

18 ACTING PRESIDENT SAVINO: Senator
19 Klein, will you yield?

20 SENATOR KLEIN: Yes, Madam
21 President.

22 SENATOR SALAND: Senator Klein,
23 is this modeled after the existing legislation
24 in New York City?

25 SENATOR KLEIN: Actually, no.

1 Originally I had legislation which New York
2 City adopted and promulgated it through their
3 regulations. I worked with the restaurant
4 industry and attempted to get some of the
5 concerns in this legislation that they could
6 not get from the City of New York.

7 So the City of New York's law
8 that's in effect right now, or starting to
9 come into effect, is a much stricter standard
10 than exists in this bill.

11 SENATOR SALAND: In looking at
12 the language in the bill, I see the grading
13 system is to reflect the safety and sanitation
14 of the premises and food-handling practices to
15 ensure compliance with state and local health
16 laws.

17 SENATOR KLEIN: Which -- could
18 you refer --

19 SENATOR SALAND: I just read from
20 lines 13 through 15 of Section 1352-d.

21 SENATOR KLEIN: Thirteen to 15?

22 SENATOR SALAND: Yeah.

23 SENATOR KLEIN: "The provisions
24 of the sanitary code to establish a grading
25 system that reflects the safety and sanitation

1 of the premises and food-handling practices to
2 ensure compliance with state and local health
3 laws."

4 In other words, what this means is
5 that it would be based on the existing
6 inspection system of the local health
7 department. If each county does not have a
8 health department, it would be the State
9 Department of Health.

10 SENATOR SALAND: And correct me
11 if I'm wrong; I truly do not know the exact
12 number. I believe there are about half a
13 dozen, perhaps as many as ten counties, that
14 don't have local health departments, and they
15 default to the state.

16 SENATOR KLEIN: Correct. That's
17 correct.

18 SENATOR SALAND: Let's assume for
19 the moment two continuous counties have health
20 departments -- for example, I live in Dutchess
21 County. Right across the river is Ulster
22 County. Orange County adjoins Ulster County
23 to the south. Putnam County is to the east on
24 the same side of the river and adjoins
25 Dutchess County.

1 With each of those counties
2 promulgating their own separate health codes,
3 would that not create a system in which you
4 could have restaurants several miles apart
5 with conditions that are being graded
6 differently depending upon which side of the
7 border they're on?

8 SENATOR KLEIN: First of all,
9 this is not in any way changing exist code
10 enforcement or any type of inspection system
11 that presently exists on the local level.
12 Every county has their own separate system on
13 how they determine what a failing grade is as
14 far as their inspection is concerned.

15 The state is promulgating the A,
16 the B, and the C, which is a statewide basis,
17 which was something at the time that was
18 requested by the state restaurant industry.

19 SENATOR SALAND: But will not --

20 SENATOR KLEIN: They were afraid
21 of the confusion that you're talking about,
22 that it would be differently. That's why
23 we're actually having the State Department of
24 Health actually do what an A, what a B, what a
25 C -- but we're still leaving, of course, the

1 local inspections and whatever is deemed a
2 pass or fail at the local level to stay
3 intact.

4 SENATOR SALAND: Well, I'm a
5 little confused. And, please, if you'll
6 continue to yield. Based on your explanation,
7 is there any reason, then, to include any
8 reference to local health laws? Because what
9 you're saying, I believe --

10 SENATOR KLEIN: Let me see if I
11 can clear that up, Senator, for just one
12 second. It addresses the concerns of certain
13 restaurants where the standards for grading a
14 restaurant must be promulgated by rules. So
15 there's a statewide standard. Of course,
16 there's going to be local deviations as well.

17 SENATOR SALAND: So there will be
18 local deviations. Will that not -- if the
19 Senator will continue to yield -- will that
20 not, in effect, result in a deviation, to the
21 extent to which your law requires ensuring of
22 compliance with state and local health laws,
23 that the local health laws be taken into
24 consideration?

25 What a health inspector in Ulster

1 County may view as being in compliance with
2 Ulster County's health code and what one in
3 Dutchess County may view as being in
4 compliance with Dutchess County's health code
5 may not necessarily be the one and the same,
6 and yet there's going to be a grade that's
7 going to be issued by that compliance officer
8 or inspecting officer.

9 SENATOR KLEIN: On the local
10 level. Because again, I'm not changing in any
11 way the local health department, the way they
12 impact their restaurants presently. It
13 wouldn't be fair. Because as you said, and
14 you did make the point, that every locality
15 has different standards, a different way of
16 judging how clean or how sanitary their local
17 eateries are.

18 SENATOR SALAND: And if you'll
19 continue to yield.

20 ACTING PRESIDENT SAVINO: Senator
21 Klein, do you continue to yield?

22 SENATOR KLEIN: Yes, Madam
23 President.

24 SENATOR SALAND: I'll go back to
25 my original question, then.

1 To that extent, it would seem to me
2 that there at the very least would be the
3 possibility if not the likelihood that you
4 could have restaurants a mile apart, separated
5 by a side county line, that could be graded
6 differently depending upon what their -- how
7 their local law and their local enforcement
8 agents view the seriousness of whatever their
9 local laws may require. So you could have --

10 SENATOR KLEIN: That's not really
11 the case, because the portion of the bill that
12 you referred to, it deals with just -- it
13 reflects the safety and sanitation of the
14 premises and food-handling practices. So
15 those are the most serious types of
16 violations.

17 If you look at the numbers, when a
18 restaurant fails, they usually fail because of
19 serious health risks, which is usually vermin
20 or failure to handle food properly. So it's
21 important to make sure that the locality is
22 required to make sure that the letter grade is
23 based on those things. That's all we're
24 telling the locality to do.

25 Again, so I don't think it would be

1 an adequate system to have the state determine
2 what an A or a B or a C was and take that
3 power away from the locality, which has their
4 own health department that does their own
5 inspections, their own inspectors, their own
6 grading.

7 I know for a fact in the City of
8 New York the way it works is there's a grading
9 system of 1 to 28. If you get anything over
10 28, you fail. And usually the failures that
11 I've seen, over 55 percent are because of
12 vermin, which usually --

13 SENATOR SALAND: If you'll
14 continue to yield. I don't -- and correct me
15 if I'm wrong, I'm making an assumption. The
16 five boroughs of the City of New York don't
17 have five separate health codes.

18 SENATOR KLEIN: Correct. They
19 have one health law. I assume other large
20 cities are the same.

21 SENATOR SALAND: In that sense.
22 And again, if you'll continue to yield.

23 And I'll ask a question not knowing
24 the answer. Are there any cities -- you
25 mentioned large cities. Are there any cities

1 within counties that you're aware of that
2 might have a separate local health code?

3 SENATOR KLEIN: No.

4 SENATOR SALAND: You're not
5 aware, or there are none?

6 SENATOR KLEIN: I know for a fact
7 there are none.

8 SENATOR SALAND: You made
9 reference to some form of an expedited appeal.
10 And as I read this, the restaurateur makes a
11 request for a subsequent inspection which has
12 to be done no sooner than seven days nor later
13 than 21 days after the inspection that
14 resulted in whatever grade they were given.
15 And they would then have to pay the department
16 a fee of \$250. Which department gets that
17 fee?

18 SENATOR KLEIN: Up to \$250.

19 SENATOR SALAND: Which department
20 gets that fee?

21 SENATOR KLEIN: The local health
22 department. Because they're the ones that are
23 going to be required to do the reinspection in
24 that expedited fashion, which is between seven
25 and 21 days.

1 And during that time period, that
2 seven to 21 days, the previous letter grade
3 that's posted is the one that remains up. Not
4 the most recent one that's being appealed.

5 SENATOR SALAND: Again, if the
6 Senator would continue to yield.

7 ACTING PRESIDENT SAVINO: Senator
8 Klein, do you continue to yield?

9 SENATOR KLEIN: Yes, Madam
10 President.

11 SENATOR SALAND: And if you know,
12 because I certainly don't, what's entailed in
13 these inspections? How long do they take?

14 SENATOR KLEIN: Again, it depends
15 on -- from county to county, locality to
16 locality, they all have their own different
17 systems.

18 And again, I say this again, I
19 thought it was very important to make sure we
20 give that power and keep that -- have that
21 power remain with the locality. I know
22 New York City, you know, has changed theirs
23 where now, if a restaurant fails, they have to
24 be inspected every six months; if not, at
25 least once a year.

1 SENATOR SALAND: And, Senator, I
2 think the chair is letting us go back and
3 forth, so if that's okay with the chair --

4 ACTING PRESIDENT SAVINO: Yes.

5 SENATOR KLEIN: It's fine with
6 me, Senator Saland.

7 SENATOR SALAND: Thank you. And
8 let's assume I'm a restaurateur and I have a
9 dairy product, a bar of butter sitting out on
10 a counter, and somewhere within a foot of that
11 I have a dishrag or a sponge. Is that a
12 violation?

13 SENATOR KLEIN: Again, this would
14 be up to the local health department.

15 Again, getting back to the
16 experience that I had in pushing this for so
17 long around the state and more specifically in
18 the city, is the way restaurants fail, the way
19 they're going to be failing under this system
20 is usually pest violations or failure to
21 reheat or heat food properly. Which, as you
22 know, are very, very serious violations.

23 It's usually not -- a restaurant
24 usually does not fail for, you know, minor
25 violations like failure to post their

1 certificate of occupancy and things of that
2 nature.

3 And again, that's why I was very
4 clear to have it in the bill that it was
5 sanitation and food-handling. Which again,
6 the reason behind that is because foodborne
7 illness, which is always increasing around our
8 state, usually happens because of mice,
9 roaches, rats near or on top of the food, as
10 well as the failure to heat and reheat food.
11 So those are the most serious violations. And
12 the also the ones that pose a public health
13 risk.

14 SENATOR SALAND: So if it doesn't
15 impose a public health risk but it's an
16 unsanitary condition, it's not covered by
17 this?

18 SENATOR KLEIN: Well, again, if
19 you build up enough points -- and I assume,
20 again, other counties probably do it the same
21 way where there's probably a cutoff. You
22 know, you have a checkoff list. And the more
23 points you get, the more likely you're going
24 to fail. And then they're going to take, I
25 assume, that point system and then have the

1 ability to turn it into a letter grade.

2 You see, one of the problems,
3 Senator, is there's some serious problems in
4 some restaurants, not only in the City of
5 New York but across the state. And I feel, in
6 something like this, information is power.
7 I'm not changing the way a restaurant is being
8 inspected. I'm not changing any way of
9 looking or determining how clean or how dirty
10 a restaurant is. I'm merely providing, I
11 think, a very easy system where people or
12 diners can vote with their feet. If you're
13 very comfortable about going to a restaurant
14 that just got a C, so be it. But I think the
15 public really does have a right to know.

16 And I do want to mention that the
17 City of Los Angeles has implemented this
18 system for about six years, about the same
19 time I started pushing for this legislation.
20 And they now have almost total compliance;
21 85 percent of the restaurants last year got an
22 A. Restaurants that got As, their business
23 has gone up anywhere from 35 to 50 percent.
24 And foodborne illness, which they do track in
25 the city and the state, actually has gone down

1 25 percent.

2 SENATOR SALAND: Thank you,
3 Senator Klein. Thank you.

4 On the bill, Madam President.

5 ACTING PRESIDENT SAVINO: Senator
6 Saland, on the bill.

7 SENATOR SALAND: Madam President,
8 unlike the City of New York and unlike the
9 City of Los Angeles, the 58 counties that
10 comprise the rest of the State of New York, as
11 distinguished from the five counties or
12 boroughs of the City of New York, largely have
13 local health departments. As I said earlier,
14 perhaps half a dozen to 10, somewhere in that
15 area, do not. And in those cases, they rely
16 on the state's health code.

17 In any number of areas, you could
18 have a system which would be anything but
19 uniform. You could have a system in which
20 grades would vary based on the particular
21 local code or the predilections of the
22 particular inspector. I know from time to
23 time I have received in my district office
24 inquiries from restaurateurs regarding the
25 enforcement or inspections by local

1 inspectors, at times alleging that they
2 believe them to be arbitrary. Obviously,
3 there's nothing that I can do about it. It's
4 a county function, not a state function.

5 But my concern here could be that
6 two restaurants, similarly situated both in
7 terms of the types of menus they have, the
8 types of prices on their menus, could be
9 treated differently gradewise under this
10 system simply depending upon who inspected
11 them and who inspected them under what
12 particular local code.

13 Notwithstanding the fact that we
14 are giving the Health Commissioner the
15 authority to create the general guidelines, we
16 are dealing with also, simultaneously, local
17 health codes as part of the formula, local
18 inspectors, some of whom may view their
19 responsibilities in terms of their authority
20 to violate somebody differently -- varying
21 degrees of discretion, varying degrees of
22 zealousness.

23 So I would be rather concerned that
24 this would wind up in a situation in which the
25 playing field would not necessarily be leveled

1 but in many instances could be unlevelled.

2 Thank you.

3 ACTING PRESIDENT SAVINO: Senator
4 Flanagan, on the bill.

5 SENATOR FLANAGAN: Thank you,
6 Madam President. Would Senator Klein yield to
7 a couple of questions, please.

8 ACTING PRESIDENT SAVINO: Senator
9 Klein?

10 SENATOR KLEIN: Yes, Madam
11 President.

12 ACTING PRESIDENT SAVINO: Senator
13 Klein yields.

14 SENATOR FLANAGAN: Thank you.

15 Senator Klein, I was listening to
16 your discussion with Senator Saland, and I did
17 have some specific questions relative to the
18 inspection and the reinspection. I believe I
19 heard you correctly that if there is a
20 reinspection that there could be a charge of
21 up to \$250 for that reinspection.

22 I believe your bill says that once
23 an inspection is done, that the local health
24 officers shall conduct a subsequent inspection
25 regardless of whether or not the establishment

1 has asked for that. That's what the bill
2 says.

3 SENATOR KLEIN: Well, what
4 happens is that fee -- can someone turn the
5 phone off?

6 I'm sorry, Madam President. The
7 \$250 fee comes in when someone is challenging
8 their grade, because then an expedited
9 inspection takes place.

10 In other words, if someone
11 presently has an A that's being posted and
12 their next inspection they get a B, they're
13 not happy about it, they want to challenge,
14 they ask for that reinspection, which has to
15 take place between seven and 21 days. That's
16 what the fee kicks in that could be up to
17 \$250.

18 SENATOR FLANAGAN: Madam
19 President, through you, if Senator Klein would
20 continue to yield.

21 ACTING PRESIDENT SAVINO: Senator
22 Klein?

23 SENATOR KLEIN: Yes, Madam
24 President.

25 SENATOR FLANAGAN: On page 1 of

1 the bill, I'm going to read specifically lines
2 23 and further: "The local health officer
3 shall conduct a subsequent inspection of such
4 food service establishment no sooner than
5 seven days nor later than 21 days after the
6 inspection at which the grade was given."

7 That's mandatory language. It
8 doesn't say that the proprietor or the owner
9 of the establishment has to ask for it.

10 So there's an initial one done, and
11 then within several weeks there has to be
12 another one done.

13 SENATOR KLEIN: First of all, the
14 first reinspection is free as a right. It's
15 the second inspection, on request, that has a
16 charge.

17 SENATOR FLANAGAN: Madam
18 President, if Senator Klein would keep in
19 mind.

20 ACTING PRESIDENT SAVINO: Senator
21 Klein, do you continue to yield?

22 SENATOR KLEIN: Yes, Madam
23 President.

24 SENATOR FLANAGAN: Senator Klein,
25 I believe you are a man of good intention, but

1 I'm having great difficulty finding what
2 you're saying in this bill. It does not say
3 that at all. It doesn't differentiate between
4 one inspection or a reinspection or an
5 inspection because you're asking for an
6 appeal.

7 SENATOR KLEIN: Let me go through
8 the specific language. And you were pointing
9 to line 21, which actually talks about --

10 SENATOR FLANAGAN: Starting at
11 line 23, where it says specifically "The local
12 health officer shall conduct a subsequent
13 inspection of such food service establishment
14 no sooner than seven days" --

15 SENATOR KLEIN: Yeah, but you
16 just skipped 21, Senator, which starts "For
17 any food service establishment receiving a
18 grade lower than A, the local health officer
19 shall advise the establishment of its grade
20 and the fines upon which such grade is based."

21 So in other words, that's when the
22 reinspection takes place, on a grade other
23 than an A.

24 SENATOR FLANAGAN: So for
25 anything --

1 SENATOR KLEIN: So in other
2 words, if you get an A, why would you call for
3 an expedited reinspection. I think that's
4 what you're confused about as far as the
5 language.

6 SENATOR FLANAGAN: No, actually
7 I'm -- Madam President, through you, I'm not
8 confused at all. I understand exactly what
9 you're saying on line 21.

10 But if someone gets a B, an
11 establishment gets a B, based on your language
12 there has to be an automatic reinspection of
13 that establishment.

14 SENATOR KLEIN: There does not
15 have to be. If the owner of the restaurant is
16 happy with their B, they can accept the B and
17 post up their B.

18 SENATOR FLANAGAN: If I may,
19 Madam President, through you, if Senator Klein
20 will continue to yield. Let me just shift
21 gears here, if I could.

22 SENATOR KLEIN: I'll continue to
23 yield, Madam President.

24 ACTING PRESIDENT SAVINO: Thank
25 you, Senator Klein.

1 SENATOR FLANAGAN: Thank you.

2 You spoke about on expedited appeal
3 within seven to 21 days. Again, I don't see
4 that in the bill. And I'll specifically
5 reference the section where it speaks to an
6 appeal. Page 2, line 5 -- I'm sorry, starting
7 on line 4: "The food service establishment
8 may appeal such subsequent assignment of a
9 letter grade" --

10 SENATOR KLEIN: I'm sorry, what
11 page are you on, Senator?

12 SENATOR FLANAGAN: Page 2,
13 starting at the end of line 4: "The food
14 service establishment may appeal such
15 subsequent assignment of a letter grade
16 designation to the commissioner."

17 Now, the way you described it, you
18 said that there would be an appeal within
19 seven to 21 days. The way I read this bill,
20 there is a potential reinspection between
21 seven and 21 days and then an owner can ask
22 for an appeal thereafter, and there is
23 apparently, during whatever time frame that
24 may be for that appeal -- which I think could
25 easily extend well beyond 21 days -- that

1 letter grade that has been assigned would have
2 to remain posted based on that reinspection.

3 SENATOR KLEIN: Well, the way the
4 process works, just to clarify, there's an
5 inspection, a reinspection if you want, and
6 then an appeal. That's how the system works.
7 And the appeal is the one you have to pay for.

8 SENATOR FLANAGAN: Okay, if we
9 didn't -- Madam President, if Senator Klein
10 would continue to yield.

11 ACTING PRESIDENT SAVINO: Senator
12 Klein, do you continue to yield?

13 SENATOR KLEIN: Yes, Madam
14 President.

15 ACTING PRESIDENT SAVINO: He
16 yields.

17 SENATOR FLANAGAN: Let's assume
18 for argument's sake that we were not doing
19 this bill. Because if I follow your reasoning
20 or I potentially agree with it, you're
21 suggesting that right now there's an initial
22 inspection, there can be a request for a
23 reinspection, and then someone has a right to
24 appeal already under present law.

25 SENATOR KLEIN: There's an

1 inspection, there's a reinspection. I think
2 the added advantage here is the appeal.

3 In other words, if you fail now,
4 you can get reinspected. What I'm doing here
5 is creating this appeals process which gives
6 someone the ability to appeal a bad letter
7 grade.

8 SENATOR FLANAGAN: Okay. And if
9 Senator Klein would continue to yield, Madam
10 President.

11 ACTING PRESIDENT SAVINO: Senator
12 Klein, do you continue to yield?

13 SENATOR KLEIN: Yes, Madam
14 President.

15 SENATOR FLANAGAN: Thank you.
16 Senator Klein, just the last couple of
17 questions I want to ask you relate to the
18 provisions for establishments to which this
19 law does not apply. Now, obviously it's the
20 City of New York.

21 SENATOR KLEIN: Right.

22 SENATOR FLANAGAN: Okay. Which
23 you had had some dialogue on. But then there
24 are -- looks like bars, some potential
25 education facilities, not-for-profits, things

1 of that nature. When you referenced --

2 SENATOR KLEIN: I actually have,
3 if you want me to read through, what it does
4 not include.

5 SENATOR FLANAGAN: It's clear on
6 the second page. My question is, how similar,
7 if at all, is that to the system that exists
8 in the City of New York?

9 SENATOR KLEIN: The City of
10 New York, as I said earlier, is a much
11 stricter system. There's no appeals process.
12 In other words, if you get an A originally,
13 let's say, and then you get a B, you're stuck
14 with that B until your next inspection.
15 That's the most important part.

16 The other part as well is I think
17 they also do an A, B, C and I think they even
18 go to a D and an F. I think that's really the
19 key portion, the most -- I guess. The appeals
20 process is something that during my
21 conversations with the restaurant industry
22 they were trying to get the City of New York
23 to do before they promulgated their
24 regulations, and the city refused. But it is
25 contained in this bill.

1 SENATOR FLANAGAN: Is it your
2 understanding, then, that the City of
3 New York, the system applies basically to
4 bars?

5 SENATOR KLEIN: It does not apply
6 to bars and taverns where 10 percent or less
7 of their gross sales is from food.

8 SENATOR FLANAGAN: And in the
9 City of New York, does it apply to --

10 SENATOR KLEIN: Okay, in the City
11 of New York it does apply to those.

12 SENATOR FLANAGAN: In the City of
13 New York it does apply to bars?

14 SENATOR KLEIN: Correct.

15 SENATOR FLANAGAN: And in the
16 City of New York does it apply to all the
17 mobile carts and food vendors who are on the
18 streets?

19 SENATOR KLEIN: No, it does not.
20 And it doesn't apply to that in my bill as
21 well. It does not.

22 SENATOR FLANAGAN: Okay. Thank
23 you, Senator Klein.

24 Madam President, on the bill.

25 ACTING PRESIDENT SAVINO: Senator

1 Flanagan, on the bill.

2 SENATOR FLANAGAN: I get what
3 Senator Klein is trying to do. I know myself
4 I've just recently been doing a decent amount
5 of traveling, going into like a hotel, for
6 example, and you see the grading system -- and
7 it's more numerical than it is a letter. And
8 you see, you go, well, they got a 96, and you
9 start thinking 96 is pretty good. But, like,
10 what are the four points that they missed? So
11 I understand the intent.

12 But I would respectfully offer that
13 on several of the points that I raised that
14 what the sponsor is saying verbally is
15 different from what's in the bill.

16 And I believe that creates several
17 problems, not the least of which is that there
18 is an inspection, and I believe a fair reading
19 of this bill is that there would have to be a
20 subsequent inspection. It doesn't say it has
21 to be requested, it says the local health
22 officer shall conduct a subsequent inspection
23 within seven to 21 days, whether it's a B or a
24 C or whatever the case may be. So I believe
25 that creates a problem right there in and of

1 itself.

2 I understand the point about the
3 appeals process, but I don't believe that
4 there's any tight time frame in terms of how
5 long an establishment may have to wait for an
6 actual final determination on an appeal. Yes,
7 there has to be a reinspection within seven to
8 21 days. And if there is an appeal, that can
9 be filed within 30 days. But it doesn't say
10 that it has to be finalized within 60, 90, 120
11 days. And I think that creates a problem.

12 Well-intentioned in many respects,
13 but I think the language needs to be worked on
14 to accomplish exactly what Senator Klein is
15 trying to do.

16 Thank you, Madam President.

17 ACTING PRESIDENT SAVINO: Senator
18 Hannon, on the bill.

19 SENATOR HANNON: Thank you,
20 Madam President. I want to address thoughts
21 on the bill in a little bit of a wider
22 context, because I think this is a bill that
23 is well-intentioned but it's not ready for
24 prime time.

25 I also find really ironic that

1 there is a memo of support for this bill from
2 the City of New York when the City of New York
3 is exempted from the bill. But that's exactly
4 the problem. Because the City of New York,
5 having worked with the health commissioner,
6 the prior health commissioner, the current
7 health commissioner I happen to think has a
8 pretty good health department. But it's a
9 funded department, it's a focused department,
10 they've dealt with restaurants quite well,
11 they've done trans fats, they've done menu
12 posting, things that have been really adopted
13 nationally. And I commend Senator Klein for
14 getting them to adopt this grading system.

15 But it's not appropriate, I think,
16 for the disparate types of enforcement we have
17 in different counties throughout the state. I
18 mean different because some counties don't
19 have a health department, some do. As Senator
20 Klein said, they have different ways they'll
21 do their evaluations. Even though I can't
22 figure out how the differences county to
23 county can be then made uniform by the State
24 Health Department coming up with the uniform
25 system. I think those are inherently in

1 conflict. I don't think that's been worked
2 out.

3 The other part of this is what do
4 we do -- what are we so used to when we look
5 at guides to traveling throughout the states,
6 throughout other countries? We're looking for
7 quality recommendations. The difficulty is
8 here this is a sanitary recommendation.
9 People are going to confuse both. Now, yes,
10 sanitation is an essential ingredient in
11 quality, but it's not the only one.

12 And I don't think the public is
13 going to be ready to know this, it's not going
14 to be well enough publicized. People are
15 going to think As might be great in terms of
16 quality when all it has to do with is it's
17 superclean. Well, a little bleach doesn't
18 make good food.

19 Another problem is that the grades
20 are supposed to sum up the many different
21 points that go into the sanitary inspection.
22 But if there are different lists for what's a
23 sanitary inspection in different counties,
24 then an A in one county is not going to mean
25 the same thing as an A in another county. And

1 as Senator Saland pointed out, they can be
2 right across the border from each other and
3 mean two entirely different things. Again,
4 creating confusion in the public whom we are
5 supposed to be trying to serve with this
6 legislation.

7 The real difficulty I have is the
8 cost of this system. Now, yes, I know,
9 carefully explained by Senator Klein, that
10 we're not doing anything new in terms of the
11 different points of the inspection. But there
12 is a cost to this system, because somebody has
13 to sit down and figure out how are you going
14 to do this on a state level, both in terms of
15 the uniform standards and, second, in terms of
16 how the state exactly is going to enforce it
17 and, third, how the county's going to enforce
18 it.

19 Because you have to do some type of
20 computation. How one translates 50, 100
21 different points in an inspection into a
22 letter grade is a fairly complicated process
23 and I would suspect one that has to be
24 reasonable and so that it would stand up in
25 court. It's going to be a costly, costly

1 process.

2 May I point out that the budget
3 submitted by the Governor would cut the
4 administrative budget of the State Department
5 of Health by 20 percent. At a time we're
6 dealing with life and death decisions, rule
7 making, surveillance of hospitals, nursing
8 homes, home healthcare, administration of drug
9 programs, we're going to then be saying, oh,
10 no, put that aside, go to the letter grading
11 system. I think that's misplaced.

12 And I don't know about the rest of
13 the counties in this state, but I know in my
14 home county of Nassau they are already facing
15 a major deficit, over hundreds of millions of
16 dollars, they're talking about an additional
17 payment for pension costs next year increasing
18 by \$50 million -- and we are going to start
19 having them go around do letter grades.

20 Look, if there's a way to do this,
21 you find a demonstration program someplace
22 upstate with a willing commissioner, with a
23 willing county. You show people how it can
24 work, that starts to work the kinks out of the
25 system, it starts to educate the public. Once

1 again, it's a bill well-intentioned, but it's
2 not ready for prime time.

3 Thank you very much, Madam
4 President.

5 ACTING PRESIDENT SAVINO: Senator
6 Ranzenhofer.

7 SENATOR RANZENHOFER: Thank you,
8 Madam President. Would the sponsor yield for
9 a question.

10 ACTING PRESIDENT SAVINO: Senator
11 Klein, will you yield?

12 SENATOR KLEIN: Yes, Madam
13 President.

14 ACTING PRESIDENT SAVINO: Senator
15 Klein will yield.

16 SENATOR RANZENHOFER: Thank you.
17 Through you.

18 I listened to the exchange between
19 you and Senator Flanagan, and the way it was
20 explained on the floor is that you have the
21 inspection, the reinspection, and the appeal,
22 and it's the appeal that costs the \$250.

23 SENATOR KLEIN: That's correct.

24 SENATOR RANZENHOFER: Okay.

25 Because then when I look at, when you turn to

1 the second page -- let's see. If you look at
2 line 15, it talks about, it says a food
3 service establishment who requests a
4 reinspection from the local health officer
5 shall pay the department a fee of up to \$250.

6 So I know that it's your intent for
7 the appeal to be \$250, but the actual language
8 says that the reinspection is \$250. And you
9 had said that's supposed to be free. And the
10 question I have is I know when I go back to my
11 county, we deal with so many problems with the
12 Health Department, I'm going to be asked that
13 question. So I just wanted some clarification
14 on that very small point.

15 SENATOR KLEIN: (Reading.)

16 SENATOR RANZENHOFER: You said
17 the reinspection was free.

18 SENATOR KLEIN: "Shall pay up to
19 \$250."

20 SENATOR RANZENHOFER: You said
21 the appeal was free, it was the appeal that
22 was 250. But this says the reinspection is
23 250.

24 SENATOR KLEIN: That's right, you
25 get an automatic reinspection.

1 SENATOR RANZENHOFER: I know.
2 But this says it costs 250, and you just said
3 that it was free. So that's what I want to
4 know, because it doesn't seem to --

5 SENATOR KLEIN: Well, you get a
6 free reinspection based on the state's
7 sanitary code. Which actually, getting back
8 to what Senator Flanagan raised -- he's not
9 here -- it also dictates that 7-to-21-day
10 reinspection.

11 SENATOR RANZENHOFER: What's
12 going to happen is I came from county
13 government, and we get more -- at least in my
14 area of the state, more complaints and more
15 questions about inspections of restaurants and
16 all sorts of establishments. And the question
17 that I know I'm going to get when I go back
18 home is that the actual bill says that the
19 reinspection is the thing that costs the \$250.

20 So when the local department is
21 implementing this bill, they're going to start
22 charging \$250 for the reinspection, which you
23 just said was free. So that's the problem I
24 have.

25 SENATOR KLEIN: The regulations

1 that are going to be promulgated by the State
2 Department of Health are going to actually
3 state all this.

4 SENATOR RANZENHOFER: Okay. But
5 is the reinspection then going to be free, not
6 \$250.

7 SENATOR KLEIN: Correct.

8 SENATOR RANZENHOFER: Okay. Is
9 that going to be cleared up in the language of
10 the bill?

11 SENATOR KLEIN: Correct. And I
12 know, Senator, you have a concern and I know
13 Senator Hannon -- he's not here, but he raised
14 a cost to the local government. Which I
15 believe raising that is utter nonsense.

16 I mean, again, we are not changing
17 the way a locality does an inspection. We are
18 not requiring that the county hire any more
19 inspectors. We're not having them call in
20 experts to decide what an A or a B or a C is.
21 The only cost would be a cardboard, a piece of
22 cardboard which would have an A, a B, or a C
23 on it that you would post in your front
24 window.

25 SENATOR RANZENHOFER: I'm not

1 going to debate that point. I mean, I heard
2 the arguments --

3 SENATOR KLEIN: But you did
4 mention that, you know, cost was a concern.
5 That's why I raised it.

6 SENATOR RANZENHOFER: It was a
7 concern. And quite frankly, through you,
8 Madam Chairman, again, having served in the
9 county for a while, I know when this
10 additional responsibility or mandate comes on
11 that, you know, they will have to put more
12 people on to do this type of work, especially
13 if you have hundreds and thousands of
14 restaurants in the community.

15 Now, they're doing the inspections
16 anyway. But I know what they're going to tell
17 me is that there is going to be more work for
18 them, and more cost. And again, that's not
19 the specific question that I had, and I
20 certainly heard the debate between you and
21 Senator Hannon.

22 But the debate that's going to
23 happen and the questions that are going to be
24 asked is the question on the reinspection.
25 Because you were saying -- and I guess it can

1 be cleared up later, but someone is going to
2 take out this page and what they're going to
3 say is, I know the intent is for the appeal to
4 be \$250, but if they have this bill -- and,
5 you know, what's going to happen is they're
6 going to charge \$250 for the reinspection and
7 then they're going to charge \$250 for the
8 appeal. Even though it's your intent that it
9 not happen, but the bill says that. And
10 that's the concern that I have.

11 SENATOR KLEIN: Again, that will
12 be answered by the regulations that will be
13 promulgated by the State Department of Health.

14 Once again, the reason for this is
15 that the Restaurant Association at the time
16 wanted something that was going to be uniform.

17 SENATOR RANZENHOFER: Would you
18 consider cleaning up that language in the bill
19 to specify that the appeal costs \$250 and the
20 reinspection is free?

21 SENATOR KLEIN: You know, again,
22 I'm pretty positive that when the Department
23 of Health promulgates these regulations, they
24 will be crystal clear. If we see, once this
25 law is implemented, there is a problem, I'm

1 always willing to come back and make an
2 amendment, Senator.

3 SENATOR RANZENHOFER: Thank you.
4 Thank you.

5 ACTING PRESIDENT SAVINO: Senator
6 Owen Johnson.

7 SENATOR OWEN JOHNSON: Thank you,
8 Madam President. I'd like to say a couple of
9 words about this bill and then ask a few
10 questions of Senator Klein.

11 The first question is, why is this
12 bill here? Maybe Senator Klein could respond
13 to that. Why is the bill here and what the
14 justification for this bill? What is the
15 crisis which makes every restaurant in the
16 State of New York or ever bakery, every pasta
17 place, every you name it -- everybody prepares
18 food anywhere, even the convenience store at a
19 gas station, everybody has to comply with all
20 these regulations. What is the crisis that
21 requires all this effort on the part of the
22 local health department and the State Health
23 Department?

24 ACTING PRESIDENT SAVINO: Senator
25 Johnson, are you asking Senator Klein to

1 yield?

2 SENATOR OWEN JOHNSON: Yes, I'm
3 asking him to yield.

4 ACTING PRESIDENT SAVINO: Senator
5 Klein, will you yield?

6 SENATOR OWEN JOHNSON: I asked
7 him before.

8 SENATOR KLEIN: Yes, Madam
9 President.

10 In answer to Senator Johnson's
11 question, the problem is the ever-increasing
12 numbers of foodborne illness.

13 And the other point that you raised
14 is, again, we're not mandating any more
15 serious way that an inspector inspects a food
16 facility or a restaurant. The only thing
17 we're showing is showing the public -- showing
18 the public educating the public -- about how
19 clean or how dirty their local eatery is.
20 That's it.

21 SENATOR OWEN JOHNSON: I'd like
22 to follow up to your statement with a
23 question. The question is -- through you,
24 Madam President.

25 ACTING PRESIDENT SAVINO: Senator

1 Klein, do you continue to yield?

2 SENATOR KLEIN: Yes, Madam
3 President.

4 SENATOR OWEN JOHNSON: Are these
5 letter designations now being used in New York
6 City? That's what I'm asking.

7 SENATOR KLEIN: The letter grades
8 will be A, B, and C. And again, it will be up
9 to the local health department or, for
10 counting that don't have a health department,
11 the Department of Health, based on their
12 grading system, their system that they use --
13 everyone has, I guess, a different system --
14 on what would qualify as an A, a B, or a C.

15 SENATOR OWEN JOHNSON: Yes. And
16 to follow up with a question, how large is the
17 sign? Where is it posted? On the front door?

18 SENATOR KLEIN: It has to be
19 posted in a prominent place at the entrance to
20 the restaurant. A prominent place. You know,
21 front window, front door.

22 And the rules then that will be
23 promulgated once this bill becomes law will be
24 by the Department of Health. They'll have the
25 size, the size of the lettering, I guess the

1 font.

2 SENATOR OWEN JOHNSON: I have
3 another question.

4 ACTING PRESIDENT SAVINO: Senator
5 Klein, do you continue to yield?

6 SENATOR KLEIN: Yes, Madam
7 President.

8 SENATOR OWEN JOHNSON: What kind
9 of paperwork is being mandated by the State
10 Health Department to be submitted to get the
11 grade?

12 SENATOR KLEIN: Absolutely none.

13 SENATOR OWEN JOHNSON: No?
14 Nothing?

15 SENATOR KLEIN: No. No. Again,
16 this is leaving it up to the local health
17 department to actually determine, you know,
18 what an A, what a B, what a C -- based on
19 their grading system. Again, I want to make
20 it clear, I'm not changing the way a local
21 health inspector goes in and inspects a
22 restaurant.

23 SENATOR JOHNSON: There must be
24 regulations stating how you determine -- it
25 can't be capricious and every town have a

1 different grading system.

2 SENATOR KLEIN: Right. And those
3 are the rules that are going to be promulgated
4 by the State Department of Health.

5 SENATOR OWEN JOHNSON: They'll
6 give us those regulations.

7 SENATOR KLEIN: Yes.

8 And actually, Senator, just to
9 follow up, local health departments, the way a
10 local health department inspects restaurants
11 in many cases is based on a statewide sanitary
12 code.

13 SENATOR OWEN JOHNSON: You know,
14 there's an expense to all this activity. And
15 you're going to include -- as far as I
16 understand, you're going to include
17 McDonald's, Kentucky Fried Chicken, a service
18 station with a convenience store in it.
19 Everybody is going to be regulated by this and
20 they're going to have to post all these signs.
21 And I think --

22 SENATOR KLEIN: The McDonald's
23 you're correct about, but not the convenience
24 store. The convenience store is regulated by
25 the Department of Agriculture and Markets.

1 SENATOR OWEN JOHNSON: In other
2 words, so they wouldn't be covered in this?

3 SENATOR KLEIN: They will not.

4 SENATOR OWEN JOHNSON: And how
5 about IHOP, the pancake house?

6 SENATOR KLEIN: They would.

7 SENATOR OWEN JOHNSON: They would
8 be.

9 SENATOR KLEIN: Yes.

10 SENATOR OWEN JOHNSON: So some
11 would be and some wouldn't be.

12 SENATOR KLEIN: Well, no.
13 Restaurants, as defined in the legislation,
14 would actually, if a certain percentage of
15 your business is selling food, would be
16 covered. But in other words, a convenience
17 store or a grocery store, they're covered by
18 the State Department of Agriculture and
19 Markets.

20 Which, by the way, another piece of
21 legislation that I wrote years ago requires
22 supermarkets to post their most recent
23 inspection results. The law has been very,
24 very popular, has almost a hundred percent
25 compliance. And we didn't close down any, you

1 know, clean supermarkets by mistake.

2 Again, it's merely educating the
3 public, letting them know very clearly how
4 clean or how dirty their local eatery is and
5 allowing them to choose to go there if they
6 want or not go there if they choose not to.

7 SENATOR OWEN JOHNSON: Well, I
8 think you're mandating a lot more inspections
9 and procedures than presently exist in the
10 law, because every health inspector has to
11 send a report to Albany. That's a lot of
12 paperwork to send that up there.

13 SENATOR KLEIN: Senator, again,
14 I'm not mandating any more paperwork or any
15 more inspections. The only thing that we're
16 doing is presently everyone is entitled to an
17 inspection; some places do it every year, some
18 places do it every six months. The
19 reinspection, as was stated before, is free.
20 And then that third, which is really the
21 appeal, that's the one we're charging for. So
22 that may be the extra one, but we're doing
23 this only if a restaurant wants it or not.
24 Because I guess they want to be able to clear
25 up their good name.

1 SENATOR OWEN JOHNSON: Another
2 question for the Senator.

3 ACTING PRESIDENT SAVINO: Senator
4 Klein, do you continue to yield?

5 SENATOR KLEIN: Yes, Madam
6 President.

7 ACTING PRESIDENT SAVINO: Senator
8 Klein yields.

9 SENATOR OWEN JOHNSON: I am
10 unaware of any epidemic of foodborne illnesses
11 which mandates this type of a, what shall I
12 say, New York Statewide program. I'm unaware
13 of that.

14 SENATOR KLEIN: Well, one of the
15 problems with that, Senator, is in the City of
16 New York they do track foodborne illness, and
17 we've been seeing an increase each and every
18 year. It's also a very, very difficult type
19 of sickness to diagnose. It's hard to
20 pinpoint what exactly you ate and the food you
21 actually ate, what it had contact with that
22 caused you to get sick.

23 Unfortunately, the State Department
24 of Health does not track foodborne illness.
25 So it's hard to track how prevalent it is in

1 other parts of the state other than New York.

2 SENATOR OWEN JOHNSON: Well, you
3 know, one problem with the State of New York:
4 Too many rules, too many regulations, too many
5 expenses. And this is just, in my view, an
6 application, a statewide application of the
7 authority of the state costing more expense
8 and more money to deal with a problem which
9 really doesn't exist.

10 And for that reason, I certainly am
11 going to vote against this bill. Thank you.

12 ACTING PRESIDENT SAVINO: Senator
13 LaValle, on the bill.

14 SENATOR LaVALLE: Thank you,
15 Madam President.

16 Senator Klein, Suffolk County, as
17 you may know, is the largest county outside of
18 the five boroughs of the City of New York. I
19 would tell you that our health department in
20 Suffolk County is very, very active and very
21 overworked. When we put this on their agenda
22 of things to do, either other things that
23 they're doing now are going to have to give
24 way or more people are going to have to be
25 hired.

1 There is absolutely no way that our
2 health department can deal with all the things
3 they're dealing with and add this on top of
4 it. So you are adding a cost.

5 This is, as I read your bill -- and
6 I understand it goes into effect one year from
7 now so that people have an opportunity to gear
8 up. But this deals with safety and sanitation
9 of the premises and food-handling practices to
10 ensure compliance with state and local health
11 laws.

12 I will tell you that at least in
13 the early years that, when people see a grade
14 on a restaurant or a deli, they will think
15 that that has to do with the quality of the
16 food, you know, that they're going to get. So
17 a restaurant with an A grading, wow, their
18 food is very tasty, it's going to be very
19 good. It will take probably time before they
20 get into a mindset that it deals with sanitary
21 issues.

22 I would say -- and I kind of smile
23 as I read this, and just tell me if I'm
24 wrong -- one of the exemptions is mobile food
25 vending units. You know, some of the biggest

1 problems in my county that people complain
2 about are the mobile vending units. You talk
3 about sanitary conditions.

4 So we're going to pick on a
5 restaurant that has been in business for many
6 years -- and one of the things that I do,
7 Senator Klein, and I know you do, and other
8 members, you ask people in this economy: "How
9 you doing?" "Well, we're hanging on. We're
10 hanging on." I would say to you, in spite of
11 the fact that this doesn't take place for one
12 year, you are going to force out reputable
13 eateries throughout this state.

14 I don't know what the answer is.
15 But in Suffolk County right now the
16 sanitarians do a very aggressive job. But now
17 what you have at stake here is a letter, the
18 scarlet letter, that can put an eatery out of
19 business.

20 I would say to you that here again
21 we are putting in a law that is trying to get
22 to those in the minority of businesses that
23 don't do a good job, that are not careful. I
24 think our county does a tremendous job, an
25 absolutely tremendous job. I know some of the

1 sanitarians, I know how aggressive they are.
2 But I think this takes it one step over the
3 top. So at a time when I think we need to be
4 supporting small businesses and protecting
5 jobs, I think this is but another nail in the
6 demise of some reputable, long-serving
7 businesses.

8 Thank you, Madam President.

9 ACTING PRESIDENT SAVINO: Senator
10 Klein, to close.

11 SENATOR KLEIN: Thank you, Madam
12 President.

13 I heard a lot from my colleagues
14 from the other side of the aisle.
15 Unfortunately, I have the utmost respect for
16 them, but I think most of the arguments
17 opposed to this bill are either not true or
18 exaggerated.

19 I've been involved in this type of
20 issue for a long time. As I said earlier, I
21 wrote the law which requires supermarkets to
22 post their most recent inspection results. We
23 have seen failures in supermarkets go down
24 about 50 percent since the law took effect.
25 Originally, compliance was difficult, but now

1 we have virtually 100 percent compliance with
2 that law.

3 It's not too burdensome. It's
4 posted. Individuals like it because, again, I
5 think it's incumbent upon us as elected
6 officials, it's important for all of us to
7 always advocate transparency, education,
8 letting the public know. Which they certainly
9 have a right to know.

10 Senator LaValle went on and on
11 about the cost and the burden. Presently,
12 Suffolk County is one of the counties that
13 posts on an Internet site the inspection
14 results of restaurants. So what we're
15 actually doing is transferring what they
16 already do on the Internet, in case someone
17 doesn't go on the computer to look up their
18 restaurants, it will be posted -- the same
19 posting, the same work that went into
20 inspecting those restaurants, will now be in a
21 sign that's very easy to read and decipher by
22 customers.

23 Again, I also have been an elected
24 official now for 16 years. And I have dealt
25 with a lot of industries, dealt with a lot of

1 lobbyists. And I want to say I have never
2 dealt with an association that has been more
3 disingenuous than the State Restaurant
4 Association.

5 This legislation was something that
6 I worked on for the past year. The reason why
7 the City of New York implemented their law
8 before I got a chance to pass mine is because
9 I waited around negotiating with the state
10 Association, tried to get them the things that
11 the City of New York refused to do. And when
12 all of that is done, they still oppose this
13 bill.

14 I think we all have to ask the
15 question, what is the restaurant industry
16 trying to hide? If a restaurant is clean, you
17 take credit for it, increase your business.
18 If it's dirty, maybe you should fall by the
19 wayside.

20 So I think, really, a vote against
21 this piece of legislation is really a vote
22 against the public. It's denying the public
23 the opportunity to know how clean or how dirty
24 their local eatery is.

25 I vote yes, Madam President.

1 ACTING PRESIDENT SAVINO: Senator
2 Klein to be recorded in the affirmative.

3 Are there any other Senators that
4 wish to be heard?

5 Seeing none, the debate is closed.

6 The Secretary will ring the bells.
7 We ask all the members to return to the
8 chamber for the vote.

9 Read the last section.

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

13 ACTING PRESIDENT SAVINO: Call
14 the roll.

15 (The Secretary called the roll.)

16 ACTING PRESIDENT SAVINO: Senator
17 Fuschillo, to explain his vote.

18 SENATOR FUSCHILLO: Thank you,
19 Madam President. Just briefly.

20 I'm in the minority of the minority
21 now. And --

22 SENATOR DIAZ: Come over!

23 (Laughter.)

24 SENATOR FUSCHILLO: No, thanks.
25 No, thanks.

1 Senator Klein, I agree with a lot
2 of the comments that were heard here today,
3 and I think they raise legitimate concerns
4 that during the year period that this becomes
5 law, you should address them and they should
6 be taken very seriously.

7 The public has a right to know, and
8 that's why I'm supporting this legislation,
9 Madam President. I think the sanitary
10 conditions of any food establishment is of the
11 utmost importance before I walk into a
12 restaurant.

13 Senator Klein, you mentioned the
14 Restaurant Association, and you stated what
15 are they afraid of, what do they have to hide,
16 why do they want to hide something. I worked
17 with them for many years when we developed the
18 Clean Indoor Air Act. I don't think they have
19 anything to hide. I think their concerns are
20 legitimate.

21 I think over the year, if this
22 becomes law -- I know the Assembly hasn't
23 passed it yet; I don't know if they will -- I
24 think you should work with the Restaurant
25 Association. I did for many years before we

1 adopted the Clean Indoor Air Act where we
2 banned smoking in restaurants. And I heard a
3 lot of the same concerns about the industry,
4 which was unfounded, and many of my colleagues
5 that are still here fought me for three or
6 four years on that bill.

7 But I will tell you, the Restaurant
8 Association was a tremendous asset to me. And
9 I hope that you'll see that they will be to
10 you as well as you move forward with this
11 legislation.

12 I'll be voting in the affirmative.
13 Thank you, Madam President.

14 ACTING PRESIDENT SAVINO: Senator
15 Fuschillo to be recorded in the affirmative.

16 Senator C. Johnson, to explain his
17 vote.

18 SENATOR CRAIG JOHNSON: Thank you
19 very much, Madam President.

20 I'm also going to be supporting
21 this legislation. And I think what's very
22 important is what Senator Klein is trying to
23 do here, as Senator Fuschillo mentioned, is
24 really inform the public. And this is just
25 another way.

1 Because today, it's very simple.
2 If someone wanted to, they could go into any
3 restaurant they may be eating in, walk in,
4 look around, realize there's a problem, take
5 out their BlackBerry, if they have one, take a
6 photograph, maybe a Facebook page or a Twitter
7 page, or go to one of the number of restaurant
8 websites, like Dining.com, Urban Spoon,
9 Chowhound, Zagat's, and put a review right
10 online and let people know about maybe some
11 unsanitary conditions. The public needs to
12 know this information.

13 What Senator Klein is doing is the
14 responsible thing in bringing in the
15 Department of Health, having them establish
16 standards, establishing a very simple system
17 which allows for review and allows for appeals
18 to enable the public the right to know that
19 the establishment they're going to spend their
20 money in and that they're going to eat food
21 from is sanitary.

22 What's wrong with that? What is
23 wrong with that? I don't see anything wrong
24 with that. I think counties, notwithstanding
25 the difficult times -- and I agree with

1 Senator Hannon that the county that we live in
2 and love, Nassau County, has its difficult
3 financial times. But at the same instant, the
4 residents who live in that county have a right
5 to know that the eating establishment where
6 they go is safe and healthy.

7 I vote yes. Thank you very much.

8 ACTING PRESIDENT SAVINO: Senator
9 Craig Johnson to be recorded in the
10 affirmative.

11 Senator Hannon, to explain his
12 vote.

13 SENATOR HANNON: At a point in
14 time when health departments on the state
15 level, health departments on the county level
16 are being asked to do things that affect life
17 and death, to impose a mandate, to impose a
18 mandate when the budget proposed by the
19 Governor cuts the State Health Department by
20 20 percent for administrative expenses, cuts
21 the money that's given to local health
22 departments, it is irresponsible to try to do
23 this when the priorities ought to be
24 elsewhere.

25 I vote no.

1 ACTING PRESIDENT SAVINO: Senator
2 Hannon to be recorded in the negative.

3 Are there any other Senators
4 wishing to explain their vote?

5 Senator Klein, to explain his vote.

6 SENATOR KLEIN: Just very
7 briefly, Madam President.

8 I want to thank my colleagues
9 supporting the bill, specifically Senator
10 Fuschillo, and just say that one of the things
11 that I think is so important, I think we have
12 to get beyond, you know, the burden on a
13 county and the burden on a restaurant. We're
14 merely letting the public know in a very
15 transparent way what the grade they received
16 is in very plain language.

17 We're graded in schools, we're
18 graded on everything we do. And I think
19 something as important as the food we eat in a
20 restaurant should be subject to a letter grade
21 as well.

22 I vote yes, Madam President.

23 ACTING PRESIDENT SAVINO: Senator
24 Klein to be recorded in the affirmative.

25 Are there any other Senators

1 wishing to explain their vote?

2 Senator Marcellino.

3 SENATOR MARCELLINO: I agree with
4 what Senator Klein just said. I agree with my
5 other colleagues too. But the key element
6 here is that different counties interpret
7 these standards in different ways and inspect
8 for different things. So that a B on one side
9 of the street in County X could mean the same
10 as a C in County Y right across the street,
11 because they inspect for different things.
12 The standards aren't the same.

13 If you tell me across the county,
14 across the state all of the standards were the
15 same, that an A in Hamilton County means the
16 same thing as an A in Nassau or Suffolk
17 County, that's one thing. But that's not
18 what's going to happen here. They're going to
19 be different in each county because they
20 inspect for different things. The standard is
21 not uniform.

22 So we're adding to the confusion
23 and we're not adding to the knowledge that I
24 think Senator Klein wants to put out there,
25 which I agree with. We have a right to know

1 if a restaurant is clean or not. That's
2 perfectly good. But the standard has to be
3 uniform throughout the state. It is not
4 currently, and this law doesn't make it so.

5 Therefore, I will be voting no.

6 ACTING PRESIDENT SAVINO: Senator
7 Marcellino to be recorded in the negative.

8 Senator Alesi, to explain his vote.

9 SENATOR ALESI: Thank you, Madam
10 President.

11 Once again, I think that the intent
12 here is laudable, but it's impractical. This
13 is another example of New York State imposing
14 more and more rules and regulations that make
15 it difficult for businesses to exist and to
16 operate in New York State.

17 It's inconsistent, it will prove to
18 be a failure, and that's why I would give this
19 bill an F, a big F, and I'll be voting no.

20 ACTING PRESIDENT SAVINO: Senator
21 Alesi to be recorded in the negative.

22 Announce the results.

23 THE SECRETARY: Those recorded in
24 the negative on Calendar Number 1120 are
25 Senators Alesi, Bonacic, DeFrancisco, Farley,

1 Flanagan, Golden, Griffo, Hannon, O. Johnson,
2 Lanza, Larkin, LaValle, Leibell, Libous,
3 Little, Marcellino, Maziarz, McDonald,
4 Nozzolio, Ranzenhofer, Robach, Saland, Seward,
5 Skelos, Stachowski, Volker, Winner and Young.

6 Absent from voting: Senator
7 Padavan.

8 Ayes, 32. Nays, 28.

9 ACTING PRESIDENT SAVINO: The
10 bill is passed.

11 Senator Klein, that completes the
12 reading of the controversial supplemental
13 calendar.

14 SENATOR KLEIN: Madam President,
15 can we just briefly return to motions and
16 resolutions.

17 ACTING PRESIDENT SAVINO: We will
18 return to motions and resolutions.

19 Senator Klein.

20 SENATOR KLEIN: On behalf of
21 Senator Stachowski, on page number 37 I offer
22 the following amendments to Calendar Number
23 1117, Senate Print Number 8092, and ask that
24 said bill retain its place on Third Reading
25 Calendar.

1 ACTING PRESIDENT SAVINO: So
2 ordered.

3 SENATOR KLEIN: On behalf of
4 Senator Breslin, on page number 25 I offer the
5 following amendments to Calendar Number 746,
6 Senate Print Number 1700A, and ask that said
7 bill retain its place on Third Reading
8 Calendar.

9 ACTING PRESIDENT SAVINO: So
10 ordered.

11 SENATOR KLEIN: On behalf of
12 Senator Schneiderman, I wish to call up Print
13 Number 6263B, recalled from the Assembly,
14 which is now at the desk.

15 ACTING PRESIDENT SAVINO: The
16 Secretary will read the title.

17 THE SECRETARY: Calendar Number
18 715, by Senator Schneiderman, Senate Print
19 6263B, an act to amend the Insurance Law.

20 ACTING PRESIDENT SAVINO: Senator
21 Klein.

22 SENATOR KLEIN: Madam President,
23 I now move to reconsider the vote by which
24 this bill was passed.

25 ACTING PRESIDENT SAVINO: The

1 Secretary will call the roll on
2 reconsideration.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 61.

5 ACTING PRESIDENT SAVINO: Senator
6 Klein.

7 SENATOR KLEIN: Madam President,
8 I now offer the following amendments.

9 ACTING PRESIDENT SAVINO:
10 Amendments received.

11 SENATOR KLEIN: Madam President,
12 can we please stand at ease for one hour, to
13 come back at ten minutes after 9 o'clock.

14 ACTING PRESIDENT SAVINO: The
15 Senate will stand at ease until ten minutes
16 past 9:00 p.m.

17 SENATOR LIBOUS: Madam President.

18 ACTING PRESIDENT SAVINO: Senator
19 Libous.

20 SENATOR LIBOUS: Thank you.
21 There will be an immediate Republican
22 conference.

23 ACTING PRESIDENT SAVINO: There
24 will be an immediate meeting of the Republican
25 conference.

1 The Senate will stand at ease until
2 ten past 9:00.

3 (Whereupon, the Senate stood at
4 ease at 8:12 p.m.)

5 (Whereupon, the Senate reconvened
6 at 9:32 p.m.)

7 ACTING PRESIDENT SAVINO: Senator
8 Klein.

9 SENATOR KLEIN: Madam President,
10 there will be an immediate meeting of the
11 Rules Committee in the Majority Conference
12 Room.

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

15 ACTING PRESIDENT SAVINO: There
16 will be an immediate meeting of the Rules
17 Committee in the Majority Conference Room.

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

20 (Whereupon, the Senate stood at
21 ease at 9:33 p.m.)

22 (Whereupon, the Senate reconvened
23 at 10:12 p.m.)

24 ACTING PRESIDENT SAVINO: Senator
25 Klein.

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

5 ACTING PRESIDENT SAVINO: There
6 is a report of the Rules Committee at the
7 desk, Senator Klein.

8 The Secretary will read.

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

12 Senate Print 557C, by Senator
13 Adams, an act to amend the Personal Property
14 Law;

15 2768B, by Senator Onorato, an act
16 to authorize;

17 4955B, by Senator Thompson, an act
18 to amend the Executive Law;

19 5421, by Senator Sampson, an act to
20 amend the Family Court Act;

21 6103, by Senator Parker, an act to
22 amend the Public Health Law;

23 6706, by Senator Padavan, an act to
24 amend Chapter 548 of the Laws of 2004;

25 6918B, by Senator Breslin, an act

1 to amend the Environmental Conservation Law;

2 7187, by Senator Parker, an act to
3 amend the Public Health Law;

4 7190, by Senator Stewart-Cousins,
5 an act to provide;

6 7269A, by Senator Parker, an act to
7 establish;

8 7609A, by Senator Peralta, an act
9 to amend the General Business Law;

10 7687B, by Senator Parker, an act to
11 amend the Public Service Law;

12 7979, by Senator Parker, an act to
13 amend the Public Authorities Law;

14 8096, by Senator Perkins, an act to
15 amend the General Business Law;

16 8244, by Senator Libous, an act to
17 amend the Alcoholic Beverage Control Law;

18 8272, by Senator Aubertine, an act
19 to amend Chapter 522 of the Laws of 2000;

20 8296A, by Senator Parker, an act to
21 amend the General Municipal Law;

22 8298, by Senator Sampson, an act to
23 amend the Estates, Powers and Trusts Law;

24 8305, by Senator Aubertine, an act
25 to amend the Alcoholic Beverage Control Law;

1 And Senate Print 8308, by Senator
2 Foley, an act to amend the Executive Law.

3 All bills ordered direct to third
4 reading.

5 ACTING PRESIDENT SAVINO: All
6 those in favor of adopting the Rules Committee
7 report please signify by saying aye.

8 (Response of "Aye.")

9 ACTING PRESIDENT SAVINO:
10 Opposed, nay.

11 (No response.)

12 ACTING PRESIDENT SAVINO: The
13 Rules Committee report is adopted.

14 Senator Klein.

15 SENATOR KLEIN: Madam President,
16 at this time can we please go to a reading of
17 the supplemental calendar.

18 ACTING PRESIDENT SAVINO: The
19 Secretary will read.

20 THE SECRETARY: In relation to
21 Calendar Number 1180, Senator Adams moves to
22 discharge, from the Committee on Rules
23 Assembly Bill Number 3083E and substitute it
24 for the identical Senate Bill Number 557C,
25 Third Reading Calendar 1180.

1 ACTING PRESIDENT SAVINO:

2 Substitution ordered.

3 THE SECRETARY: Calendar Number
4 1180, by Member of the Assembly Pheffer,
5 Assembly Print Number 3083E, an act to amend
6 the Personal Property Law.

7 ACTING PRESIDENT SAVINO: Read
8 the last section.

9 THE SECRETARY: Section 11. This
10 act shall take effect on the 180th day.

11 ACTING PRESIDENT SAVINO: Call
12 the roll.

13 (The Secretary called the roll.)

14 ACTING PRESIDENT SAVINO:
15 Announce the results.

16 THE SECRETARY: Ayes, 61.

17 ACTING PRESIDENT SAVINO: The
18 bill is passed.

19 THE SECRETARY: Calendar Number
20 1182, by Senator Onorato, Senate Print 2768B,
21 an act to authorize the City of New York.

22 ACTING PRESIDENT SAVINO: There
23 is a home-rule message at the desk.

24 Read the last section.

25 THE SECRETARY: Section 5. This

1 act shall take effect immediately.

2 ACTING PRESIDENT SAVINO: Call
3 the roll.

4 (The Secretary called the roll.)

5 ACTING PRESIDENT SAVINO:
6 Announce the results.

7 THE SECRETARY: Those recorded in
8 the negative on Calendar Number 1182 are
9 Senators DeFrancisco, Farley, Golden, Hannon,
10 Larkin, LaValle, Libous, Little, Marcellino,
11 Ranzenhofer, Seward, Skelos, Volker and Young.
12 Also Senator Saland. Also Senator Nozzolio.

13 Ayes, 45. Nays, 16.

14 ACTING PRESIDENT SAVINO: The
15 bill is passed.

16 THE SECRETARY: Calendar Number
17 1190, by Senator Thompson, Senate Print 4955B,
18 an act to amend the Executive Law.

19 ACTING PRESIDENT SAVINO: Read
20 the last section.

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

23 ACTING PRESIDENT SAVINO: Call
24 the roll.

25 (The Secretary called the roll.)

1 SENATOR LIBOUS: Lay it aside.

2 ACTING PRESIDENT SAVINO: The
3 bill is laid aside.

4 THE SECRETARY: In relation to
5 Calendar Number 1191, Senator Sampson moves to
6 discharge, from the Committee on Children and
7 Families, Assembly Bill Number 1870A and
8 substitute it for the identical Senate Bill
9 Number 5421, Third Reading Calendar 1191.

10 ACTING PRESIDENT SAVINO:
11 Substitution ordered.

12 THE SECRETARY: Calendar Number
13 1191, by Member of the Assembly Pheffer,
14 Assembly Print Number 1870A, an act to amend
15 the Family Court Act.

16 ACTING PRESIDENT SAVINO: Read
17 the last section.

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

20 ACTING PRESIDENT SAVINO: Call
21 the roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT SAVINO:
24 Announce the results.

25 THE SECRETARY: Ayes, 61.

1 ACTING PRESIDENT SAVINO: The
2 bill is passed.

3 THE SECRETARY: In relation to
4 Calendar Number 1192, Senator Parker moves to
5 discharge, from the Committee on Health,
6 Assembly Bill Number 2358 and substitute it
7 for the identical Senate Bill Number 6103,
8 Third Reading Calendar 1192.

9 ACTING PRESIDENT SAVINO:
10 Substitution ordered.

11 THE SECRETARY: Calendar Number
12 1192, by Member of the Assembly Gottfried,
13 Assembly Print Number 2358, an act to amend
14 the Public Health Law.

15 ACTING PRESIDENT SAVINO: Read
16 the last section.

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

19 ACTING PRESIDENT SAVINO: Call
20 the roll.

21 (The Secretary called the roll.)

22 ACTING PRESIDENT SAVINO:
23 Announce the results.

24 THE SECRETARY: Ayes, 61.

25 ACTING PRESIDENT SAVINO: The

1 bill is passed.

2 THE SECRETARY: In relation to
3 Calendar Number 1193, Senator Padavan moves to
4 discharge, from the Committee on Rules,
5 Assembly Bill Number 9789 and substitute it
6 for the identical Senate Bill Number 6706,
7 Third Reading Calendar 1193.

8 ACTING PRESIDENT SAVINO:
9 Substitution ordered.

10 THE SECRETARY: Calendar Number
11 1193, by Member of the Assembly Lentol,
12 Assembly Print Number 9789, an act to amend
13 Chapter 548 of the Laws of 2004.

14 ACTING PRESIDENT SAVINO: Read
15 the last section.

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

18 ACTING PRESIDENT SAVINO: Call
19 the roll.

20 (The Secretary called the roll.)

21 ACTING PRESIDENT SAVINO:
22 Announce the results.

23 THE SECRETARY: Ayes, 61.

24 ACTING PRESIDENT SAVINO: The
25 bill is passed.

1 THE SECRETARY: Calendar Number
2 1194, by Senator Breslin, Senate Print 6918B,
3 an act to amend the Environmental Conservation
4 Law.

5 ACTING PRESIDENT SAVINO: Read
6 the last section.

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

9 ACTING PRESIDENT SAVINO: Call
10 the roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT SAVINO:
13 Announce the results.

14 THE SECRETARY: Ayes, 61.

15 ACTING PRESIDENT SAVINO: The
16 bill is passed.

17 THE SECRETARY: Calendar Number
18 1195, by Senator Parker, Senate Print 7187, an
19 act to amend the Public Health Law and others.

20 ACTING PRESIDENT SAVINO: Read
21 the last section.

22 THE SECRETARY: Section 7. This
23 act shall take effect immediately.

24 ACTING PRESIDENT SAVINO: Call
25 the roll.

1 (The Secretary called the roll.)

2 ACTING PRESIDENT SAVINO:

3 Announce the results.

4 THE SECRETARY: Ayes, 61.

5 ACTING PRESIDENT SAVINO: The
6 bill is passed.

7 THE SECRETARY: Calendar Number
8 1196, by Senator Stewart-Cousins, Senate Print
9 7190 --

10 SENATOR LIBOUS: Lay the bill
11 aside.

12 ACTING PRESIDENT SAVINO: The
13 bill is laid aside.

14 THE SECRETARY: In relation to
15 Calendar Number 1197, Senator Parker moves to
16 discharge, from the Committee on Rules,
17 Assembly Bill Number 275A and substitute it
18 for the identical Senate Bill Number 7269A,
19 Third Reading Calendar 1197.

20 ACTING PRESIDENT SAVINO:
21 Substitution ordered.

22 THE SECRETARY: Calendar Number
23 1197, by Member of the Assembly Pheffer,
24 Assembly Print Number 275A --

25 SENATOR KLEIN: Lay the bill

1 aside for the day, please.

2 ACTING PRESIDENT SAVINO: The
3 bill is laid aside for the day.

4 THE SECRETARY: In relation to
5 Calendar Number 1198, Senator Peralta moves to
6 discharge, from the Committee on Rules,
7 Assembly Bill Number 11007A and substitute it
8 for the identical Senate Bill Number 7609A,
9 Third Reading Calendar 1198.

10 ACTING PRESIDENT SAVINO:
11 Substitution ordered.

12 THE SECRETARY: Calendar Number
13 1198, by Member of the Assembly Pheffer,
14 Assembly Print Number 11007A, an act to amend
15 the General Business Law.

16 ACTING PRESIDENT SAVINO: Read
17 the last section.

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

20 ACTING PRESIDENT SAVINO: Call
21 the roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT SAVINO:
24 Announce the results.

25 THE SECRETARY: Ayes, 61.

1 ACTING PRESIDENT SAVINO: The
2 bill is passed.

3 THE SECRETARY: Calendar Number
4 1199, by Senator Parker, Senate Print 7687B,
5 an act to amend the Public Service Law.

6 ACTING PRESIDENT SAVINO: The
7 bill is high. The bill is laid aside for the
8 day.

9 THE SECRETARY: In relation to
10 Calendar Number 1200, Senator Parker moves to
11 discharge, from the Committee on Corporations,
12 Authorities and Commissions, Assembly Bill
13 Number 247 and substitute it for the identical
14 Senate Bill Number 7979, Third Reading
15 Calendar 1200.

16 ACTING PRESIDENT SAVINO:
17 Substitution ordered.

18 THE SECRETARY: Calendar Number
19 1200, by Member of the Assembly Magnarelli,
20 Assembly Print Number 247, an act to amend the
21 Public Authorities Law.

22 ACTING PRESIDENT SAVINO: Read
23 the last section.

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

1 ACTING PRESIDENT SAVINO: Call
2 the roll.

3 (The Secretary called the roll.)

4 ACTING PRESIDENT SAVINO:
5 Announce the results.

6 THE SECRETARY: Ayes, 61.

7 ACTING PRESIDENT SAVINO: The
8 bill is passed.

9 THE SECRETARY: In relation to
10 Calendar Number 1201, Senator Perkins moves to
11 discharge, from the Committee on Rules,
12 Assembly Bill Number 7078A and substitute it
13 for the identical Senate Bill Number 8096,
14 Third Reading Calendar 1201.

15 ACTING PRESIDENT SAVINO:
16 Substitution ordered.

17 THE SECRETARY: Calendar Number
18 1201, by Member of the Assembly Rosenthal,
19 Assembly Print Number 7078A, an act to amend
20 the General Business Law.

21 ACTING PRESIDENT SAVINO: Read
22 the last section.

23 THE SECRETARY: Section 2. This
24 act shall take effect on the 180th day.

25 ACTING PRESIDENT SAVINO: Call

1 the roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT SAVINO:

4 Announce the results.

5 THE SECRETARY: Ayes, 60. Nays,

6 1. Senator DeFrancisco recorded in the
7 negative.

8 ACTING PRESIDENT SAVINO: The
9 bill is passed.

10 THE SECRETARY: Calendar Number
11 1202, by Senator Libous, Senate Print 8244, an
12 act to amend the Alcoholic Beverage Control
13 Law.

14 ACTING PRESIDENT SAVINO: Read
15 the last section.

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

18 ACTING PRESIDENT SAVINO: Call
19 the roll.

20 (The Secretary called the roll.)

21 ACTING PRESIDENT SAVINO:

22 Announce the results.

23 THE SECRETARY: Ayes, 61.

24 ACTING PRESIDENT SAVINO: The
25 bill is passed.

1 THE SECRETARY: In relation to
2 Calendar Number 1203, Senator Aubertine moves
3 discharge, from the Committee on Rules,
4 Assembly Bill Number 11097 and substitute it
5 for the identical Senate Bill Number 8272,
6 Third Reading Calendar 1203.

7 ACTING PRESIDENT SAVINO:
8 Substitution ordered.

9 THE SECRETARY: Calendar Number
10 1203, by Member of the Assembly Gordon,
11 Assembly Print Number 11097, an act to amend
12 Chapter 522 of the Laws of 2000.

13 ACTING PRESIDENT SAVINO: Read
14 the last section.

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

17 ACTING PRESIDENT SAVINO: Call
18 the roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT SAVINO:
21 Announce the results.

22 THE SECRETARY: Ayes, 61.

23 ACTING PRESIDENT SAVINO: The
24 bill is passed.

25 THE SECRETARY: Calendar Number

1 1204, by Senator Parker, Senate Print 8296A,
2 an act to amend the General Municipal Law and
3 the Banking Law.

4 ACTING PRESIDENT SAVINO: This
5 bill is high. It will be laid aside for the
6 day.

7 THE SECRETARY: In relation to
8 Calendar Number 1205, Senator Sampson moves to
9 discharge, from the Committee on Rules,
10 Assembly Bill Number 11316 and substitute it
11 for the identical Senate Bill Number 8298,
12 Third Reading Calendar 1205.

13 ACTING PRESIDENT SAVINO:
14 Substitution ordered.

15 THE SECRETARY: Calendar Number
16 1205, by the Assembly Committee on Rules,
17 Assembly Print Number 11316, an act to amend
18 the Estates, Powers and Trusts Law.

19 ACTING PRESIDENT SAVINO: Read
20 the last section.

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

23 ACTING PRESIDENT SAVINO: Call
24 the roll.

25 (The Secretary called the roll.)

1 ACTING PRESIDENT SAVINO:

2 Announce the results.

3 THE SECRETARY: Ayes, 61.

4 ACTING PRESIDENT SAVINO: The
5 bill is passed.

6 THE SECRETARY: Calendar Number
7 1206, by Senator Aubertine, Senate Print 8305,
8 an act to amend the Alcoholic Beverage Control
9 Law.

10 ACTING PRESIDENT SAVINO: This
11 bill is high. It will be laid aside for the
12 day.

13 THE SECRETARY: In relation to
14 Calendar Number 1207, Senator Foley moves to
15 discharge, from the Committee on Rules,
16 Assembly Bill Number 11087 and substitute it
17 for the identical Senate Bill Number 8308,
18 Third Reading Calendar 1207.

19 ACTING PRESIDENT SAVINO:
20 Substitution ordered.

21 THE SECRETARY: Calendar Number
22 1207, by Member of the Assembly Ramos,
23 Assembly Print Number 11087, an act to amend
24 the Executive Law.

25 ACTING PRESIDENT SAVINO: Read

1 the last section.

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

4 ACTING PRESIDENT SAVINO: Call
5 the roll.

6 (The Secretary called the roll.)

7 ACTING PRESIDENT SAVINO:
8 Announce the results.

9 THE SECRETARY: Ayes, 61.

10 ACTING PRESIDENT SAVINO: The
11 bill is passed.

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

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

18 ACTING PRESIDENT SAVINO: The
19 Secretary will please ring the bells.

20 The Secretary will proceed with the
21 reading of the controversial supplemental
22 calendar.

23 THE SECRETARY: Calendar Number
24 1190, by Senator Thompson, Senate Print 4955B,
25 an act to amend the Executive Law.

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

3 Senator Thompson.

4 SENATOR THOMPSON: Just to
5 explain my vote. I was looking forward to
6 some --

7 ACTING PRESIDENT SAVINO: Senator
8 Thompson, we are not on the roll call yet.
9 When we do the roll call, you can explain your
10 vote.

11 SENATOR LIBOUS: Madam President.

12 ACTING PRESIDENT SAVINO: Senator
13 Libous.

14 SENATOR LIBOUS: I believe
15 Senator LaValle would like to withdraw the
16 lay-aside on Calendar Number 1190 and take it
17 back up noncontroversial.

18 ACTING PRESIDENT SAVINO: The
19 lay-aside is withdrawn on Calendar Number
20 1190. It's restored to the noncontroversial
21 calendar.

22 The Secretary will read the last
23 section.

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

1 ACTING PRESIDENT SAVINO: Call
2 the roll.

3 (The Secretary called the roll.)

4 ACTING PRESIDENT SAVINO:
5 Announce the results.

6 THE SECRETARY: Ayes, 61.

7 ACTING PRESIDENT SAVINO: The
8 bill is passed.

9 THE SECRETARY: Calendar Number
10 1196, by Senator Stewart-Cousins, Senate Print
11 7190 --

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

14 ACTING PRESIDENT SAVINO: The
15 bill is laid aside for the day.

16 Senator Klein, that completes the
17 reading of the controversial supplemental
18 calendar.

19 THE SECRETARY: Madam President,
20 at this time can we please go to a reading of
21 supplemental active list.

22 ACTING PRESIDENT SAVINO: The
23 Secretary will read.

24 THE SECRETARY: Calendar Number
25 1093, by Senator L. Krueger, Senate Print

1 6873B, an act to amend the Multiple Dwelling
2 Law and the Administrative Code of the City of
3 New York.

4 ACTING PRESIDENT SAVINO: Read
5 the last section.

6 THE SECRETARY: Section 8. This
7 act shall take effect --

8 SENATOR LIBOUS: Lay it aside.

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

11 Senator Klein.

12 SENATOR KLEIN: Madam President,
13 can we please go to a controversial reading of
14 the supplemental calendar.

15 ACTING PRESIDENT SAVINO: The
16 Secretary will proceed with a reading of the
17 controversial supplemental calendar.

18 THE SECRETARY: Calendar Number
19 1093, by Senator L. Krueger, Senate Print
20 6873B, an act to amend the Multiple Dwelling
21 Law and the Administrative Code of the City of
22 New York.

23 ACTING PRESIDENT SAVINO: Are
24 there any Senators wishing to be heard on the
25 bill?

1 Seeing none, the debate is closed.

2 The Secretary will ring the bells.

3 Read the last section.

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

6 ACTING PRESIDENT SAVINO: Call
7 the roll.

8 (The Secretary called the roll.)

9 ACTING PRESIDENT SAVINO:
10 Announce the results.

11 THE SECRETARY: Those recorded in
12 the negative on Calendar Number 1093 are
13 Senators Alesi, Bonacic, DeFrancisco, Farley,
14 Flanagan, Fuschillo, Golden, Griffio, Hannon,
15 O. Johnson, Lanza, Larkin, LaValle, Leibell,
16 Libous, Little, Marcellino, Maziarz, McDonald,
17 Nozzolio, Ranzenhofer, Robach, Saland, Seward,
18 Skelos, Volker, Winner and Young.

19 Absent from voting: Senator
20 Padavan.

21 Ayes, 32. Nays, 28.

22 ACTING PRESIDENT SAVINO: The
23 bill is passed.

24 Senator Klein.

25 SENATOR KLEIN: Madam President,

1 at this time can we please go to a reading of
2 Supplemental Active List Number 2.

3 ACTING PRESIDENT SAVINO: The
4 Secretary will proceed with the reading of
5 Supplemental Active List Number 2.

6 THE SECRETARY: Calendar Number
7 5, by Member of the Assembly Magnarelli,
8 Assembly Print Number 8462A, an act to amend
9 the Executive Law.

10 ACTING PRESIDENT SAVINO: Read
11 the last section.

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

14 ACTING PRESIDENT SAVINO: Call
15 the roll.

16 (The Secretary called the roll.)

17 ACTING PRESIDENT SAVINO:
18 Announce the results.

19 THE SECRETARY: Ayes, 61.

20 ACTING PRESIDENT SAVINO: The
21 bill is passed.

22 THE SECRETARY: Calendar Number
23 91, substituted earlier today by Member of the
24 Assembly Amedore, Assembly Print Number 8199B,
25 an act to authorize New Creation.

1 ACTING PRESIDENT SAVINO: Read
2 the last section.

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

5 ACTING PRESIDENT SAVINO: Call
6 the roll.

7 (The Secretary called the roll.)

8 ACTING PRESIDENT SAVINO:
9 Announce the results.

10 THE SECRETARY: Ayes, 59. Nays,
11 2. Senators Bonacic and Larkin recorded in
12 the negative.

13 ACTING PRESIDENT SAVINO: The
14 bill is passed.

15 THE SECRETARY: Calendar Number
16 185, by Senator Duane, Senate Print 1523A, an
17 act to amend the Domestic Relations Law.

18 ACTING PRESIDENT SAVINO: Read
19 the last section.

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

22 ACTING PRESIDENT SAVINO: Call
23 the roll.

24 (The Secretary called the roll.)

25 ACTING PRESIDENT SAVINO:

1 Senator DeFrancisco, to explain his vote.

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

4 This provides for adoption by
5 permitting two unmarried persons, adult
6 intimate partners, to adopt a child. I have
7 no clue, since the bill does not say anything
8 about it, what the definition of "intimate
9 partners" are.

10 I would think that if we're going
11 to make a category of individuals that could
12 adopt children that are not husband and wife,
13 it would seem to me that category of
14 individuals should be sufficiently defined.
15 "Intimate" means different things to different
16 people. In fact, to our former president, sex
17 means different things to different people.

18 So I think we have to truly have a
19 definition in order to provide a new right,
20 and I vote no for that reason.

21 ACTING PRESIDENT SAVINO: Senator
22 DeFrancisco to be recorded in the negative.

23 Announce the results.

24 THE SECRETARY: Those recorded in
25 the negative on Calendar Number 185 are

1 Senators Aubertine, Bonacic, DeFrancisco,
2 Farley, Golden, Griffo, Hannon, O. Johnson,
3 Larkin, Leibell, Libous, Maziarz, McDonald,
4 Nozzolio, Ranzenhofer, Saland, Seward, Skelos,
5 Volker and Young. Also Senator Diaz.

6 Ayes, 40. Nays, 21.

7 ACTING PRESIDENT SAVINO: The
8 bill is passed.

9 THE SECRETARY: Calendar Number
10 188, by Member of the Assembly O'Donnell,
11 Assembly Print Number 5537A, an act to amend
12 the Penal Law and others.

13 ACTING PRESIDENT SAVINO: Read
14 the last section.

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

17 ACTING PRESIDENT SAVINO: Call
18 the roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT SAVINO:
21 Announce the results.

22 THE SECRETARY: Ayes, 61.

23 ACTING PRESIDENT SAVINO: The
24 bill is passed.

25 THE SECRETARY: Calendar Number

1 276, by Senator Maziarz, Senate Print 4835, an
2 act to refund taxpayers.

3 ACTING PRESIDENT SAVINO: Read
4 the last section.

5 THE SECRETARY: Section 4. This
6 act shall take effect immediately.

7 ACTING PRESIDENT SAVINO: Call
8 the roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT SAVINO:
11 Announce the results.

12 THE SECRETARY: Ayes, 61.

13 ACTING PRESIDENT SAVINO: The
14 bill is passed.

15 THE SECRETARY: Calendar Number
16 415, by Senator Schneiderman, Senate Print
17 4394B, an act to amend the Penal Law.

18 ACTING PRESIDENT SAVINO: Read
19 the last section.

20 THE SECRETARY: Section 2. This
21 act shall take effect on the 30th day.

22 ACTING PRESIDENT SAVINO: Call
23 the roll.

24 (The Secretary called the roll.)

25 ACTING PRESIDENT SAVINO:

1 Senator DeFrancisco, to explain his vote.

2 SENATOR DeFRANCISCO: For the
3 same reasons that I've voted against all of
4 these bills, the sponsor's establishing
5 special categories of people who are victims
6 that result in assault being increased to an
7 assault in the second degree.

8 Once again, we've got, in this
9 case, New York City sanitation workers. I'm
10 not quite sure what's so special about
11 New York City sanitation workers. There's
12 sanitation workers in every city in the state
13 of New York. Do they hurt more when they get
14 hit in New York City if you're a sanitation
15 worker?

16 I don't quite get this concept
17 other than it's pandering to different groups,
18 and there should be an assault second bill or
19 a bill that applies equally to everyone no
20 matter who the victim happens to be.

21 ACTING PRESIDENT SAVINO: Senator
22 DeFrancisco to be recorded in the negative.

23 Announce the results.

24 THE SECRETARY: Those recorded in
25 the negative on Calendar Number 415 are

1 Senators DeFrancisco, O. Johnson, Libous,
2 Little and Ranzenhofer.

3 Ayes, 56. Nays, 5.

4 ACTING PRESIDENT SAVINO: The
5 bill is passed.

6 THE SECRETARY: Calendar Number
7 747, by Senator Breslin --

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

10 ACTING PRESIDENT SAVINO: The
11 bill is laid aside for the day.

12 THE SECRETARY: Calendar Number
13 799, by Senator Oppenheimer, Senate Print
14 7818, an act to amend Chapter 386 of the Laws
15 of 1996.

16 ACTING PRESIDENT SAVINO: Read
17 the last section.

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

20 ACTING PRESIDENT SAVINO: Call
21 the roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT SAVINO:
24 Announce the results.

25 THE SECRETARY: Ayes, 61.

1 ACTING PRESIDENT SAVINO: The
2 bill is passed.

3 THE SECRETARY: Calendar Number
4 865, by Member of the Assembly Gottfried,
5 Assembly Print Number 1719A, an act to amend
6 the Public Health Law.

7 ACTING PRESIDENT SAVINO: Read
8 the last section.

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

11 (The Secretary called the roll.)

12 ACTING PRESIDENT SAVINO: Call
13 the roll.

14 (The Secretary called the roll.)

15 ACTING PRESIDENT SAVINO:
16 Announce the results.

17 THE SECRETARY: Those recorded in
18 the negative on Calendar Number 865 are
19 Senators Farley, Golden, O. Johnson, Lanza,
20 Leibell, McDonald, Nozzolio, Saland and
21 Volker.

22 Ayes, 52. Nays, 9.

23 ACTING PRESIDENT SAVINO: The
24 bill is passed.

25 THE SECRETARY: In relation to

1 Calendar Number 865, Senator Nozzolio recorded
2 in the affirmative.

3 Ayes, 53. Nays, 8.

4 ACTING PRESIDENT SAVINO: The
5 bill is still passed.

6 THE SECRETARY: Calendar Number
7 879, by the Assembly Committee on Rules,
8 Assembly Print Number 11343, an act to amend
9 Chapter 545 of the Laws of 2003.

10 ACTING PRESIDENT SAVINO: Read
11 the last section.

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

14 ACTING PRESIDENT SAVINO: Call
15 the roll.

16 (The Secretary called the roll.)

17 ACTING PRESIDENT SAVINO:
18 Announce the results.

19 THE SECRETARY: Ayes, 61.

20 ACTING PRESIDENT SAVINO: The
21 bill is passed.

22 THE SECRETARY: Calendar Number
23 917, by Member of the Assembly Alessi,
24 Assembly Print Number 10718, an act to amend
25 Chapter 246 of the Laws of 1916.

1 ACTING PRESIDENT SAVINO: Read
2 the last section.

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

5 ACTING PRESIDENT SAVINO: Call
6 the roll.

7 (The Secretary called the roll.)

8 ACTING PRESIDENT SAVINO:
9 Announce the results.

10 THE SECRETARY: Ayes, 61.

11 ACTING PRESIDENT SAVINO: The
12 bill is passed.

13 THE SECRETARY: Calendar Number
14 942, by Senator Hannon, Senate Print 7403, an
15 act to authorize the Hebrew Academy of
16 Nassau County.

17 ACTING PRESIDENT SAVINO: Read
18 the last section.

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

21 ACTING PRESIDENT SAVINO: Call
22 the roll.

23 (The Secretary called the roll.)

24 ACTING PRESIDENT SAVINO:
25 Announce the results.

1 THE SECRETARY: Ayes, 59. Nays,
2 2. Senators Bonacic and Larkin recorded in
3 the negative.

4 ACTING PRESIDENT SAVINO: The
5 bill is passed.

6 THE SECRETARY: Calendar Number
7 944, by Senator Duane --

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

10 ACTING PRESIDENT SAVINO: The
11 bill is laid aside for the day.

12 Senator Klein, that completes the
13 reading of the noncontroversial Supplemental
14 Active List 2.

15 SENATOR KLEIN: Madam President,
16 can we briefly go back to motions and
17 resolutions.

18 ACTING PRESIDENT SAVINO:
19 Returning to motions and resolutions.

20 SENATOR KLEIN: Madam President,
21 on behalf of Senator Foley, on page 36 I offer
22 the following amendments to Calendar 1021,
23 Senate Print Number 7263A, and ask that said
24 bill retain its place on Third Reading
25 Calendar.

1 ACTING PRESIDENT SAVINO: So
2 ordered.

3 SENATOR KLEIN: On behalf of
4 Senator Oppenheimer, I move to amend Senate
5 Bill 7635A by striking out the amendments made
6 on 6/22 and restoring it to its original print
7 number, 7635.

8 ACTING PRESIDENT SAVINO: So
9 ordered.

10 SENATOR KLEIN: Madam President,
11 can you please recognize Senator Libous.

12 ACTING PRESIDENT SAVINO: I do
13 recognize Senator Libous.

14 SENATOR KLEIN: Madam President,
15 thank you. And I recognize you.

16 There will be a Republican
17 conference tomorrow morning at 9:30 sharp.

18 ACTING PRESIDENT SAVINO: There
19 will be a Republican conference tomorrow at
20 9:30 sharp.

21 Senator Klein.

22 SENATOR KLEIN: Madam President,
23 is there any further business at the desk?

24 ACTING PRESIDENT SAVINO: There
25 is no further business to come before the

1 desk, Senator Klein.

2 SENATOR KLEIN: There being no
3 further business, Madam President, I move that
4 we adjourn until Friday, June 25th, at
5 10:00 a.m.

6 ACTING PRESIDENT SAVINO: One
7 moment, Senator Klein.

8 SENATOR KLEIN: Madam President,
9 would you please recognize Senator
10 Hassell-Thompson.

11 ACTING PRESIDENT SAVINO: And I
12 recognize Senator Hassell-Thompson as well.

13 SENATOR HASSELL-THOMPSON: Thank
14 you, Madam President.

15 There will be a very prompt meeting
16 of the Senate Majority at 9:00 a.m. in the
17 morning. Thank you, ma'am.

18 ACTING PRESIDENT SAVINO: There
19 will be a prompt meeting of the Senate
20 Majority at 9ish tomorrow morning.

21 (Laughter.)

22 ACTING PRESIDENT SAVINO: Would
23 that be Italian time or New York State time?

24 (Laughter.)

25 ACTING PRESIDENT SAVINO: Senator

1 Klein, there being no further business to come
2 before the Senate, on motion, the Senate
3 stands adjourned until Friday, June 25th, at
4 10:00 a.m.

5 (Whereupon, at 10:50 p.m., the
6 Senate adjourned.)
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