NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 24, 2010

1:00 p.m.

REGULAR SESSION

SENATOR DIANE J. SAVINO, Acting President

ANGELO J. APONTE, Secretary

P R O C E E D I N G S

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

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

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

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

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

ACTING PRESIDENT SAVINO: The reading of the Journal.

The Secretary will read.

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

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Klein.

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

ACTING PRESIDENT SAVINO: So ordered.

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

ACTING PRESIDENT SAVINO: The Secretary will read.

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

ACTING PRESIDENT SAVINO: Senator Klein.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT SAVINO: Senator Klein.

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

ACTING PRESIDENT SAVINO: Amendments received.

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

ACTING PRESIDENT SAVINO: The Secretary will read.

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

Security Law.

ACTING PRESIDENT SAVINO: Senator Klein.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT SAVINO: Senator Klein.

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

ACTING PRESIDENT SAVINO: Amendments received.

Senator Klein.

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

ACTING PRESIDENT SAVINO: The Secretary will read.

THE SECRETARY: On page 6,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT SAVINO: Substitutions ordered.

Senator Klein.

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

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

SENATOR KLEIN: Yes, it has, Madam President.

ACTING PRESIDENT SAVINO: The

Secretary will read.

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

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

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

(Response of "Aye.")

ACTING PRESIDENT SAVINO: Opposed, nay.

(No response.)

ACTING PRESIDENT SAVINO: The resolution is adopted.

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

Senator Klein.

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

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

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

SENATOR KLEIN: Yes, it has, Madam President.

ACTING PRESIDENT SAVINO: The Secretary will read.

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

ACTING PRESIDENT SAVINO: Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Madam President.

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

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

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

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

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

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

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

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

Thank you, Madam President.

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

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

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

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

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

(Response of "Aye.")

ACTING PRESIDENT SAVINO: Opposed, nay.

(No response.)

ACTING PRESIDENT SAVINO: The resolution is adopted.

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

Senator Klein.

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

Room.

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

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

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

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

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

ACTING PRESIDENT SAVINO: Senator Klein.

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

ACTING PRESIDENT SAVINO: The Secretary will read.

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

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

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

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

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

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

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

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

City of New York.

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

Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

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

ACTING PRESIDENT SAVINO: The bill is passed.

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

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

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

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

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT SAVINO: 1129, Senator Saland.

SENATOR SALAND: Thank you.

ACTING PRESIDENT SAVINO: Announce the results.

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

Ayes, 41. Nays, 18.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 1130 --

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

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

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

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

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

The Secretary will read.

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

ACTING PRESIDENT SAVINO: Call

the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

the Racing, Pari-Mutuel Wagering and Breeding Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Substitution ordered.

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

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 1137, by Senator --

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

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

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

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

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

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read

the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

THE SECRETARY: Section 4. This

act shall take effect immediately.

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

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

Ayes, 52. Nays, 7.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO:

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

SENATOR KLEIN: Lay the bill

aside for the day, please.

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

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

ACTING PRESIDENT SAVINO: Read the last section.

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

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO:

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

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

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

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

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

Read the last section.

THE SECRETARY: Section 5. This

act shall take effect immediately.

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The

bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

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

ACTING PRESIDENT SAVINO: The bill is passed.

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

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

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

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

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

Ayes, 52. Nays, 7.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

THE SECRETARY: Section --

SENATOR SKELOS: Lay it aside, please.

ACTING PRESIDENT SAVINO: The bill is laid aside.

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

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

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

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO:

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

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

ACTING PRESIDENT SAVINO: The bill is passed.

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

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

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

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

ACTING PRESIDENT SAVINO: Read the last section.

THE SECRETARY: Section 11. This

act shall take effect January 1, 2011.

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

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

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The

bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

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

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

The Secretary will read.

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

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

6813, by Senator Libous, an act to authorize;

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

7045, by Senator Morahan, an act to authorize;

7046, by Senator Morahan, an act to authorize;

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

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

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

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

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

8031, by Senator Leibell, an act to

authorize;

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

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

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

All bills ordered direct to third reading.

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

(Response of "Aye.")

ACTING PRESIDENT SAVINO: Opposed, nay.

(No response.)

ACTING PRESIDENT SAVINO: The Rules Committee report is adopted.

Senator Klein.

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

ACTING PRESIDENT SAVINO: The Secretary will read.

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

ACTING PRESIDENT SAVINO: Substitution ordered.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: In relation to

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

ACTING PRESIDENT SAVINO: Substitution ordered.

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

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

Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number

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

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

Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Substitution ordered.

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

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

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

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

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

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Substitution ordered.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

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

Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Substitution ordered.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Substitution ordered.

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

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

Read the last section.

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

ACTING PRESIDENT SAVINO: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

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

SENATOR SEWARD: Thank you, Madam President.

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

Trooper Lane died in the line of

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

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

Thank you. I vote aye.

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

Announce the results.

THE SECRETARY: Ayes, 59. Nays, 0.

ACTING PRESIDENT SAVINO: The bill is passed.

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

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

ACTING PRESIDENT SAVINO: Substitution ordered.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

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

ACTING PRESIDENT SAVINO: The bill is passed.

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

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

ACTING PRESIDENT SAVINO: Substitution ordered.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

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

ACTING PRESIDENT SAVINO: Substitution ordered.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

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

Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT SAVINO: The bill is passed.

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

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

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

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

ACTING PRESIDENT SAVINO: Senator Klein.

SENATOR KLEIN: Madam President,

can you please recognize Senator Skelos.

ACTING PRESIDENT SAVINO: Senator Skelos.

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

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

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

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

ACTING PRESIDENT SAVINO: Senator Klein.

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

ACTING PRESIDENT SAVINO: The lay aside is lifted.

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

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

ACTING PRESIDENT SAVINO: Read

the last section.

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

ACTING PRESIDENT SAVINO: Senator Hannon.

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

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

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

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

SENATOR HANNON: I was not informed.

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

front of me.

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

SENATOR HANNON: Lay it aside.

ACTING PRESIDENT SAVINO: The bill is laid aside.

Senator Klein.

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

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

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

The Secretary will read.

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

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

ACTING PRESIDENT SAVINO: Senator

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

SENATOR DeFRANCISCO: You said Senator Onorato.

ACTING PRESIDENT SAVINO: The Secretary read the wrong bill.

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

The Secretary will read.

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

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

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

SENATOR KLEIN: Explanation.

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

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

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

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

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

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

Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The

bill is passed.

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

SENATOR MAZIARZ: Explanation, please.

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

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

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

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

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

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

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

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

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

SENATOR ONORATO: Yes, I will.

ACTING PRESIDENT SAVINO: The Senator yields.

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

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

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

SENATOR MAZIARZ: Twelve was the answer? Thank you.

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

SENATOR ONORATO: Yes, I will.

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

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

SENATOR MAZIARZ: Thank you very much, Senator.

On the bill, Madam President.

ACTING PRESIDENT SAVINO: Senator Maziarz, on the bill.

SENATOR MAZIARZ: Thank you very much, Madam President.

The reason I asked my good friend

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

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

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

Thank you, Senator Onorato.

ACTING PRESIDENT SAVINO: Senator

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

Are there any other Senators wishing to be heard?

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

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

Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator Onorato.

SENATOR ONORATO: To explain my vote.

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

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

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

district to participate in a 20-year retirement.

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

I vote aye.

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

Announce the results.

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

Absent from voting: Senator Duane.

Ayes, 32. Nays, 28.

ACTING PRESIDENT SAVINO: The

bill is passed.

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

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

ACTING PRESIDENT SAVINO: Returning to motions and resolutions.

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

ACTING PRESIDENT SAVINO: So ordered.

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

ACTING PRESIDENT SAVINO: So ordered.

SENATOR KLEIN: Madam President,

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

ACTING PRESIDENT SAVINO: The Secretary will read.

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

ACTING PRESIDENT SAVINO: Senator Klein.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: Senator Klein.

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

ACTING PRESIDENT SAVINO: Amendments received.

Could we have some order in the

chamber, please.

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

SENATOR LIBOUS: That's correct.

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

SENATOR KLEIN: Thank you, Madam President.

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

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

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

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

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

ACTING PRESIDENT SAVINO: Senator Klein.

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

ACTING PRESIDENT SAVINO: Amendments received.

Senator Klein.

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

ACTING PRESIDENT SAVINO: The Secretary will read.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT SAVINO: The bill is laid aside.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

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

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read

the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

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

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

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

Announce the results.

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

Ayes, 43. Nays, 18.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Also Senator

Skelos.

Ayes, 42. Nays, 19.

ACTING PRESIDENT SAVINO: The bill is still passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

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

Ayes, 42. Nays, 19.

ACTING PRESIDENT SAVINO: The

bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

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

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

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

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

Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT SAVINO: The bill is laid aside.

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

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT SAVINO: The bill is laid aside.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT SAVINO: The

bill is laid aside.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

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

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

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

SENATOR YOUNG: Thank you, Madam President.

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

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

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

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

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

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

Announce the results.

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

the negative.

ACTING PRESIDENT SAVINO: The bill is passed.

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

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT SAVINO: The bill is laid aside.

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

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT SAVINO: The bill is laid aside.

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

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT SAVINO: The bill is laid aside.

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

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

the controversial supplemental active list.

ACTING PRESIDENT SAVINO: The Secretary will read.

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

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

SENATOR MARCELLINO: Explanation, please.

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

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

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

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

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

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

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

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

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

Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

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

Absent from voting: Senator Bonacic.

Ayes, 32. Nays, 29.

ACTING PRESIDENT SAVINO: The bill is passed.

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

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

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

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT VALESKY: Announce the results.

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

Absent from voting: Senator Bonacic.

Ayes, 32. Nays, 29.

ACTING PRESIDENT VALESKY: The bill is passed.

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

ACTING PRESIDENT VALESKY: Seeing

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

The Secretary will ring the bells.

Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

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

Absent from voting: Senator Bonacic.

Ayes, 32. Nays, 29.

ACTING PRESIDENT VALESKY: The bill is passed.

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

act to amend the Civil Service Law.

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

Senator Saland.

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

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

SENATOR SAVINO: Certainly, Mr. President.

ACTING PRESIDENT VALESKY: The sponsor yields.

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

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

SENATOR SALAND: Thank you.

SENATOR SAVINO: Thank you.

ACTING PRESIDENT VALESKY: Are

there any other Senators who wish to be heard?

Seeing none, the debate is closed.

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

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT VALESKY: Announce the results.

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

Ayes, 50. Nays, 11.

ACTING PRESIDENT VALESKY: The bill is passed.

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

ACTING PRESIDENT VALESKY: Are

there any Senators who wish to be heard?

Senator Klein.

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

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

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

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

SENATOR PADAVAN: On 1099, I vote aye.

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

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

The Secretary will read Calendar Number 1115.

THE SECRETARY: Calendar Number

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

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

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

SENATOR PADAVAN: I vote aye.

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

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

The Secretary will return to Calendar Number 1099, controversial.

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

ACTING PRESIDENT SAVINO: Are

there any Senators wishing to be heard?

Senator Golden.

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

ACTING PRESIDENT SAVINO: Senator Squadron?

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

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

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

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

SENATOR SQUADRON: Absolutely.

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

misconduct or other disorders.

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

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

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

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

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

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

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

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

ACTING PRESIDENT SAVINO: Senator Squadron?

SENATOR SQUADRON: Yes, Madam President.

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

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

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

SENATOR GOLDEN: Thank you.

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

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

SENATOR SQUADRON: Yes.

ACTING PRESIDENT SAVINO: Senator Squadron yields.

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

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

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

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

question.

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

SENATOR SQUADRON: Absolutely.

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

I will yield to another question.

ACTING PRESIDENT SAVINO: Senator Squadron yields.

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

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

local environmental protection agency.

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

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

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

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

ACTING PRESIDENT SAVINO: Senator Golden, on the bill.

SENATOR GOLDEN: I believe this

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

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

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

So I will be voting no on this bill.

ACTING PRESIDENT SAVINO: Senator

Golden will be recorded in the negative.

Senator Robach.

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

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

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

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

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

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

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

ACTING PRESIDENT SAVINO: Thank you, Senator Squadron.

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

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

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

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

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

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

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

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

SENATOR ROBACH: Okay. Thank you, Senator Squadron.

ACTING PRESIDENT SAVINO: Senator Saland.

SENATOR SALAND: Thank you. Would Senator Squadron yield?

ACTING PRESIDENT SAVINO: Senator Squadron, will you yield?

SENATOR SQUADRON: I'd be happy to.

ACTING PRESIDENT SAVINO: Senator Squadron yields.

SENATOR SALAND: Through you,

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

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

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

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

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

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

potentially engages in illegal activity.

SENATOR SALAND: If the Senator will continue to yield.

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

SENATOR SQUADRON: I'd be happy to.

ACTING PRESIDENT SAVINO: Senator Squadron yields.

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

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

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

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

SENATOR SQUADRON: Yes.

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

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

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

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

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

SENATOR SALAND: If the Senator would continue to yield.

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

SENATOR SQUADRON: Yes.

ACTING PRESIDENT SAVINO: Senator Squadron yields.

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT SAVINO: Senator

Squadron?

SENATOR SQUADRON: Yes.

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

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

SENATOR SALAND: Correct. I realize --

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

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

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

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

SENATOR SALAND: Thank you, Senator.

If the Senator would continue to yield.

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

SENATOR SQUADRON: Yes.

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

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

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

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

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

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

SENATOR SALAND: If the Senator will continue to yield.

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

SENATOR SQUADRON: Yes.

ACTING PRESIDENT SAVINO: The Senator yields.

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

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

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

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

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

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

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

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

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

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

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

SENATOR SALAND: Thank you, Senator Squadron.

On the bill, Madam President.

ACTING PRESIDENT SAVINO: Senator Saland, on the bill.

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

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

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

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

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

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

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

Senator Lanza.

SENATOR LANZA: Thank you, Madam

President. Would Senator Squadron yield for a few questions.

ACTING PRESIDENT SAVINO: Senator Squadron, will you yield?

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

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

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

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

SENATOR LANZA: Through you, Madam President.

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

SENATOR SQUADRON: Yes.

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

SENATOR SQUADRON: Yes.

SENATOR LANZA: -- in restaurants and the like?

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

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

SENATOR SQUADRON: Through you, Madam President, yes.

SENATOR LANZA: Would Senator Squadron continue to yield.

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

SENATOR SQUADRON: Yes.

ACTING PRESIDENT SAVINO: Senator Squadron yields.

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

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

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

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

SENATOR LANZA: Would Senator

Squadron continue to yield.

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

SENATOR SQUADRON: Yes.

ACTING PRESIDENT SAVINO: Senator Squadron yields.

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

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

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

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

SENATOR LANZA: Would Senator Squadron continue to yield.

SENATOR SQUADRON: Yes.

ACTING PRESIDENT SAVINO: Senator Squadron yields.

SENATOR LANZA: Thank you.

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

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

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

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

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

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

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

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

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

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

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

So that's a long way of saying no.

SENATOR LANZA: Would Senator Squadron continue to yield.

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

SENATOR SQUADRON: Yes.

SENATOR LANZA: Thank you, Senator Squadron.

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

SENATOR SQUADRON: Sorry, can you repeat that?

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

SENATOR SQUADRON: That's correct.

SENATOR LANZA: Thank you, Madam President.

ACTING PRESIDENT SAVINO: Senator Alesi.

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

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

SENATOR SQUADRON: Yes, I will, thank you.

ACTING PRESIDENT SAVINO: Senator Squadron yields.

SENATOR ALESI: Thank you, Senator.

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

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

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

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

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

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

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

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

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

SENATOR SQUADRON: Yes.

ACTING PRESIDENT SAVINO: The Senator yields.

SENATOR ALESI: Senator, I am

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

Would that be true?

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

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

SENATOR SQUADRON: Yes.

ACTING PRESIDENT SAVINO: Senator Squadron yields.

SENATOR ALESI: Thank you, Senator.

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

opinion, to call the police and complain?

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

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

SENATOR ALESI: Thank you, Senator.

Madam President, will the Senator continue to yield?

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

SENATOR SQUADRON: Yes.

ACTING PRESIDENT SAVINO: The Senator yields.

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

Because it has nothing to do with

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

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

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

And then, again, I would point you

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

SENATOR ALESI: Will the Senator continue to yield.

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

SENATOR SQUADRON: Yes.

ACTING PRESIDENT SAVINO: The Senator yields.

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

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

required to do in the operation of their business?

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

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

SENATOR ALESI: Perfect. Thank you, Senator.

ACTING PRESIDENT SAVINO: Senator Alesi, on the bill.

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

something to eat.

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

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

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

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

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

ACTING PRESIDENT SAVINO: Senator Squadron.

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

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

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

SENATOR ALESI: Madam President, if I nay respond to that, I can tell you this,

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

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

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

ACTING PRESIDENT SAVINO: Senator DeFrancisco.

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

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

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

What this bill does is put

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

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

I never heard of a legal standard

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

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

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

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

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

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

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

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

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

SENATOR SQUADRON: Point of order, Madam President.

ACTING PRESIDENT SAVINO:

Senator Squadron --

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

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

SENATOR SQUADRON: Point of personal privilege.

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

Thank you.

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

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

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

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

Thank you, Madam President.

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

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT SAVINO: Senator

Schneiderman, would you yield to Senator DeFrancisco?

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

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

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

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

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

(Laughter.)

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

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

more grounds for agreement.

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

(Laughter.)

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

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

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

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

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

This is a new paragraph --

SENATOR DeFRANCISCO: Correct.

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

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

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

SENATOR SCHNEIDERMAN: I think my answer stands.

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

Senator Schneiderman, would you yield to another question?

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

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

ACTING PRESIDENT VALESKY: The Senator yields.

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

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

prove that someone knew.

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

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

ACTING PRESIDENT VALESKY: Senator Schneiderman?

SENATOR SCHNEIDERMAN: I would be very happy to.

ACTING PRESIDENT VALESKY: The Senator yields.

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

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

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

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

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

ACTING PRESIDENT VALESKY: Senator Schneiderman?

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

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

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

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

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

SENATOR SCHNEIDERMAN: No.

SENATOR DeFRANCISCO: Oh, it's not?

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

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT VALESKY: Senator Schneiderman?

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

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

ACTING PRESIDENT VALESKY: Senator DeFrancisco, continue.

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

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

SENATOR SCHNEIDERMAN: Through

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

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

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

SENATOR DeFRANCISCO: On the bill.

ACTING PRESIDENT VALESKY: Senator DeFrancisco, on the bill.

SENATOR DeFRANCISCO: You know,

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

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

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

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

All I ask people to do is read the

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

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

ACTING PRESIDENT VALESKY: Thank you, Senator Schneiderman.

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

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

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

SENATOR SQUADRON: I'd be happy to.

ACTING PRESIDENT VALESKY: The sponsor yields.

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

that sell liquor.

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

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

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

SENATOR SQUADRON: Yes.

ACTING PRESIDENT SAVINO: Senator Squadron yields.

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

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

SENATOR DIAZ: Will the sponsor

yield for another question?

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

SENATOR SQUADRON: Yes.

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

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

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

ACTING PRESIDENT SAVINO:

Senator Squadron, will you continue to yield?

SENATOR SQUADRON: Yes, Madam President.

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

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

SENATOR DIAZ: Thank you.

On the bill, please.

ACTING PRESIDENT SAVINO: Senator Diaz, on the bill.

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

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

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

And people have to -- the people of the state have to be put through this? Whoever vote against this should be voted out

by their people. This is a good bill. And I'm not -- I'm not too fond of you.

(Laughter.)

SENATOR SQUADRON: Point of personal privilege.

ACTING PRESIDENT SAVINO: Senator Squadron.

SENATOR SQUADRON: I have to say that despite everything, I am actually quite fond of Senator Diaz --

(Laughter.)

ACTING PRESIDENT SAVINO: Senator Diaz, Senator Diaz, I should assume you will be recorded in the affirmative.

SENATOR DIAZ: Ooooh, yes.

(Laughter.)

ACTING PRESIDENT SAVINO: Senator L. Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you. On the bill.

Well, I think everything has been said. I will say my community has huge numbers of restaurants and bars and taverns that are good neighbors. And we are delighted that residents go and tourists come and that

great economic activity happens. But there are a few that are a nightmare, and we need this law. And I stand to say not only am I voting for this bill, but I am in 100 percent agreement with Senator Diaz --

SENATOR DIAZ: You are in agreement with me?

(Laughter.)

SENATOR LIZ KRUEGER: -- and that too does not happen that often on the floor of the Senate.

So thank you very much, Senator Squadron and Senator Diaz. I vote yes.

(Laughter.)

ACTING PRESIDENT SAVINO: Senator Liz Krueger to be recorded in the affirmative.

Are there any other Senators wishing to be heard? Any other protestations of fondness or affection?

The debate is closed. The Secretary will ring the bells. We ask all members to please come to the chamber.

Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator Squadron, to explain his vote.

SENATOR SQUADRON: Thank you, Madam President.

I want to thank my colleagues for a robust and fascinating debate. I admit that I disagreed with almost all of what Senator DeFrancisco said, except that I did learn, which he had suggested, so I appreciate that.

I do want to just point out why this bill is so important. There were numerous factual inaccuracies in the statements, and we can leave those for another day, we can discuss those in the weeks to come. The fact is right now it is almost impossible to separate a good establishment from a bad establishment. It is almost impossible to shut down an establishment that is a focal point of police activity, that is a place where crimes are committed on the street, in the establishment.

And what this bill does is this

empowers law enforcement, at the local level and at the state level, to do something about persistent problems that make communities less safe and that can ruin quality of life across the state. It's disappointing to me that so many are so afraid of a piece of legislation that would do that.

I'm voting aye, Madam President.

ACTING PRESIDENT SAVINO: Senator Robach, to explain his vote.

SENATOR ROBACH: Yes, Madam President, to explain my vote.

I think everybody has the same goal. No one wants bad establishments. No one wants people to break the law. I think the difference is we're going by what the bill says and what it will do, which makes this now an issue of due process, not whether anybody wants illegal bars or restaurants violating the law.

I would suggest I would be more comfortable if it was three incidents but they were really founded and people had the opportunity to go through the process, rather than six complaints.

I'd go on, furthermore, maybe the City of New York should do what the City of Rochester does, which in addition to the SLA law, if these problems are occurring that spill outside the establishment, there is a point system that goes to closing any establishment, whether it's a bodega, a store, selling to underage people, but it's based on founded information with a process of who's really doing what.

And that has always been and always will be the best way to separate the lawbreakers from the law-abiders, in business, in life and anything else.

And so for that reason, while I appreciate the intent, I feel very compelled to vote no and I hope we'll revisit this issue. I vote in the negative, Madam President.

ACTING PRESIDENT SAVINO: Senator Robach to be recorded in the negative.

Senator Winner, to explain his vote.

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

I listened to this debate and I also listened to our conversations that we had and our discussions in the committee, which unfortunately this bill was not reported from. For some reason this bill was yanked out of the committee process and not given the type of deliberation that I think it deserved.

Because while I understand the argument that Senator Schneiderman is making with regard to the case law, the issue of scienter is the only issue that needs to be dealt with in this legislation.

This legislation, if it dealt simply with the issue of knowledge and the issue of participation by employees of establishments, would be a far better bill, rather than setting up some convoluted six-incident system which is subject to litigation in the end as to whether or not it is factually accurate to a circumstance where anybody who -- the SLA, who relies upon this legislation in order to attempt to revoke a license, now will be in the position to have to go in and defend whether or not the fourth incident report was in fact factual or not,

rather than saying that the bar itself is a bad bar and should be shut down because of the fact that those types of disturbs have occurred.

The fact of the matter is if you just dealt with the issue of knowledge and had the SLA do its job, then you would have a much better proposal that this convoluted six-incident type of situation, which I think, based upon our discussions in committee, was certainly a bad, bad way to go about this.

And so for those reasons, Madam President, I think that this legislation should be defeated. I vote no.

ACTING PRESIDENT SAVINO: Senator Winner to be recorded in the negative.

I would ask all the members who would like to be recorded in the negative to please raise your hand again so the Secretary can get an accurate count.

Senator Alesi, to explain his vote.

SENATOR ALESI: Thank you, Madam President.

First of all, I am excited that there have been changes at the State Liquor

Authority. And I think almost all of us here are excited by that, and we look forward to vast improvements there.

With respect to this particular bill, I would agree with Senator Squadron on one issue. It's not often I get a chance to debate the wisdom of two Harvard lawyers simultaneously. But he did say one thing that struck me. He said that as far as input on improving this bill, you don't necessarily have to be an attorney.

I would agree with that. As somebody who has operated businesses all his adult life across this state, I think that it would be prudent to understand that this isn't just about laws and the technicalities of laws, we're talking about business. Business. Business that relies on jobs, jobs that rely on purveyors and suppliers and everything else. It's part of our commerce.

Senator Squadron said right now it's very hard to tell the good ones from the bad ones. But this bill is not going to do anything to change that. This bill is going make it harder for honest, decent businesses

to continue to compete and survive.

I would love to help with some input that would just massage this bill a little bit so that we can protect those business and the people that depend on them for their employment. But right now I simply have to vote no. As much as I appreciate the effort to change the way things are, can't vote for this bill. Not good for business.

ACTING PRESIDENT SAVINO: Senator Alesi to be recorded in the negative.

Senator Diaz, to explain his vote.

SENATOR DIAZ: Yes, thank you.

This is a law-and-order bill. Law and order. It seems to me, Madam President, that a place that six times, six times -- one, two, three, four, five, six times -- the police have to come because of a neighbor calling because of something, a fight or something, it seems to me that something's wrong with that place. Something is definitely wrong with that place.

We're not talking about one time, we're talking about six times that the police has to come to that place to that area because

something is happening in that place. And this is a law and order.

See, I want to finish with something that maybe sounds crazy. If I divorce my wife once, I could blame her and I could say the woman was the bad one. And people might believe me. If I divorce my wife, the second wife, I could say the woman was the wrong one and people will say, Well, let me give you the benefit of the doubt. But if I do it three times, people are going to tell me, Something's wrong with you. You are the wrong one.

And when we're talking about six times, six times -- and let me count again: One, two, three, four, five, six times that the police has to come to that place, and we are talking about decent people, that we have to separate the decent owners from the wrong people? Something is wrong there. Something is definitely wrong. That's a hangout place that brings trouble to the community.

We should all vote no and close them out.

ACTING PRESIDENT SAVINO: Senator

Diaz to be recorded in the affirmative.

Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: If a young man or woman got accused of a crime six times, the police had to go see this person six times -- let me count them for you: One, two, three --

(Laughter.)

SENATOR DeFRANCISCO: -- four, five, six, six times -- and I don't know about the divorce, but six times -- does that mean he is assumed or presumed guilty because he's been accused six times? And then does he then have to prove his innocence by clear and convincing evidence because six people have complained about this individual? I don't think so, and I don't think the rules should be any different here.

I vote no.

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

Senator Valesky, to explain his vote.

SENATOR VALESKY: Yes, Madam

President, I'm going to vote no because Senator DeFrancisco convinced me to just now.

ACTING PRESIDENT SAVINO: Senator Valesky will be recorded in the negative.

Senator Montgomery, to explain her vote.

SENATOR MONTGOMERY: Yes, Madam President. I rise to thank Senator Squadron for this legislation.

I believe it is a clear statement to constituents, certainly that I represent. One of the number-one issues when I go to every community board in my district -- and at least two of those community boards I share with Senator Squadron, so we hear the same thing -- there are problems with the Liquor Authority, we need to have more cooperation, we need more support from the Liquor Authority when we make complaints about problems regarding establishments in our district.

So this really gives that State Liquor Authority some teeth. I think it's probably one of the most important pieces of legislation as it relates to communities that we serve and the interest of the people in

having their quality-of-life issues addressed by the appropriate authority, and that is the State Liquor Authority.

So I thank Senator Squadron, and I vote aye.

ACTING PRESIDENT SAVINO: Senator Montgomery will be recorded in the affirmative.

Are there any other Senators wishing to explain their vote?

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1099 are Senators Alesi, Aubertine, Bonacic, DeFrancisco, Flanagan, Foley, Golden, Griffo, C. Johnson, O. Johnson, Lanza, Larkin, Leibell, Libous, Little, McDonald, Nozzolio, Ranzenhofer, Robach, Saland, Savino, Seward, Skelos, Valesky, Winner and Young. Also Senator Farley.

Ayes, 34. Nays, 27.

ACTING PRESIDENT SAVINO: The bill is passed.

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

Assembly Print Number 10918, an act to amend the Banking Law.

ACTING PRESIDENT SAVINO: Senator Farley.

SENATOR FARLEY: Thank you, Madam President. I want to speak on this bill.

There are state-chartered banks and federal-chartered banks. And if there's any consistency on the Banking Committee, which I've been on for over 34 years, the members have tried to protect and nourish the state charters. As a matter of fact, our Superintendent of Banks has made it his highest priority.

This particular bill, in my judgment, drives a stake right into the heart of the state charters, no question about it. When Chase flipped to its federal charter, we lost 25 percent of the funding of the Banking Department. You've got a big building right down here called KeyBank, as you come into the capital. They were concerned about the lack of us doing a wild card and a few other things. They flipped to the federal charter, moved to Cleveland, and thousands of jobs went

with them.

Let me just speak to this particular bill. It was introduced in response to complaints that three federally chartered banks initially charged some victims of a fire in Chinatown the standard bank fees for replacing the locks in safe deposit boxes and issuing new keys. I understand, after some inquiries by legislators and so forth, these three federal banks waived the fees.

Despite this fact that the issue was resolved in these cases, we are now presented with a bill that would prohibit any fees to gain access to safe deposit boxes for the individuals unable to access it due to an act of God, common disaster, emergency situation, et cetera.

Although I'm sympathetic to the people that were involved in the fire, I feel that this bill is an overreaction, to say the least, and will simply accelerate the shift of bank from the state charter to the federal charter.

I have several concerns. First, because of federal preemption. Everything

that we do only applies to state-chartered banks. It's ironic that this action of these federal banks, a bill was introduced that would single out state banks for new regulations and restrictions.

As banks grow larger and acquire each other, New York State has lost much of the jurisdiction over the banking institutions. This type of legislation gives another reason for banks to flip to a federal charter.

When I first came in here 34 years ago, New York was the center of -- New York City in particular was the center of the financial world. That is changing rapidly. This bill sends a message to our state-chartered banks that because some legislators are unhappy with the actions of a federal bank that they'll impose new restrictions.

Actually, the superintendent is going to have to rule on every fee or any change that could happen to a safe deposit box. Let me just say something about safe deposit boxes in banks. For many, it's a

traffic builder. For many, they give you a free safe deposit box if you have a checking account. For some, they have different fees for different things.

The superintendent is going to have to rule on every single fee to make sure that it's reasonable. This is an incredible burden on state banks only, and it's also a burden on the State Banking Department. I don't need to ask the sponsor if he checked with the State Banking Department, because I happen to know they're very much opposed to this.

This superintendent must make an arbitrary judgment on all safe deposit fees. Incidentally, this bill takes place immediately. As a matter of fact, the effect means that start-chartered banks will not even be able to rent a new safe deposit box until the superintendent approves their fees.

You know, this is absolute insanity. It doesn't make any sense. And in the Banking Committee -- and Senator Onorato and Senator Hassell-Thompson, who served there for many years, and Senator Savino -- almost every member changed their vote from yes to

without recommendation. And of course many people voted no.

It's simply an issue that is not truly understood. And let me just say, you know, I waited around here to speak against this bill, because you know what, it really doesn't mean an awful lot because people are well-meaning and nobody likes to have to be charged a fee for anything. But it is just driving, again, more businesses out of New York State and going after the very people that we want to protect, the state charters. It's a very, very bad bill.

As I stand here now with this exciting debate that goes on, I'm missing my granddaughter's high school graduation, which is going on right now in Schenectady, where she's receiving a prize. This job really can wear on somebody.

But I would urge my colleagues, many of whom I've served with for many years -- it's one of the largest committees in the Senate -- to vote no on this legislation. It's not needed. I'm confident that the superintendent opposes it. And I'm confident

that anybody that understands anything about banking would vote no.

Thank you.

ACTING PRESIDENT SAVINO: Senator Farley to be recorded in the negative.

Are there any other Senators wishing to be heard?

Seeing none, the debate is closed. The Secretary will ring the bells. We ask all members to please return to the chamber.

Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1115 are Senators Alesi, Bonacic, DeFrancisco, Farley, Flanagan, Foley, Fuschillo, Golden, Griffo, Hannon, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, Marcellino, Maziarz, McDonald, Nozzolio, Ranzenhofer, Robach,

Saland, Seward, Skelos, Volker, Winner and Young.

Ayes, 32. Nays, 29.

ACTING PRESIDENT SAVINO: The bill is passed.

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

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

Senator Saland.

SENATOR SALAND: Explanation.

ACTING PRESIDENT SAVINO: Senator Klein, an explanation has been requested.

SENATOR KLEIN: Thank you, Madam President.

This bill amends the Public Health Law to establish a uniform statewide health inspection grading system for restaurants and other public service establishments. The way it would work, it would be a letter grade of A, B, or C, and it has a standard of making sure that the grade has to be based on the general cleanliness of the facility or its

food-handling practices.

Also, there's an expedited appeals process which will be established so that restaurants can appeal inferior assigned grades. In other words, if there's a letter grade of A originally and the next inspection there's a B, there's an expedited appeals process that has to take place between 7 and 21 days. During that time period the restaurant posts their previous grade until the new one is either overturned or validated by the local Health Department.

ACTING PRESIDENT SAVINO: Senator Saland.

SENATOR SALAND: Thank you, Madam President. Madam President, would Senator Klein yield to a question?

ACTING PRESIDENT SAVINO: Senator Klein, will you yield?

SENATOR KLEIN: Yes, Madam President.

SENATOR SALAND: Senator Klein, is this modeled after the existing legislation in New York City?

SENATOR KLEIN: Actually, no.

Originally I had legislation which New York City adopted and promulgated it through their regulations. I worked with the restaurant industry and attempted to get some of the concerns in this legislation that they could not get from the City of New York.

So the City of New York's law that's in effect right now, or starting to come into effect, is a much stricter standard than exists in this bill.

SENATOR SALAND: In looking at the language in the bill, I see the grading system is to reflect the safety and sanitation of the premises and food-handling practices to ensure compliance with state and local health laws.

SENATOR KLEIN: Which -- could you refer --

SENATOR SALAND: I just read from lines 13 through 15 of Section 1352-d.

SENATOR KLEIN: Thirteen to 15?

SENATOR SALAND: Yeah.

SENATOR KLEIN: "The provisions of the sanitary code to establish a grading system that reflects the safety and sanitation

of the premises and food-handling practices to ensure compliance with state and local health laws."

In other words, what this means is that it would be based on the existing inspection system of the local health department. If each county does not have a health department, it would be the State Department of Health.

SENATOR SALAND: And correct me if I'm wrong; I truly do not know the exact number. I believe there are about half a dozen, perhaps as many as ten counties, that don't have local health departments, and they default to the state.

SENATOR KLEIN: Correct. That's correct.

SENATOR SALAND: Let's assume for the moment two continuous counties have health departments -- for example, I live in Dutchess County. Right across the river is Ulster County. Orange County adjoins Ulster County to the south. Putnam County is to the east on the same side of the river and adjoins Dutchess County.

With each of those counties promulgating their own separate health codes, would that not create a system in which you could have restaurants several miles apart with conditions that are being graded differently depending upon which side of the border they're on?

SENATOR KLEIN: First of all, this is not in any way changing exist code enforcement or any type of inspection system that presently exists on the local level. Every county has their own separate system on how they determine what a failing grade is as far as their inspection is concerned.

The state is promulgating the A, the B, and the C, which is a statewide basis, which was something at the time that was requested by the state restaurant industry.

SENATOR SALAND: But will not --

SENATOR KLEIN: They were afraid of the confusion that you're talking about, that it would be differently. That's why we're actually having the State Department of Health actually do what an A, what a B, what a C -- but we're still leaving, of course, the

local inspections and whatever is deemed a pass or fail at the local level to stay intact.

SENATOR SALAND: Well, I'm a little confused. And, please, if you'll continue to yield. Based on your explanation, is there any reason, then, to include any reference to local health laws? Because what you're saying, I believe --

SENATOR KLEIN: Let me see if I can clear that up, Senator, for just one second. It addresses the concerns of certain restaurants where the standards for grading a restaurant must be promulgated by rules. So there's a statewide standard. Of course, there's going to be local deviations as well.

SENATOR SALAND: So there will be local deviations. Will that not -- if the Senator will continue to yield -- will that not, in effect, result in a deviation, to the extent to which your law requires ensuring of compliance with state and local health laws, that the local health laws be taken into consideration?

What a health inspector in Ulster

County may view as being in compliance with Ulster County's health code and what one in Dutchess County may view as being in compliance with Dutchess County's health code may not necessarily be the one and the same, and yet there's going to be a grade that's going to be issued by that compliance officer or inspecting officer.

SENATOR KLEIN: On the local level. Because again, I'm not changing in any way the local health department, the way they impact their restaurants presently. It wouldn't be fair. Because as you said, and you did make the point, that every locality has different standards, a different way of judging how clean or how sanitary their local eateries are.

SENATOR SALAND: And if you'll continue to yield.

ACTING PRESIDENT SAVINO: Senator Klein, do you continue to yield?

SENATOR KLEIN: Yes, Madam President.

SENATOR SALAND: I'll go back to my original question, then.

To that extent, it would seem to me that there at the very least would be the possibility if not the likelihood that you could have restaurants a mile apart, separated by a side county line, that could be graded differently depending upon what their -- how their local law and their local enforcement agents view the seriousness of whatever their local laws may require. So you could have --

SENATOR KLEIN: That's not really the case, because the portion of the bill that you referred to, it deals with just -- it reflects the safety and sanitation of the premises and food-handling practices. So those are the most serious types of violations.

If you look at the numbers, when a restaurant fails, they usually fail because of serious health risks, which is usually vermin or failure to handle food properly. So it's important to make sure that the locality is required to make sure that the letter grade is based on those things. That's all we're telling the locality to do.

Again, so I don't think it would be

an adequate system to have the state determine what an A or a B or a C was and take that power away from the locality, which has their own health department that does their own inspections, their own inspectors, their own grading.

I know for a fact in the City of New York the way it works is there's a grading system of 1 to 28. If you get anything over 28, you fail. And usually the failures that I've seen, over 55 percent are because of vermin, which usually --

SENATOR SALAND: If you'll continue to yield. I don't -- and correct me if I'm wrong, I'm making an assumption. The five boroughs of the City of New York don't have five separate health codes.

SENATOR KLEIN: Correct. They have one health law. I assume other large cities are the same.

SENATOR SALAND: In that sense. And again, if you'll continue to yield.

And I'll ask a question not knowing the answer. Are there any cities -- you mentioned large cities. Are there any cities

within counties that you're aware of that might have a separate local health code?

SENATOR KLEIN: No.

SENATOR SALAND: You're not aware, or there are none?

SENATOR KLEIN: I know for a fact there are none.

SENATOR SALAND: You made reference to some form of an expedited appeal. And as I read this, the restaurateur makes a request for a subsequent inspection which has to be done no sooner than seven days nor later than 21 days after the inspection that resulted in whatever grade they were given. And they would then have to pay the department a fee of $250. Which department gets that fee?

SENATOR KLEIN: Up to $250.

SENATOR SALAND: Which department gets that fee?

SENATOR KLEIN: The local health department. Because they're the ones that are going to be required to do the reinspection in that expedited fashion, which is between seven and 21 days.

And during that time period, that seven to 21 days, the previous letter grade that's posted is the one that remains up. Not the most recent one that's being appealed.

SENATOR SALAND: Again, if the Senator would continue to yield.

ACTING PRESIDENT SAVINO: Senator Klein, do you continue to yield?

SENATOR KLEIN: Yes, Madam President.

SENATOR SALAND: And if you know, because I certainly don't, what's entailed in these inspections? How long do they take?

SENATOR KLEIN: Again, it depends on -- from county to county, locality to locality, they all have their own different systems.

And again, I say this again, I thought it was very important to make sure we give that power and keep that -- have that power remain with the locality. I know New York City, you know, has changed theirs where now, if a restaurant fails, they have to be inspected every six months; if not, at least once a year.

SENATOR SALAND: And, Senator, I think the chair is letting us go back and forth, so if that's okay with the chair --

ACTING PRESIDENT SAVINO: Yes.

SENATOR KLEIN: It's fine with me, Senator Saland.

SENATOR SALAND: Thank you. And let's assume I'm a restaurateur and I have a dairy product, a bar of butter sitting out on a counter, and somewhere within a foot of that I have a dishrag or a sponge. Is that a violation?

SENATOR KLEIN: Again, this would be up to the local health department.

Again, getting back to the experience that I had in pushing this for so long around the state and more specifically in the city, is the way restaurants fail, the way they're going to be failing under this system is usually pest violations or failure to reheat or heat food properly. Which, as you know, are very, very serious violations.

It's usually not -- a restaurant usually does not fail for, you know, minor violations like failure to post their

certificate of occupancy and things of that nature.

And again, that's why I was very clear to have it in the bill that it was sanitation and food-handling. Which again, the reason behind that is because foodborne illness, which is always increasing around our state, usually happens because of mice, roaches, rats near or on top of the food, as well as the failure to heat and reheat food. So those are the most serious violations. And the also the ones that pose a public health risk.

SENATOR SALAND: So if it doesn't impose a public health risk but it's an unsanitary condition, it's not covered by this?

SENATOR KLEIN: Well, again, if you build up enough points -- and I assume, again, other counties probably do it the same way where there's probably a cutoff. You know, you have a checkoff list. And the more points you get, the more likely you're going to fail. And then they're going to take, I assume, that point system and then have the

ability to turn it into a letter grade.

You see, one of the problems, Senator, is there's some serious problems in some restaurants, not only in the City of New York but across the state. And I feel, in something like this, information is power. I'm not changing the way a restaurant is being inspected. I'm not changing any way of looking or determining how clean or how dirty a restaurant is. I'm merely providing, I think, a very easy system where people or diners can vote with their feet. If you're very comfortable about going to a restaurant that just got a C, so be it. But I think the public really does have a right to know.

And I do want to mention that the City of Los Angeles has implemented this system for about six years, about the same time I started pushing for this legislation. And they now have almost total compliance; 85 percent of the restaurants last year got an A. Restaurants that got As, their business has gone up anywhere from 35 to 50 percent. And foodborne illness, which they do track in the city and the state, actually has gone down

25 percent.

SENATOR SALAND: Thank you, Senator Klein. Thank you.

On the bill, Madam President.

ACTING PRESIDENT SAVINO: Senator Saland, on the bill.

SENATOR SALAND: Madam President, unlike the City of New York and unlike the City of Los Angeles, the 58 counties that comprise the rest of the State of New York, as distinguished from the five counties or boroughs of the City of New York, largely have local health departments. As I said earlier, perhaps half a dozen to 10, somewhere in that area, do not. And in those cases, they rely on the state's health code.

In any number of areas, you could have a system which would be anything but uniform. You could have a system in which grades would vary based on the particular local code or the predilections of the particular inspector. I know from time to time I have received in my district office inquiries from restaurateurs regarding the enforcement or inspections by local

inspectors, at times alleging that they believe them to be arbitrary. Obviously, there's nothing that I can do about it. It's a county function, not a state function.

But my concern here could be that two restaurants, similarly situated both in terms of the types of menus they have, the types of prices on their menus, could be treated differently gradewise under this system simply depending upon who inspected them and who inspected them under what particular local code.

Notwithstanding the fact that we are giving the Health Commissioner the authority to create the general guidelines, we are dealing with also, simultaneously, local health codes as part of the formula, local inspectors, some of whom may view their responsibilities in terms of their authority to violate somebody differently -- varying degrees of discretion, varying degrees of zealousness.

So I would be rather concerned that this would wind up in a situation in which the playing field would not necessarily be leveled

but in many instances could be unleveled.

Thank you.

ACTING PRESIDENT SAVINO: Senator Flanagan, on the bill.

SENATOR FLANAGAN: Thank you, Madam President. Would Senator Klein yield to a couple of questions, please.

ACTING PRESIDENT SAVINO: Senator Klein?

SENATOR KLEIN: Yes, Madam President.

ACTING PRESIDENT SAVINO: Senator Klein yields.

SENATOR FLANAGAN: Thank you.

Senator Klein, I was listening to your discussion with Senator Saland, and I did have some specific questions relative to the inspection and the reinspection. I believe I heard you correctly that if there is a reinspection that there could be a charge of up to $250 for that reinspection.

I believe your bill says that once an inspection is done, that the local health officers shall conduct a subsequent inspection regardless of whether or not the establishment

has asked for that. That's what the bill says.

SENATOR KLEIN: Well, what happens is that fee -- can someone turn the phone off?

I'm sorry, Madam President. The $250 fee comes in when someone is challenging their grade, because then an expedited inspection takes place.

In other words, if someone presently has an A that's being posted and their next inspection they get a B, they're not happy about it, they want to challenge, they ask for that reinspection, which has to take place between seven and 21 days. That's what the fee kicks in that could be up to $250.

SENATOR FLANAGAN: Madam President, through you, if Senator Klein would continue to yield.

ACTING PRESIDENT SAVINO: Senator Klein?

SENATOR KLEIN: Yes, Madam President.

SENATOR FLANAGAN: On page 1 of

the bill, I'm going to read specifically lines 23 and further: "The local health officer shall conduct a subsequent inspection of such food service establishment no sooner than seven days nor later than 21 days after the inspection at which the grade was given."

That's mandatory language. It doesn't say that the proprietor or the owner of the establishment has to ask for it.

So there's an initial one done, and then within several weeks there has to be another one done.

SENATOR KLEIN: First of all, the first reinspection is free as a right. It's the second inspection, on request, that has a charge.

SENATOR FLANAGAN: Madam President, if Senator Klein would keep in mind.

ACTING PRESIDENT SAVINO: Senator Klein, do you continue to yield?

SENATOR KLEIN: Yes, Madam President.

SENATOR FLANAGAN: Senator Klein, I believe you are a man of good intention, but

I'm having great difficulty finding what you're saying in this bill. It does not say that at all. It doesn't differentiate between one inspection or a reinspection or an inspection because you're asking for an appeal.

SENATOR KLEIN: Let me go through the specific language. And you were pointing to line 21, which actually talks about --

SENATOR FLANAGAN: Starting at line 23, where it says specifically "The local health officer shall conduct a subsequent inspection of such food service establishment no sooner than seven days" --

SENATOR KLEIN: Yeah, but you just skipped 21, Senator, which starts "For any food service establishment receiving a grade lower than A, the local health officer shall advise the establishment of its grade and the fines upon which such grade is based."

So in other words, that's when the reinspection takes place, on a grade other than an A.

SENATOR FLANAGAN: So for anything --

SENATOR KLEIN: So in other words, if you get an A, why would you call for an expedited reinspection. I think that's what you're confused about as far as the language.

SENATOR FLANAGAN: No, actually I'm -- Madam President, through you, I'm not confused at all. I understand exactly what you're saying on line 21.

But if someone gets a B, an establishment gets a B, based on your language there has to be an automatic reinspection of that establishment.

SENATOR KLEIN: There does not have to be. If the owner of the restaurant is happy with their B, they can accept the B and post up their B.

SENATOR FLANAGAN: If I may, Madam President, through you, if Senator Klein will continue to yield. Let me just shift gears here, if I could.

SENATOR KLEIN: I'll continue to yield, Madam President.

ACTING PRESIDENT SAVINO: Thank you, Senator Klein.

SENATOR FLANAGAN: Thank you.

You spoke about on expedited appeal within seven to 21 days. Again, I don't see that in the bill. And I'll specifically reference the section where it speaks to an appeal. Page 2, line 5 -- I'm sorry, starting on line 4: "The food service establishment may appeal such subsequent assignment of a letter grade" --

SENATOR KLEIN: I'm sorry, what page are you on, Senator?

SENATOR FLANAGAN: Page 2, starting at the end of line 4: "The food service establishment may appeal such subsequent assignment of a letter grade designation to the commissioner."

Now, the way you described it, you said that there would be an appeal within seven to 21 days. The way I read this bill, there is a potential reinspection between seven and 21 days and then an owner can ask for an appeal thereafter, and there is apparently, during whatever time frame that may be for that appeal -- which I think could easily extend well beyond 21 days -- that

letter grade that has been assigned would have to remain posted based on that reinspection.

SENATOR KLEIN: Well, the way the process works, just to clarify, there's an inspection, a reinspection if you want, and then an appeal. That's how the system works. And the appeal is the one you have to pay for.

SENATOR FLANAGAN: Okay, if we didn't -- Madam President, if Senator Klein would continue to yield.

ACTING PRESIDENT SAVINO: Senator Klein, do you continue to yield?

SENATOR KLEIN: Yes, Madam President.

ACTING PRESIDENT SAVINO: He yields.

SENATOR FLANAGAN: Let's assume for argument's sake that we were not doing this bill. Because if I follow your reasoning or I potentially agree with it, you're suggesting that right now there's an initial inspection, there can be a request for a reinspection, and then someone has a right to appeal already under present law.

SENATOR KLEIN: There's an

inspection, there's a reinspection. I think the added advantage here is the appeal.

In other words, if you fail now, you can get reinspected. What I'm doing here is creating this appeals process which gives someone the ability to appeal a bad letter grade.

SENATOR FLANAGAN: Okay. And if Senator Klein would continue to yield, Madam President.

ACTING PRESIDENT SAVINO: Senator Klein, do you continue to yield?

SENATOR KLEIN: Yes, Madam President.

SENATOR FLANAGAN: Thank you. Senator Klein, just the last couple of questions I want to ask you relate to the provisions for establishments to which this law does not apply. Now, obviously it's the City of New York.

SENATOR KLEIN: Right.

SENATOR FLANAGAN: Okay. Which you had had some dialogue on. But then there are -- looks like bars, some potential education facilities, not-for-profits, things

of that nature. When you referenced --

SENATOR KLEIN: I actually have, if you want me to read through, what it does not include.

SENATOR FLANAGAN: It's clear on the second page. My question is, how similar, if at all, is that to the system that exists in the City of New York?

SENATOR KLEIN: The City of New York, as I said earlier, is a much stricter system. There's no appeals process. In other words, if you get an A originally, let's say, and then you get a B, you're stuck with that B until your next inspection. That's the most important part.

The other part as well is I think they also do an A, B, C and I think they even go to a D and an F. I think that's really the key portion, the most -- I guess. The appeals process is something that during my conversations with the restaurant industry they were trying to get the City of New York to do before they promulgated their regulations, and the city refused. But it is contained in this bill.

SENATOR FLANAGAN: Is it your understanding, then, that the City of New York, the system applies basically to bars?

SENATOR KLEIN: It does not apply to bars and taverns where 10 percent or less of their gross sales is from food.

SENATOR FLANAGAN: And in the City of New York, does it apply to --

SENATOR KLEIN: Okay, in the City of New York it does apply to those.

SENATOR FLANAGAN: In the City of New York it does apply to bars?

SENATOR KLEIN: Correct.

SENATOR FLANAGAN: And in the City of New York does it apply to all the mobile carts and food vendors who are on the streets?

SENATOR KLEIN: No, it does not. And it doesn't apply to that in my bill as well. It does not.

SENATOR FLANAGAN: Okay. Thank you, Senator Klein.

Madam President, on the bill.

ACTING PRESIDENT SAVINO: Senator

Flanagan, on the bill.

SENATOR FLANAGAN: I get what Senator Klein is trying to do. I know myself I've just recently been doing a decent amount of traveling, going into like a hotel, for example, and you see the grading system -- and it's more numerical than it is a letter. And you see, you go, well, they got a 96, and you start thinking 96 is pretty good. But, like, what are the four points that they missed? So I understand the intent.

But I would respectfully offer that on several of the points that I raised that what the sponsor is saying verbally is different from what's in the bill.

And I believe that creates several problems, not the least of which is that there is an inspection, and I believe a fair reading of this bill is that there would have to be a subsequent inspection. It doesn't say it has to be requested, it says the local health officer shall conduct a subsequent inspection within seven to 21 days, whether it's a B or a C or whatever the case may be. So I believe that creates a problem right there in and of

itself.

I understand the point about the appeals process, but I don't believe that there's any tight time frame in terms of how long an establishment may have to wait for an actual final determination on an appeal. Yes, there has to be a reinspection within seven to 21 days. And if there is an appeal, that can be filed within 30 days. But it doesn't say that it has to be finalized within 60, 90, 120 days. And I think that creates a problem.

Well-intentioned in many respects, but I think the language needs to be worked on to accomplish exactly what Senator Klein is trying to do.

Thank you, Madam President.

ACTING PRESIDENT SAVINO: Senator Hannon, on the bill.

SENATOR HANNON: Thank you, Madam President. I want to address thoughts on the bill in a little bit of a wider context, because I think this is a bill that is well-intentioned but it's not ready for prime time.

I also find really ironic that

there is a memo of support for this bill from the City of New York when the City of New York is exempted from the bill. But that's exactly the problem. Because the City of New York, having worked with the health commissioner, the prior health commissioner, the current health commissioner I happen to think has a pretty good health department. But it's a funded department, it's a focused department, they've dealt with restaurants quite well, they've done trans fats, they've done menu posting, things that have been really adopted nationally. And I commend Senator Klein for getting them to adopt this grading system.

But it's not appropriate, I think, for the disparate types of enforcement we have in different counties throughout the state. I mean different because some counties don't have a health department, some do. As Senator Klein said, they have different ways they'll do their evaluations. Even though I can't figure out how the differences county to county can be then made uniform by the State Health Department coming up with the uniform system. I think those are inherently in

conflict. I don't think that's been worked out.

The other part of this is what do we do -- what are we so used to when we look at guides to traveling throughout the states, throughout other countries? We're looking for quality recommendations. The difficulty is here this is a sanitary recommendation. People are going to confuse both. Now, yes, sanitation is an essential ingredient in quality, but it's not the only one.

And I don't think the public is going to be ready to know this, it's not going to be well enough publicized. People are going to think As might be great in terms of quality when all it has to do with is it's superclean. Well, a little bleach doesn't make good food.

Another problem is that the grades are supposed to sum up the many different points that go into the sanitary inspection. But if there are different lists for what's a sanitary inspection in different counties, then an A in one county is not going to mean the same thing as an A in another county. And

as Senator Saland pointed out, they can be right across the border from each other and mean two entirely different things. Again, creating confusion in the public whom we are supposed to be trying to serve with this legislation.

The real difficulty I have is the cost of this system. Now, yes, I know, carefully explained by Senator Klein, that we're not doing anything new in terms of the different points of the inspection. But there is a cost to this system, because somebody has to sit down and figure out how are you going to do this on a state level, both in terms of the uniform standards and, second, in terms of how the state exactly is going to enforce it and, third, how the county's going to enforce it.

Because you have to do some type of computation. How one translates 50, 100 different points in an inspection into a letter grade is a fairly complicated process and I would suspect one that has to be reasonable and so that it would stand up in court. It's going to be a costly, costly

process.

May I point out that the budget submitted by the Governor would cut the administrative budget of the State Department of Health by 20 percent. At a time we're dealing with life and death decisions, rule making, surveillance of hospitals, nursing homes, home healthcare, administration of drug programs, we're going to then be saying, oh, no, put that aside, go to the letter grading system. I think that's misplaced.

And I don't know about the rest of the counties in this state, but I know in my home county of Nassau they are already facing a major deficit, over hundreds of millions of dollars, they're talking about an additional payment for pension costs next year increasing by $50 million -- and we are going to start having them go around do letter grades.

Look, if there's a way to do this, you find a demonstration program someplace upstate with a willing commissioner, with a willing county. You show people how it can work, that starts to work the kinks out of the system, it starts to educate the public. Once

again, it's a bill well-intentioned, but it's not ready for prime time.

Thank you very much, Madam President.

ACTING PRESIDENT SAVINO: Senator Ranzenhofer.

SENATOR RANZENHOFER: Thank you, Madam President. Would the sponsor yield for a question.

ACTING PRESIDENT SAVINO: Senator Klein, will you yield?

SENATOR KLEIN: Yes, Madam President.

ACTING PRESIDENT SAVINO: Senator Klein will yield.

SENATOR RANZENHOFER: Thank you. Through you.

I listened to the exchange between you and Senator Flanagan, and the way it was explained on the floor is that you have the inspection, the reinspection, and the appeal, and it's the appeal that costs the $250.

SENATOR KLEIN: That's correct.

SENATOR RANZENHOFER: Okay. Because then when I look at, when you turn to

the second page -- let's see. If you look at line 15, it talks about, it says a food service establishment who requests a reinspection from the local health officer shall pay the department a fee of up to $250.

So I know that it's your intent for the appeal to be $250, but the actual language says that the reinspection is $250. And you had said that's supposed to be free. And the question I have is I know when I go back to my county, we deal with so many problems with the Health Department, I'm going to be asked that question. So I just wanted some clarification on that very small point.

SENATOR KLEIN: (Reading.)

SENATOR RANZENHOFER: You said the reinspection was free.

SENATOR KLEIN: "Shall pay up to $250."

SENATOR RANZENHOFER: You said the appeal was free, it was the appeal that was 250. But this says the reinspection is 250.

SENATOR KLEIN: That's right, you get an automatic reinspection.

SENATOR RANZENHOFER: I know. But this says it costs 250, and you just said that it was free. So that's what I want to know, because it doesn't seem to --

SENATOR KLEIN: Well, you get a free reinspection based on the state's sanitary code. Which actually, getting back to what Senator Flanagan raised -- he's not here -- it also dictates that 7-to-21-day reinspection.

SENATOR RANZENHOFER: What's going to happen is I came from county government, and we get more -- at least in my area of the state, more complaints and more questions about inspections of restaurants and all sorts of establishments. And the question that I know I'm going to get when I go back home is that the actual bill says that the reinspection is the thing that costs the $250.

So when the local department is implementing this bill, they're going to start charging $250 for the reinspection, which you just said was free. So that's the problem I have.

SENATOR KLEIN: The regulations

that are going to be promulgated by the State Department of Health are going to actually state all this.

SENATOR RANZENHOFER: Okay. But is the reinspection then going to be free, not $250.

SENATOR KLEIN: Correct.

SENATOR RANZENHOFER: Okay. Is that going to be cleared up in the language of the bill?

SENATOR KLEIN: Correct. And I know, Senator, you have a concern and I know Senator Hannon -- he's not here, but he raised a cost to the local government. Which I believe raising that is utter nonsense.

I mean, again, we are not changing the way a locality does an inspection. We are not requiring that the county hire any more inspectors. We're not having them call in experts to decide what an A or a B or a C is. The only cost would be a cardboard, a piece of cardboard which would have an A, a B, or a C on it that you would post in your front window.

SENATOR RANZENHOFER: I'm not

going to debate that point. I mean, I heard the arguments --

SENATOR KLEIN: But you did mention that, you know, cost was a concern. That's why I raised it.

SENATOR RANZENHOFER: It was a concern. And quite frankly, through you, Madam Chairman, again, having served in the county for a while, I know when this additional responsibility or mandate comes on that, you know, they will have to put more people on to do this type of work, especially if you have hundreds and thousands of restaurants in the community.

Now, they're doing the inspections anyway. But I know what they're going to tell me is that there is going to be more work for them, and more cost. And again, that's not the specific question that I had, and I certainly heard the debate between you and Senator Hannon.

But the debate that's going to happen and the questions that are going to be asked is the question on the reinspection. Because you were saying -- and I guess it can

be cleared up later, but someone is going to take out this page and what they're going to say is, I know the intent is for the appeal to be $250, but if they have this bill -- and, you know, what's going to happen is they're going to charge $250 for the reinspection and then they're going to charge $250 for the appeal. Even though it's your intent that it not happen, but the bill says that. And that's the concern that I have.

SENATOR KLEIN: Again, that will be answered by the regulations that will be promulgated by the State Department of Health.

Once again, the reason for this is that the Restaurant Association at the time wanted something that was going to be uniform.

SENATOR RANZENHOFER: Would you consider cleaning up that language in the bill to specify that the appeal costs $250 and the reinspection is free?

SENATOR KLEIN: You know, again, I'm pretty positive that when the Department of Health promulgates these regulations, they will be crystal clear. If we see, once this law is implemented, there is a problem, I'm

always willing to come back and make an amendment, Senator.

SENATOR RANZENHOFER: Thank you. Thank you.

ACTING PRESIDENT SAVINO: Senator Owen Johnson.

SENATOR OWEN JOHNSON: Thank you, Madam President. I'd like to say a couple of words about this bill and then ask a few questions of Senator Klein.

The first question is, why is this bill here? Maybe Senator Klein could respond to that. Why is the bill here and what the justification for this bill? What is the crisis which makes every restaurant in the State of New York or ever bakery, every pasta place, every you name it -- everybody prepares food anywhere, even the convenience store at a gas station, everybody has to comply with all these regulations. What is the crisis that requires all this effort on the part of the local health department and the State Health Department?

ACTING PRESIDENT SAVINO: Senator Johnson, are you asking Senator Klein to

yield?

SENATOR OWEN JOHNSON: Yes, I'm asking him to yield.

ACTING PRESIDENT SAVINO: Senator Klein, will you yield?

SENATOR OWEN JOHNSON: I asked him before.

SENATOR KLEIN: Yes, Madam President.

In answer to Senator Johnson's question, the problem is the ever-increasing numbers of foodborne illness.

And the other point that you raised is, again, we're not mandating any more serious way that an inspector inspects a food facility or a restaurant. The only thing we're showing is showing the public -- showing the public educating the public -- about how clean or how dirty their local eatery is. That's it.

SENATOR OWEN JOHNSON: I'd like to follow up to your statement with a question. The question is -- through you, Madam President.

ACTING PRESIDENT SAVINO: Senator

Klein, do you continue to yield?

SENATOR KLEIN: Yes, Madam President.

SENATOR OWEN JOHNSON: Are these letter designations now being used in New York City? That's what I'm asking.

SENATOR KLEIN: The letter grades will be A, B, and C. And again, it will be up to the local health department or, for counting that don't have a health department, the Department of Health, based on their grading system, their system that they use -- everyone has, I guess, a different system -- on what would qualify as an A, a B, or a C.

SENATOR OWEN JOHNSON: Yes. And to follow up with a question, how large is the sign? Where is it posted? On the front door?

SENATOR KLEIN: It has to be posted in a prominent place at the entrance to the restaurant. A prominent place. You know, front window, front door.

And the rules then that will be promulgated once this bill becomes law will be by the Department of Health. They'll have the size, the size of the lettering, I guess the

font.

SENATOR OWEN JOHNSON: I have another question.

ACTING PRESIDENT SAVINO: Senator Klein, do you continue to yield?

SENATOR KLEIN: Yes, Madam President.

SENATOR OWEN JOHNSON: What kind of paperwork is being mandated by the State Health Department to be submitted to get the grade?

SENATOR KLEIN: Absolutely none.

SENATOR OWEN JOHNSON: No? Nothing?

SENATOR KLEIN: No. No. Again, this is leaving it up to the local health department to actually determine, you know, what an A, what a B, what a C -- based on their grading system. Again, I want to make it clear, I'm not changing the way a local health inspector goes in and inspects a restaurant.

SENATOR JOHNSON: There must be regulations stating how you determine -- it can't be capricious and every town have a

different grading system.

SENATOR KLEIN: Right. And those are the rules that are going to be promulgated by the State Department of Health.

SENATOR OWEN JOHNSON: They'll give us those regulations.

SENATOR KLEIN: Yes.

And actually, Senator, just to follow up, local health departments, the way a local health department inspects restaurants in many cases is based on a statewide sanitary code.

SENATOR OWEN JOHNSON: You know, there's an expense to all this activity. And you're going to include -- as far as I understand, you're going to include McDonald's, Kentucky Fried Chicken, a service station with a convenience store in it. Everybody is going to be regulated by this and they're going to have to post all these signs. And I think --

SENATOR KLEIN: The McDonald's you're correct about, but not the convenience store. The convenience store is regulated by the Department of Agriculture and Markets.

SENATOR OWEN JOHNSON: In other words, so they wouldn't be covered in this?

SENATOR KLEIN: They will not.

SENATOR OWEN JOHNSON: And how about IHOP, the pancake house?

SENATOR KLEIN: They would.

SENATOR OWEN JOHNSON: They would be.

SENATOR KLEIN: Yes.

SENATOR OWEN JOHNSON: So some would be and some wouldn't be.

SENATOR KLEIN: Well, no. Restaurants, as defined in the legislation, would actually, if a certain percentage of your business is selling food, would be covered. But in other words, a convenience store or a grocery store, they're covered by the State Department of Agriculture and Markets.

Which, by the way, another piece of legislation that I wrote years ago requires supermarkets to post their most recent inspection results. The law has been very, very popular, has almost a hundred percent compliance. And we didn't close down any, you

know, clean supermarkets by mistake.

Again, it's merely educating the public, letting them know very clearly how clean or how dirty their local eatery is and allowing them to choose to go there if they want or not go there if they choose not to.

SENATOR OWEN JOHNSON: Well, I think you're mandating a lot more inspections and procedures than presently exist in the law, because every health inspector has to send a report to Albany. That's a lot of paperwork to send that up there.

SENATOR KLEIN: Senator, again, I'm not mandating any more paperwork or any more inspections. The only thing that we're doing is presently everyone is entitled to an inspection; some places do it every year, some places do it every six months. The reinspection, as was stated before, is free. And then that third, which is really the appeal, that's the one we're charging for. So that may be the extra one, but we're doing this only if a restaurant wants it or not. Because I guess they want to be able to clear up their good name.

SENATOR OWEN JOHNSON: Another question for the Senator.

ACTING PRESIDENT SAVINO: Senator Klein, do you continue to yield?

SENATOR KLEIN: Yes, Madam President.

ACTING PRESIDENT SAVINO: Senator Klein yields.

SENATOR OWEN JOHNSON: I am unaware of any epidemic of foodborne illnesses which mandates this type of a, what shall I say, New York Statewide program. I'm unaware of that.

SENATOR KLEIN: Well, one of the problems with that, Senator, is in the City of New York they do track foodborne illness, and we've been seeing an increase each and every year. It's also a very, very difficult type of sickness to diagnose. It's hard to pinpoint what exactly you ate and the food you actually ate, what it had contact with that caused you to get sick.

Unfortunately, the State Department of Health does not track foodborne illness. So it's hard to track how prevalent it is in

other parts of the state other than New York.

SENATOR OWEN JOHNSON: Well, you know, one problem with the State of New York: Too many rules, too many regulations, too many expenses. And this is just, in my view, an application, a statewide application of the authority of the state costing more expense and more money to deal with a problem which really doesn't exist.

And for that reason, I certainly am going to vote against this bill. Thank you.

ACTING PRESIDENT SAVINO: Senator LaValle, on the bill.

SENATOR LaVALLE: Thank you, Madam President.

Senator Klein, Suffolk County, as you may know, is the largest county outside of the five boroughs of the City of New York. I would tell you that our health department in Suffolk County is very, very active and very overworked. When we put this on their agenda of things to do, either other things that they're doing now are going to have to give way or more people are going to have to be hired.

There is absolutely no way that our health department can deal with all the things they're dealing with and add this on top of it. So you are adding a cost.

This is, as I read your bill -- and I understand it goes into effect one year from now so that people have an opportunity to gear up. But this deals with safety and sanitation of the premises and food-handling practices to ensure compliance with state and local health laws.

I will tell you that at least in the early years that, when people see a grade on a restaurant or a deli, they will think that that has to do with the quality of the food, you know, that they're going to get. So a restaurant with an A grading, wow, their food is very tasty, it's going to be very good. It will take probably time before they get into a mindset that it deals with sanitary issues.

I would say -- and I kind of smile as I read this, and just tell me if I'm wrong -- one of the exemptions is mobile food vending units. You know, some of the biggest

problems in my county that people complain about are the mobile vending units. You talk about sanitary conditions.

So we're going to pick on a restaurant that has been in business for many years -- and one of the things that I do, Senator Klein, and I know you do, and other members, you ask people in this economy: "How you doing?" "Well, we're hanging on. We're hanging on." I would say to you, in spite of the fact that this doesn't take place for one year, you are going to force out reputable eateries throughout this state.

I don't know what the answer is. But in Suffolk County right now the sanitarians do a very aggressive job. But now what you have at stake here is a letter, the scarlet letter, that can put an eatery out of business.

I would say to you that here again we are putting in a law that is trying to get to those in the minority of businesses that don't do a good job, that are not careful. I think our county does a tremendous job, an absolutely tremendous job. I know some of the

sanitarians, I know how aggressive they are. But I think this takes it one step over the top. So at a time when I think we need to be supporting small businesses and protecting jobs, I think this is but another nail in the demise of some reputable, long-serving businesses.

Thank you, Madam President.

ACTING PRESIDENT SAVINO: Senator Klein, to close.

SENATOR KLEIN: Thank you, Madam President.

I heard a lot from my colleagues from the other side of the aisle. Unfortunately, I have the utmost respect for them, but I think most of the arguments opposed to this bill are either not true or exaggerated.

I've been involved in this type of issue for a long time. As I said earlier, I wrote the law which requires supermarkets to post their most recent inspection results. We have seen failures in supermarkets go down about 50 percent since the law took effect. Originally, compliance was difficult, but now

we have virtually 100 percent compliance with that law.

It's not too burdensome. It's posted. Individuals like it because, again, I think it's incumbent upon us as elected officials, it's important for all of us to always advocate transparency, education, letting the public know. Which they certainly have a right to know.

Senator LaValle went on and on about the cost and the burden. Presently, Suffolk County is one of the counties that posts on an Internet site the inspection results of restaurants. So what we're actually doing is transferring what they already do on the Internet, in case someone doesn't go on the computer to look up their restaurants, it will be posted -- the same posting, the same work that went into inspecting those restaurants, will now be in a sign that's very easy to read and decipher by customers.

Again, I also have been an elected official now for 16 years. And I have dealt with a lot of industries, dealt with a lot of

lobbyists. And I want to say I have never dealt with an association that has been more disingenuous than the State Restaurant Association.

This legislation was something that I worked on for the past year. The reason why the City of New York implemented their law before I got a chance to pass mine is because I waited around negotiating with the state Association, tried to get them the things that the City of New York refused to do. And when all of that is done, they still oppose this bill.

I think we all have to ask the question, what is the restaurant industry trying to hide? If a restaurant is clean, you take credit for it, increase your business. If it's dirty, maybe you should fall by the wayside.

So I think, really, a vote against this piece of legislation is really a vote against the public. It's denying the public the opportunity to know how clean or how dirty their local eatery is.

I vote yes, Madam President.

ACTING PRESIDENT SAVINO: Senator Klein to be recorded in the affirmative.

Are there any other Senators that wish to be heard?

Seeing none, the debate is closed.

The Secretary will ring the bells. We ask all the members to return to the chamber for the vote.

Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator Fuschillo, to explain his vote.

SENATOR FUSCHILLO: Thank you, Madam President. Just briefly.

I'm in the minority of the minority now. And --

SENATOR DIAZ: Come over!

(Laughter.)

SENATOR FUSCHILLO: No, thanks. No, thanks.

Senator Klein, I agree with a lot of the comments that were heard here today, and I think they raise legitimate concerns that during the year period that this becomes law, you should address them and they should be taken very seriously.

The public has a right to know, and that's why I'm supporting this legislation, Madam President. I think the sanitary conditions of any food establishment is of the utmost importance before I walk into a restaurant.

Senator Klein, you mentioned the Restaurant Association, and you stated what are they afraid of, what do they have to hide, why do they want to hide something. I worked with them for many years when we developed the Clean Indoor Air Act. I don't think they have anything to hide. I think their concerns are legitimate.

I think over the year, if this becomes law -- I know the Assembly hasn't passed it yet; I don't know if they will -- I think you should work with the Restaurant Association. I did for many years before we

adopted the Clean Indoor Air Act where we banned smoking in restaurants. And I heard a lot of the same concerns about the industry, which was unfounded, and many of my colleagues that are still here fought me for three or four years on that bill.

But I will tell you, the Restaurant Association was a tremendous asset to me. And I hope that you'll see that they will be to you as well as you move forward with this legislation.

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

ACTING PRESIDENT SAVINO: Senator Fuschillo to be recorded in the affirmative.

Senator C. Johnson, to explain his vote.

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

I'm also going to be supporting this legislation. And I think what's very important is what Senator Klein is trying to do here, as Senator Fuschillo mentioned, is really inform the public. And this is just another way.

Because today, it's very simple. If someone wanted to, they could go into any restaurant they may be eating in, walk in, look around, realize there's a problem, take out their BlackBerry, if they have one, take a photograph, maybe a Facebook page or a Twitter page, or go to one of the number of restaurant websites, like Dining.com, Urban Spoon, Chowhound, Zagat's, and put a review right online and let people know about maybe some unsanitary conditions. The public needs to know this information.

What Senator Klein is doing is the responsible thing in bringing in the Department of Health, having them establish standards, establishing a very simple system which allows for review and allows for appeals to enable the public the right to know that the establishment they're going to spend their money in and that they're going to eat food from is sanitary.

What's wrong with that? What is wrong with that? I don't see anything wrong with that. I think counties, notwithstanding the difficult times -- and I agree with

Senator Hannon that the county that we live in and love, Nassau County, has its difficult financial times. But at the same instant, the residents who live in that county have a right to know that the eating establishment where they go is safe and healthy.

I vote yes. Thank you very much.

ACTING PRESIDENT SAVINO: Senator Craig Johnson to be recorded in the affirmative.

Senator Hannon, to explain his vote.

SENATOR HANNON: At a point in time when health departments on the state level, health departments on the county level are being asked to do things that affect life and death, to impose a mandate, to impose a mandate when the budget proposed by the Governor cuts the State Health Department by 20 percent for administrative expenses, cuts the money that's given to local health departments, it is irresponsible to try to do this when the priorities ought to be elsewhere.

I vote no.

ACTING PRESIDENT SAVINO: Senator Hannon to be recorded in the negative.

Are there any other Senators wishing to explain their vote?

Senator Klein, to explain his vote.

SENATOR KLEIN: Just very briefly, Madam President.

I want to thank my colleagues supporting the bill, specifically Senator Fuschillo, and just say that one of the things that I think is so important, I think we have to get beyond, you know, the burden on a county and the burden on a restaurant. We're merely letting the public know in a very transparent way what the grade they received is in very plain language.

We're graded in schools, we're graded on everything we do. And I think something as important as the food we eat in a restaurant should be subject to a letter grade as well.

I vote yes, Madam President.

ACTING PRESIDENT SAVINO: Senator Klein to be recorded in the affirmative.

Are there any other Senators

wishing to explain their vote?

Senator Marcellino.

SENATOR MARCELLINO: I agree with what Senator Klein just said. I agree with my other colleagues too. But the key element here is that different counties interpret these standards in different ways and inspect for different things. So that a B on one side of the street in County X could mean the same as a C in County Y right across the street, because they inspect for different things. The standards aren't the same.

If you tell me across the county, across the state all of the standards were the same, that an A in Hamilton County means the same thing as an A in Nassau or Suffolk County, that's one thing. But that's not what's going to happen here. They're going to be different in each county because they inspect for different things. The standard is not uniform.

So we're adding to the confusion and we're not adding to the knowledge that I think Senator Klein wants to put out there, which I agree with. We have a right to know

if a restaurant is clean or not. That's perfectly good. But the standard has to be uniform throughout the state. It is not currently, and this law doesn't make it so.

Therefore, I will be voting no.

ACTING PRESIDENT SAVINO: Senator Marcellino to be recorded in the negative.

Senator Alesi, to explain his vote.

SENATOR ALESI: Thank you, Madam President.

Once again, I think that the intent here is laudable, but it's impractical. This is another example of New York State imposing more and more rules and regulations that make it difficult for businesses to exist and to operate in New York State.

It's inconsistent, it will prove to be a failure, and that's why I would give this bill an F, a big F, and I'll be voting no.

ACTING PRESIDENT SAVINO: Senator Alesi to be recorded in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1120 are Senators Alesi, Bonacic, DeFrancisco, Farley,

Flanagan, Golden, Griffo, Hannon, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, Marcellino, Maziarz, McDonald, Nozzolio, Ranzenhofer, Robach, Saland, Seward, Skelos, Stachowski, Volker, Winner and Young.

Absent from voting: Senator Padavan.

Ayes, 32. Nays, 28.

ACTING PRESIDENT SAVINO: The bill is passed.

Senator Klein, that completes the reading of the controversial supplemental calendar.

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

ACTING PRESIDENT SAVINO: We will return to motions and resolutions.

Senator Klein.

SENATOR KLEIN: On behalf of Senator Stachowski, on page number 37 I offer the following amendments to Calendar Number 1117, Senate Print Number 8092, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT SAVINO: So ordered.

SENATOR KLEIN: On behalf of Senator Breslin, on page number 25 I offer the following amendments to Calendar Number 746, Senate Print Number 1700A, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT SAVINO: So ordered.

SENATOR KLEIN: On behalf of Senator Schneiderman, I wish to call up Print Number 6263B, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT SAVINO: The Secretary will read the title.

THE SECRETARY: Calendar Number 715, by Senator Schneiderman, Senate Print 6263B, an act to amend the Insurance Law.

ACTING PRESIDENT SAVINO: Senator Klein.

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

ACTING PRESIDENT SAVINO: The

Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: Senator Klein.

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

ACTING PRESIDENT SAVINO: Amendments received.

SENATOR KLEIN: Madam President, can we please stand at ease for one hour, to come back at ten minutes after 9 o'clock.

ACTING PRESIDENT SAVINO: The Senate will stand at ease until ten minutes past 9:00 p.m.

SENATOR LIBOUS: Madam President.

ACTING PRESIDENT SAVINO: Senator Libous.

SENATOR LIBOUS: Thank you. There will be an immediate Republican conference.

ACTING PRESIDENT SAVINO: There will be an immediate meeting of the Republican conference.

The Senate will stand at ease until ten past 9:00.

(Whereupon, the Senate stood at ease at 8:12 p.m.)

(Whereupon, the Senate reconvened at 9:32 p.m.)

ACTING PRESIDENT SAVINO: Senator Klein.

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

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

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

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

(Whereupon, the Senate stood at ease at 9:33 p.m.)

(Whereupon, the Senate reconvened at 10:12 p.m.)

ACTING PRESIDENT SAVINO: Senator Klein.

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

ACTING PRESIDENT SAVINO: There is a report of the Rules Committee at the desk, Senator Klein.

The Secretary will read.

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

Senate Print 557C, by Senator Adams, an act to amend the Personal Property Law;

2768B, by Senator Onorato, an act to authorize;

4955B, by Senator Thompson, an act to amend the Executive Law;

5421, by Senator Sampson, an act to amend the Family Court Act;

6103, by Senator Parker, an act to amend the Public Health Law;

6706, by Senator Padavan, an act to amend Chapter 548 of the Laws of 2004;

6918B, by Senator Breslin, an act

to amend the Environmental Conservation Law;

7187, by Senator Parker, an act to amend the Public Health Law;

7190, by Senator Stewart-Cousins, an act to provide;

7269A, by Senator Parker, an act to establish;

7609A, by Senator Peralta, an act to amend the General Business Law;

7687B, by Senator Parker, an act to amend the Public Service Law;

7979, by Senator Parker, an act to amend the Public Authorities Law;

8096, by Senator Perkins, an act to amend the General Business Law;

8244, by Senator Libous, an act to amend the Alcoholic Beverage Control Law;

8272, by Senator Aubertine, an act to amend Chapter 522 of the Laws of 2000;

8296A, by Senator Parker, an act to amend the General Municipal Law;

8298, by Senator Sampson, an act to amend the Estates, Powers and Trusts Law;

8305, by Senator Aubertine, an act to amend the Alcoholic Beverage Control Law;

And Senate Print 8308, by Senator Foley, an act to amend the Executive Law.

All bills ordered direct to third reading.

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

(Response of "Aye.")

ACTING PRESIDENT SAVINO: Opposed, nay.

(No response.)

ACTING PRESIDENT SAVINO: The Rules Committee report is adopted.

Senator Klein.

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

ACTING PRESIDENT SAVINO: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1180, Senator Adams moves to discharge, from the Committee on Rules Assembly Bill Number 3083E and substitute it for the identical Senate Bill Number 557C, Third Reading Calendar 1180.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1180, by Member of the Assembly Pheffer, Assembly Print Number 3083E, an act to amend the Personal Property Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 1182, by Senator Onorato, Senate Print 2768B, an act to authorize the City of New York.

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

Read the last section.

THE SECRETARY: Section 5. This

act shall take effect immediately.

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1182 are Senators DeFrancisco, Farley, Golden, Hannon, Larkin, LaValle, Libous, Little, Marcellino, Ranzenhofer, Seward, Skelos, Volker and Young. Also Senator Saland. Also Senator Nozzolio.

Ayes, 45. Nays, 16.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 1190, by Senator Thompson, Senate Print 4955B, an act to amend the Executive Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT SAVINO: The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 1191, Senator Sampson moves to discharge, from the Committee on Children and Families, Assembly Bill Number 1870A and substitute it for the identical Senate Bill Number 5421, Third Reading Calendar 1191.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1191, by Member of the Assembly Pheffer, Assembly Print Number 1870A, an act to amend the Family Court Act.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1192, Senator Parker moves to discharge, from the Committee on Health, Assembly Bill Number 2358 and substitute it for the identical Senate Bill Number 6103, Third Reading Calendar 1192.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1192, by Member of the Assembly Gottfried, Assembly Print Number 2358, an act to amend the Public Health Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The

bill is passed.

THE SECRETARY: In relation to Calendar Number 1193, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 9789 and substitute it for the identical Senate Bill Number 6706, Third Reading Calendar 1193.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1193, by Member of the Assembly Lentol, Assembly Print Number 9789, an act to amend Chapter 548 of the Laws of 2004.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 1194, by Senator Breslin, Senate Print 6918B, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 1195, by Senator Parker, Senate Print 7187, an act to amend the Public Health Law and others.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 1196, by Senator Stewart-Cousins, Senate Print 7190 --

SENATOR LIBOUS: Lay the bill aside.

ACTING PRESIDENT SAVINO: The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 1197, Senator Parker moves to discharge, from the Committee on Rules, Assembly Bill Number 275A and substitute it for the identical Senate Bill Number 7269A, Third Reading Calendar 1197.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1197, by Member of the Assembly Pheffer, Assembly Print Number 275A --

SENATOR KLEIN: Lay the bill

aside for the day, please.

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

THE SECRETARY: In relation to Calendar Number 1198, Senator Peralta moves to discharge, from the Committee on Rules, Assembly Bill Number 11007A and substitute it for the identical Senate Bill Number 7609A, Third Reading Calendar 1198.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1198, by Member of the Assembly Pheffer, Assembly Print Number 11007A, an act to amend the General Business Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 1199, by Senator Parker, Senate Print 7687B, an act to amend the Public Service Law.

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

THE SECRETARY: In relation to Calendar Number 1200, Senator Parker moves to discharge, from the Committee on Corporations, Authorities and Commissions, Assembly Bill Number 247 and substitute it for the identical Senate Bill Number 7979, Third Reading Calendar 1200.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1200, by Member of the Assembly Magnarelli, Assembly Print Number 247, an act to amend the Public Authorities Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1201, Senator Perkins moves to discharge, from the Committee on Rules, Assembly Bill Number 7078A and substitute it for the identical Senate Bill Number 8096, Third Reading Calendar 1201.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1201, by Member of the Assembly Rosenthal, Assembly Print Number 7078A, an act to amend the General Business Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

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

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 1202, by Senator Libous, Senate Print 8244, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1203, Senator Aubertine moves discharge, from the Committee on Rules, Assembly Bill Number 11097 and substitute it for the identical Senate Bill Number 8272, Third Reading Calendar 1203.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1203, by Member of the Assembly Gordon, Assembly Print Number 11097, an act to amend Chapter 522 of the Laws of 2000.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number

1204, by Senator Parker, Senate Print 8296A, an act to amend the General Municipal Law and the Banking Law.

ACTING PRESIDENT SAVINO: This bill is high. It will be laid aside for the day.

THE SECRETARY: In relation to Calendar Number 1205, Senator Sampson moves to discharge, from the Committee on Rules, Assembly Bill Number 11316 and substitute it for the identical Senate Bill Number 8298, Third Reading Calendar 1205.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1205, by the Assembly Committee on Rules, Assembly Print Number 11316, an act to amend the Estates, Powers and Trusts Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 1206, by Senator Aubertine, Senate Print 8305, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT SAVINO: This bill is high. It will be laid aside for the day.

THE SECRETARY: In relation to Calendar Number 1207, Senator Foley moves to discharge, from the Committee on Rules, Assembly Bill Number 11087 and substitute it for the identical Senate Bill Number 8308, Third Reading Calendar 1207.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1207, by Member of the Assembly Ramos, Assembly Print Number 11087, an act to amend the Executive Law.

ACTING PRESIDENT SAVINO: Read

the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

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

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

ACTING PRESIDENT SAVINO: The Secretary will please ring the bells.

The Secretary will proceed with the reading of the controversial supplemental calendar.

THE SECRETARY: Calendar Number 1190, by Senator Thompson, Senate Print 4955B, an act to amend the Executive Law.

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

Senator Thompson.

SENATOR THOMPSON: Just to explain my vote. I was looking forward to some --

ACTING PRESIDENT SAVINO: Senator Thompson, we are not on the roll call yet. When we do the roll call, you can explain your vote.

SENATOR LIBOUS: Madam President.

ACTING PRESIDENT SAVINO: Senator Libous.

SENATOR LIBOUS: I believe Senator LaValle would like to withdraw the lay-aside on Calendar Number 1190 and take it back up noncontroversial.

ACTING PRESIDENT SAVINO: The lay-aside is withdrawn on Calendar Number 1190. It's restored to the noncontroversial calendar.

The Secretary will read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 1196, by Senator Stewart-Cousins, Senate Print 7190 --

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

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

Senator Klein, that completes the reading of the controversial supplemental calendar.

THE SECRETARY: Madam President, at this time can we please go to a reading of supplemental active list.

ACTING PRESIDENT SAVINO: The Secretary will read.

THE SECRETARY: Calendar Number 1093, by Senator L. Krueger, Senate Print

6873B, an act to amend the Multiple Dwelling Law and the Administrative Code of the City of New York.

ACTING PRESIDENT SAVINO: Read the last section.

THE SECRETARY: Section 8. This act shall take effect --

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT SAVINO: The bill is laid aside.

Senator Klein.

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

ACTING PRESIDENT SAVINO: The Secretary will proceed with a reading of the controversial supplemental calendar.

THE SECRETARY: Calendar Number 1093, by Senator L. Krueger, Senate Print 6873B, an act to amend the Multiple Dwelling Law and the Administrative Code of the City of New York.

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

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

Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1093 are Senators Alesi, Bonacic, DeFrancisco, Farley, Flanagan, Fuschillo, Golden, Griffo, Hannon, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, Marcellino, Maziarz, McDonald, Nozzolio, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and Young.

Absent from voting: Senator Padavan.

Ayes, 32. Nays, 28.

ACTING PRESIDENT SAVINO: The bill is passed.

Senator Klein.

SENATOR KLEIN: Madam President,

at this time can we please go to a reading of Supplemental Active List Number 2.

ACTING PRESIDENT SAVINO: The Secretary will proceed with the reading of Supplemental Active List Number 2.

THE SECRETARY: Calendar Number 5, by Member of the Assembly Magnarelli, Assembly Print Number 8462A, an act to amend the Executive Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 91, substituted earlier today by Member of the Assembly Amedore, Assembly Print Number 8199B, an act to authorize New Creation.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59. Nays, 2. Senators Bonacic and Larkin recorded in the negative.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 185, by Senator Duane, Senate Print 1523A, an act to amend the Domestic Relations Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO:

Senator DeFrancisco, to explain his vote.

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

This provides for adoption by permitting two unmarried persons, adult intimate partners, to adopt a child. I have no clue, since the bill does not say anything about it, what the definition of "intimate partners" are.

I would think that if we're going to make a category of individuals that could adopt children that are not husband and wife, it would seem to me that category of individuals should be sufficiently defined. "Intimate" means different things to different people. In fact, to our former president, sex means different things to different people.

So I think we have to truly have a definition in order to provide a new right, and I vote no for that reason.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 185 are

Senators Aubertine, Bonacic, DeFrancisco, Farley, Golden, Griffo, Hannon, O. Johnson, Larkin, Leibell, Libous, Maziarz, McDonald, Nozzolio, Ranzenhofer, Saland, Seward, Skelos, Volker and Young. Also Senator Diaz.

Ayes, 40. Nays, 21.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 188, by Member of the Assembly O'Donnell, Assembly Print Number 5537A, an act to amend the Penal Law and others.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number

276, by Senator Maziarz, Senate Print 4835, an act to refund taxpayers.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 415, by Senator Schneiderman, Senate Print 4394B, an act to amend the Penal Law.

ACTING PRESIDENT SAVINO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO:

Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: For the same reasons that I've voted against all of these bills, the sponsor's establishing special categories of people who are victims that result in assault being increased to an assault in the second degree.

Once again, we've got, in this case, New York City sanitation workers. I'm not quite sure what's so special about New York City sanitation workers. There's sanitation workers in every city in the state of New York. Do they hurt more when they get hit in New York City if you're a sanitation worker?

I don't quite get this concept other than it's pandering to different groups, and there should be an assault second bill or a bill that applies equally to everyone no matter who the victim happens to be.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 415 are

Senators DeFrancisco, O. Johnson, Libous, Little and Ranzenhofer.

Ayes, 56. Nays, 5.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 747, by Senator Breslin --

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

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

THE SECRETARY: Calendar Number 799, by Senator Oppenheimer, Senate Print 7818, an act to amend Chapter 386 of the Laws of 1996.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 865, by Member of the Assembly Gottfried, Assembly Print Number 1719A, an act to amend the Public Health Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 865 are Senators Farley, Golden, O. Johnson, Lanza, Leibell, McDonald, Nozzolio, Saland and Volker.

Ayes, 52. Nays, 9.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: In relation to

Calendar Number 865, Senator Nozzolio recorded in the affirmative.

Ayes, 53. Nays, 8.

ACTING PRESIDENT SAVINO: The bill is still passed.

THE SECRETARY: Calendar Number 879, by the Assembly Committee on Rules, Assembly Print Number 11343, an act to amend Chapter 545 of the Laws of 2003.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 917, by Member of the Assembly Alessi, Assembly Print Number 10718, an act to amend Chapter 246 of the Laws of 1916.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 942, by Senator Hannon, Senate Print 7403, an act to authorize the Hebrew Academy of Nassau County.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 59. Nays, 2. Senators Bonacic and Larkin recorded in the negative.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 944, by Senator Duane --

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

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

Senator Klein, that completes the reading of the noncontroversial Supplemental Active List 2.

SENATOR KLEIN: Madam President, can we briefly go back to motions and resolutions.

ACTING PRESIDENT SAVINO: Returning to motions and resolutions.

SENATOR KLEIN: Madam President, on behalf of Senator Foley, on page 36 I offer the following amendments to Calendar 1021, Senate Print Number 7263A, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT SAVINO: So ordered.

SENATOR KLEIN: On behalf of Senator Oppenheimer, I move to amend Senate Bill 7635A by striking out the amendments made on 6/22 and restoring it to its original print number, 7635.

ACTING PRESIDENT SAVINO: So ordered.

SENATOR KLEIN: Madam President, can you please recognize Senator Libous.

ACTING PRESIDENT SAVINO: I do recognize Senator Libous.

SENATOR KLEIN: Madam President, thank you. And I recognize you.

There will be a Republican conference tomorrow morning at 9:30 sharp.

ACTING PRESIDENT SAVINO: There will be a Republican conference tomorrow at 9:30 sharp.

Senator Klein.

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

ACTING PRESIDENT SAVINO: There is no further business to come before the

desk, Senator Klein.

SENATOR KLEIN: There being no further business, Madam President, I move that we adjourn until Friday, June 25th, at 10:00 a.m.

ACTING PRESIDENT SAVINO: One moment, Senator Klein.

SENATOR KLEIN: Madam President, would you please recognize Senator Hassell-Thompson.

ACTING PRESIDENT SAVINO: And I recognize Senator Hassell-Thompson as well.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

There will be a very prompt meeting of the Senate Majority at 9:00 a.m. in the morning. Thank you, ma'am.

ACTING PRESIDENT SAVINO: There will be a prompt meeting of the Senate Majority at 9ish tomorrow morning.

(Laughter.)

ACTING PRESIDENT SAVINO: Would that be Italian time or New York State time?

(Laughter.)

ACTING PRESIDENT SAVINO: Senator

Klein, there being no further business to come before the Senate, on motion, the Senate stands adjourned until Friday, June 25th, at 10:00 a.m.

(Whereupon, at 10:50 p.m., the Senate adjourned.)