NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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6:09 p.m.

REGULAR SESSION

SENATOR JOHN J. FLANAGAN, Acting President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT FLANAGAN: The Senate will come to order.

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

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

ACTING PRESIDENT FLANAGAN: Today's invocation will be offered by Rabbi Shmuel Butman, from the Lubavitch Youth Organization in Brooklyn.

Rabbi.

RABBI BUTMAN: [in Hebrew] Our Heavenly Father, please bestow Your heavenly blessings on the members of the New York State Senate, on them and on their families. They should have the strength, the inspiration, the health to serve You and the people in the great State of New York.

The Lubavitcher Rebbe, Rabbi Menachem M. Schneerson, said many times, when he spoke about the elected officials of the State of New York and the elected officials of the New York State Senate, that you are elected as the custodians for law and order

not only in the State of New York, but through the State of New York, in the entire state, in the entire United States of America, because the State of New York has influence over the entire country, and by extension the United States has influence and should have influence over the entire world.

So the laws of law and order that you institute and that you are the custodians of have repercussions not only for the great people of the State of New York and the United States of America but all free people throughout the world.

In 1991, before I went to Washington to open the United States Senate, I went to see the Rebbe. And the Rebbe said that "During your invocation in the United States Senate, you should bring with you a pushkeh" -- a pushkeh is a charity box -- "and you should put in a dollar while you're doing the invocation, and everybody should see what you are doing, and whoever wants to follow."

So I'm going to do what the Rebbe asked me. On the dollar it says -- you just mentioned God's name before in your prayer.

On the dollar it says "In God We Trust." And I'm going to put in a dollar in the pushkeh, and we are going to ask everyone if they want to join us.

Now, don't get scared. This is not a fundraising campaign to make good for the deficit of the New York State budget. This is not the reason. The reason for that is that everyone should have a chance to do an extra deed of goodness and kindness. When you put your hand in your pocket, you take out a dollar bill and you put it into a charity box, you have done an act of goodness and kindness.

The Rebbe says that we live in the last generation of exile and the first generation of redemption. And the Great Redemption will come by doing more acts of goodness and kindness. And this is exactly what we are going to ask you to do if this is going to be -- these are going to be your wishes.

Every Saturday when we are in our synagogues we say a special prayer for you. We say the [in Hebrew], for all those who serve the public faithfully as you do. We ask

Almighty God for blessings for you and for your family, in health, in happiness, and in gladness of heart.

And our wish, and our wish to each and every single one of you is, at this moment, that you should pass the budget successfully immediately.

Thank you.

ACTING PRESIDENT FLANAGAN: The reading of the Journal.

THE SECRETARY: In Senate, Sunday, March 27, the Senate met pursuant to adjournment. The Journal of Saturday, March 26, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT FLANAGAN: 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 Libous.

SENATOR LIBOUS: Mr. President, I know that members are giving their tithing to the rabbi, and that's a good thing to do. But if we could please have some order in the chamber while they're quietly putting their dollars in the box, in the pushkeh. Thank you.

And I would read a couple of motions, Mr. President.

On behalf of Senator Griffo, on page 20 I offer the following amendments to Calendar Number 255, Senate Print Number 3641, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT FLANAGAN: The amendments are received and adopted and the bill will retain its place on the Third Reading Calendar.

SENATOR LIBOUS: And, Mr. President, on behalf of Senator Seward, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the

enacting clause: Senate Bill 3898.

ACTING PRESIDENT FLANAGAN: So ordered.

SENATOR LIBOUS: And, Mr. President, I believe there is a privileged resolution at the desk. I would ask that it be read in its entirety and we move for its immediate adoption.

ACTING PRESIDENT FLANAGAN: The Secretary will read.

THE SECRETARY: Legislative resolution by Senator Skelos, commemorating the Anniversary Celebration of the Birthday of the revered Lubavitcher Rebbe, Rabbi Menachem M. Schneerson, upon the occasion of a Memorial Reception to be held in the New York State Capitol on March 28, 2011.

"WHEREAS, The true architects of society and community are those individuals whose faith and unremitting commitment serve to sustain the spiritual and cultural values of life. The Lubavitcher Rebbe, Rabbi Menachem M. Schneerson, was surely such an individual; and

"WHEREAS, World Jewry will honor

its immortal leader, Rabbi Menachem M. Schneerson, the Lubavitcher Rebbe, upon the occasion of the Anniversary of his Birthday with '109 Days of Education' in --

SENATOR LIBOUS: Mr. President, we are honoring the Rabbi. And if we could have some order in the chamber as the clerk reads.

ACTING PRESIDENT FLANAGAN: Senator Libous, thank you.

If the members would respect the reading of the resolution about the Rabbi, we would all appreciate it.

The Secretary will continue to read.

THE SECRETARY: "WHEREAS, World Jewry will honor its immortal leader, Rabbi Menachem M. Schneerson, the Lubavitcher Rebbe, upon the occasion of the Anniversary of his Birthday with '109 Days of Education,' in fitting tribute to this esteemed spiritual leader; and

"WHEREAS, The Lubavitcher Rebbe, over his 44 years of dedicated leadership, established over 1,500 Lubavitch Centers,

helping people of all walks of life throughout the world, from Australia to Africa, from Holland to Argentina, and from Moscow to Jerusalem; and

"WHEREAS, Rabbi Schneerson's educational activities throughout the global have enriched and strengthened the religious, educational, cultural, moral, and ethical fibers of all citizens of the world; and

"WHEREAS, The Rebbe proclaimed that the time of Redemption has arrived and Moshiach is on his way; and

"WHEREAS, The Lubavitcher Rebbe called upon all citizens of the world to prepare for the Great Redemption with a personal commitment to increase charity and good deeds; and

"WHEREAS, A Memorial Reception will be held in the New York State Capitol on Monday, March 28, 2011, in tribute and remembrance of Rabbi Schneerson, the leading rabbi of his generation; and

"WHEREAS, This year, Friday, April 15, 2011, corresponding to 11 Nissan, 5770, the Rebbe's Birthday, to Monday,

August 1, 2011, corresponding to 1 Av, 5771, will be celebrated as '109 Days of Education' in tribute to the educational endeavors of this visionary leader and learned gentleman on behalf of all mankind; and

"WHEREAS, Throughout his purposeful journey of life, Rabbi Schneerson compiled, with dignity and grace, decades filled with philanthropic causes, humanitarian effort, and astute Judaic leadership, justly earning the devotion of his followers and the admiration and respect of his fellow man; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to commemorate the traditional observance of the Anniversary of the Birthday of the Lubavitcher Rebbe, Rabbi Menachem M. Schneerson, upon the occasion of a Memorial Reception to be held in the New York State Capitol on March 28, 2011, and to recognize April 15, 2011, to August 1, 2011, as '109 Days of Education,' in tribute to the educational endeavors of the beloved Rebbe; and be it further

"RESOLVED, That a copy of this

resolution, suitably engrossed, be transmitted to Rabbi Shmuel M. Butman, director of the Lubavitch Youth Organization."

ACTING PRESIDENT FLANAGAN: Senator Skelos.

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

Rabbi Butman, as every year, we look forward to your coming to our chamber, reminding all of us in our lives we should all do good deeds.

And I also want to point out, during these times of fiscal austerity, I've never seen more members go up and contribute as they have this year. So I think it's wonderful.

We wish you good health. We look forward to seeing you every year as you bless this chamber. Thank you, Rabbi.

RABBI BUTMAN: Thank you very much. Thank you. Thank you. Thank you.

ACTING PRESIDENT FLANAGAN: Senator Skelos, the Rabbi has informed me that he has clearly hit his table target for today.

(Laughter.)

RABBI BUTMAN: I wish you the same. Thank you.

ACTING PRESIDENT FLANAGAN: Senator Libous, the question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT FLANAGAN: Opposed, nay.

(No response.)

ACTING PRESIDENT FLANAGAN: The resolution is adopted.

Senator Libous.

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

And I believe that Senator Savino has a privileged resolution at the desk. And she would ask that you please read it in its entirety and that if you could please call on Senator Savino.

ACTING PRESIDENT FLANAGAN: The Secretary will read.

THE SECRETARY: Legislative resolution by Senator Savino, mourning the death of Geraldine Anne Ferraro, former Queens

Congresswoman and first woman nominated as a United States Vice Presidential candidate.

"WHEREAS, It is the sense of this Legislative Body to recognize and pay tribute to individuals of distinguished purpose and true commitment who dedicated their lives and careers to public service and the pursuit of excellence in the conduct of the legislative process; and

"WHEREAS, It is with great sorrow and deepest regret that this Legislative Body, representing the people of the State of New York, records the passing of Geraldine Anne Ferraro, noting the significance of her purposeful life and accomplishments; and

"WHEREAS, Geraldine A. Ferraro, the former Queens Congresswoman who made history in 1984 as the first Italian-American and the first woman nominated for national office by a major party when she accepted the Democratic nomination for vice president, died Saturday, March 26, 2011, in Boston, Massachusetts, at the age of 75; and

"WHEREAS, Born on August 26, 1935, in the Hudson River City of Newburgh,

New York, Geraldine A. Ferraro was the fourth child and only daughter of Dominick Ferraro, an Italian immigrant who owned a restaurant and a five-and-dime store, and the former Antonetta L. Corrieri; and

"WHEREAS, After the death of her father when she was just 8 years old, Geraldine A. Ferraro's mother sold the family store and their home and moved to the South Bronx and later to Queens; and

"WHEREAS, Geraldine A. Ferraro attended the Marymount School, a Catholic boarding school in Tarrytown, New York. Her outstanding grades earned her a scholarship to Marymount College in Tarrytown; and

"WHEREAS, An English major, Geraldine A. Ferraro transferred to Marymount College Manhattan, where she was an athlete as well as editor of her school newspaper. She won numerous honors before graduating from 1956; and

"WHEREAS, After graduating, Geraldine A. Ferraro taught in a public grade school in Queens. She later applied to Fordham Law School and was admitted to its

night school, where she was one of two women to graduate in a class of 179 students. This exceptional scholar received her law degree in 1960; and

"WHEREAS, Geraldine A. Ferraro married John Zaccaro on July 16, 1960, two days after she passed her bar exam, but kept her maiden name professionally to honor her mother. For the first 13 years of her marriage, Geraldine devoted herself mainly to her growing family, but also did legal work for her husband's business, worked pro bono for women in Family Court, and participated in local politics; and

"WHEREAS, In 1970, she was elected to esteemed position of president of the Queens County Women's Bar Association. Four years later, she began work with her cousin, District Attorney Nicholas Ferraro, as an assistant district attorney in Queens, New York; and

"WHEREAS, The following year she transferred to the Special Victims Bureau and quickly earned a reputation for tenacity and talent in the courtroom. Geraldine A. Ferraro

later credited her work in the Special Victims Bureau, investigating rape, crimes against the elderly, child abuse and domestic violence with changing her political views from moderate to liberal; and

"WHEREAS, In 1978 Geraldine A. Ferraro won a three-way Democratic primary to replace Congressman James J. Delaney of Queens, before winning the general election campaign; and

"WHEREAS, As a Congresswoman, Geraldine A. Ferraro successfully advocated for improved mass transit around LaGuardia Airport and increased economic opportunities for women. Those efforts quickly propelled her to prominence within the Democratic Party, leading to her appointment as chairwoman of the 1984 Democratic Platform Committee; and

"WHEREAS, Geraldine Anne Ferraro was the 1984 vice presidential nominee alongside presidential candidate Walter F. Mondale. Although unsuccessful, her candidacy blazed a trail for generations of female politicians of all backgrounds and of all levels of government; and

"WHEREAS, In 1992, Geraldine A. Ferraro returned to politics, narrowly losing a Democratic primary for Senate to Robert Abrams. She ran again in 1998 but lost to Charles E. Schumer; and

"WHEREAS, Geraldine A. Ferraro served as ambassador to the United Nations Human Rights Commission during the Clinton administration and as cohost of the CNN program 'Crossfire' from 1996 to 1998. She was also the author of numerous books and articles; and

"WHEREAS, Geraldine A. Ferraro is survived by her loving husband of 50 years, John A. Zaccaro, and her three children and their spouses, Donna Zaccaro Ullman and Paul Ullman, John and Anne Rasmussen Zaccaro, and Laura Zaccaro Lee and Josh Lee, as well as eight grandchildren: Matthew and Natalie Ullman; Elizabeth, Samantha and John Zaccaro; and Daisy, Alexander and Jane Lee; and

"WHEREAS, Throughout her career Geraldine A. Ferraro contributed significantly to the quality of life of her constituents and the communities of the State of New York as

well as those throughout the nation. She will be deeply missed and truly merits the grateful tribute of this Legislative Body; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to mourn the death of Geraldine Anne Ferraro, to salute her many accomplishments in bettering her community, state and nation, and to express its deepest condolences to her family; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to the family of Geraldine Anne Ferraro."

ACTING PRESIDENT FLANAGAN: Senator Savino on the resolution.

SENATOR SAVINO: Thank you, Mr. President.

Geraldine Ferraro was a trailblazer in so many ways. That's already been described in the resolution and in the glowing tributes that have come from people all over the world, from the President of the United States to presidents of other countries, recognizing how important she was.

But for Italian-Americans, she was even more important. In one generation, Geraldine Ferraro became the epitome of the American dream for Italian-Americans. It was the ability to see all of those hopes and desires that Italian immigrants had when they came through Ellis Island, and their belief in that if you came to America you could achieve anything. And in one generation, the daughter of a seamstress and a shop owner not only became an attorney, a teacher, a successful mother, active in her community, a Congresswoman, and then the first female vice presidential candidate on a major party ticket.

It is a sense of pride and accomplishment that I know myself, as an Italian-American, is unparalleled -- but also as a young woman to see a woman nominated to vice president was something amazing. I was about 20 years old when Geraldine Ferraro was nominated to be the vice presidential candidate, something I had been led to believe was maybe possible someday in the future that a woman could potentially be the President of

the United States. We haven't quite gotten there yet. But still, Gerry Ferraro was a sense of inspiration and hope for so many of us.

I know many of you here actually knew her a lot more personally than I did, you served with her in Queens, and you have your own personal stories, and I'm sure some of you will share them. I didn't have that kind of relationship with her. I looked up to her.

And about three years ago, the Italian-American Labor Council established an award in the name of Geraldine Ferraro, and they gave it to me as the first recipient, and she herself presented it to me. It was one of the most proud moments I've ever had. And the following year I think I had the opportunity to give Gerry Ferraro's award to Joe Addabbo. And I know many people will accept that award going forward.

Geraldine Ferraro was an amazing woman and a trailblazer in a lot of ways. But for an Italian-American girl who came from Astoria, the same neighborhood that she represented, she will forever be a life of

inspiration to me and thousands of other young women.

Thank you, Mr. President.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Savino.

Senator Smith on the resolution.

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

Let me thank my colleague Senator Savino for bringing this resolution for such an amazing young lady to the floor of the Senate.

I don't know, because we do it every day, if everyone understands the significance of a resolution coming to the floor of the Senate, meaning that we as a body will pause our legislative deliberation to bear respects to someone. And that a resolution is not something, although we do it on this floor, that is done very lightly.

Doing this resolution for Geraldine Ferraro, who I knew personally, I think is a tribute to her and her family. I had the opportunity to be a part of her national team as she ran for vice president. And as I

traveled around the country with her -- I did five different states with her -- this was an amazing woman. Someone who, no matter how much the press, no matter how much people revered her, she was a common person. She would always say to us, "Stay connected to people."

I can remember one time, it was in Illinois, and we had set up a line for her to begin to greet people after her speech and, as we would do, to try to get the best and the most prestigious, if you will, group of individuals together so that she could greet them on her way out. As we got to the door, she immediately turned to the left and went to everyone that was not on the line and went to the everyday, common person.

And I think that says a lot about her. While she was clearly running for vice president, it was clear that she was, one, independent and, two, never wanted to forget the regular people.

I also remember another time when I was in her home in Forest Hills Gardens and her neighbors were a little bit concerned

because, you know, if you're running for vice president there are a number of people that travel with you and you have a long entourage, if you will. I recall her making the entire entourage -- with the Secret Service, who went berserk -- off the street, made them park three blocks away from her house because she felt that to disrupt her neighborhood just because she was running for vice president was not the right thing to do. That's the kind of person that she was.

So I want to thank you, Diane, because this was an amazing woman. And yes, she broke barriers for women. And yes, Diane, a woman will be president of these United States at some point, and I believe at some point in the future near to be said.

But more importantly, I just want you to know this was a woman who loved this country, she loved this state, she loved New York City, and she loved all the people within it.

Thank you very much, Mr. President.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Smith.

Senator Liz Krueger on the resolution.

SENATOR LIZ KRUEGER: Thank you, Mr. President. I also just want to stand to recognize the amazing woman, Gerry Ferraro, that we lost.

She started her life, as you heard, in Queens. She ended her life as a constituent of mine on the East Side of Manhattan and actually had her college career at Marymount College on the East Side of Manhattan.

And I didn't get to travel the country with her, as Senator Smith did, but she spoke often in her later years on behalf of women who were running for elected office and to support the concerns of women and their families. And I had quite a few opportunities to be a speaker with Ms. Ferraro at various events, talking to other young women, hearing her talk about what an important role women must play in the American political process and in their family lives.

And I think that sometimes it is said about women we can do it all, just maybe

not at the same time. And I think that what people will remember Ms. Ferraro for long after she's gone is that actually she was a trailblazer and also showed us how women can, in fact, try to do it all -- with grace, with dignity, with warmth, and with never forgetting her humanity. And really what a wonderful New Yorker she was for all of us.

Thank you, Mr. President.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Krueger.

Senator Stavisky on the resolution.

SENATOR STAVISKY: Thank you, Mr. President.

This was Women's History Month. And certainly Gerry Ferraro was a part of our -- not our county's history but our nation's history.

The first time I met Gerry Ferraro was when she chaired the platform committee for the national convention that was going to take place in San Francisco. And indeed, I was a delegate to that convention from Queens County. And who can forget the picture, the sight of Gerry Ferraro in a white suit

accepting the nomination as vice presidential candidate.

She was a warm, friendly person, down to earth. And she will be certainly missed, but also somebody -- as somebody who has shown women and in fact shown everybody this is not -- I hate to say this, but this is not really a women's issue. She was a national candidate whom everybody, everybody can be very proud that she was the first one.

So I thank you, Senator Savino, for introducing this resolution. And our condolences go to John Zaccaro and her family on their loss.

Thank you.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Stavisky.

Senator Stewart-Cousins on the resolution.

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

I also wanted to rise. I thank Senator Savino for recognizing the greatness of Geraldine Ferraro.

I had the opportunity to meet her

during the time she -- well, actually, it was election night. I was a journalism student at night, raising my kids, and for the paper it was to cover the outcome of the election. And there I was, with all the national media and Gerry, who had obviously lost. And it was just such a thrill. I'm sure that it planted a seed in terms of what women could do and how her being there at that moment was a ripple effect not only through the nation but globally.

But yet as she lost, she lost with such a sense of grace and such a sense of pride, and you knew that there was no way that actually this woman had lost at all. And I remember the headline for the paper, it was Pace University at the time, was "Gerry Loses Like a Winner."

The next time I saw her when was when I was running for Senate, 2006, when Gerry decided that it would be fine for her to come and campaign for me. So I am one of those women who she helped.

She came, we didn't go to any great place, we went to a church penny social, and

she wandered through every aisle, commenting on the goods, meeting people, greeting people, making them know that she was totally there and that whatever she was doing, as long as she was with the people, she was just fine.

I will miss the influence that she had on our lives. I will miss the personal opportunity that I had. But I also am very, very happy that I was able to experience the grandeur of such a gracious political woman.

And again, certainly my condolences to her family.

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

Senator Little on the resolution.

SENATOR LITTLE: Thank you, Mr. President.

I never had the honor or privilege of meeting Gerry Ferraro, but I've truly admired her as a person who worked hard, was truly committed to her family, to her profession, to her constituents, and reached heights that we all would like to reach someday.

But she really was a trailblazer

and someone that I admired. I enjoyed watching her on Fox News, which she was a guest on frequently and certainly had her take on all the political events that were taking place here.

Her untimely death is really sad and is truly a loss to her family and to all of us. And I think we would all agree that Gerry Ferraro is truly a New York "Woman of Distinction."

Thank you.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Little.

Senator Savino will be opening the resolution for -- excuse me. Senator Hassell-Thompson, I apologize.

Senator Hassell-Thompson on the resolution.

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

I would be remiss as one of the women in this chamber who did not speak on behalf of Geraldine Ferraro as well as the work that she did on behalf of everyone in the State of New York. But more than that, I

think she had a special place for women. We marched in a parade one year in the City of Mount Vernon, but she came. Wherever there was good politics, that's where she could be found.

And we marched in this parade and I remember us being totally drenched. My suit shrunk. That was one of my less expensive suits that day, thank goodness. But our shoes were filled with water. But I had never seen anyone who just had such a capacity for joy. I mean, as wet as we were, and we waved to people and we stopped, we were one of those paraders that we stopped and talked to people on the left and on the right, give out flags. And the rain just did not deter her at all.

The very last time I saw her was at a women's conference. She had come to speak. And she was so powerful. I mean, even though her body was weakened, her spirit was as strong as ever. And the things that she said to encourage us as women, as somebody who had lived through the beginning of what I call the downturn in real journalism, how the press beat her up and allowed themselves to just --

tried to vilify her as an upstanding human being who really cared about governance, who really cared about good government.

And I've always felt that she was probably one of the most powerful, influential women of her time in terms of the way in which she touched the hearts of the people, even people who had never met her before found a pleasure in being in her company. And I listened to the way people described how she was in a crowd. And I've never seen crowds light up the way they did whenever she campaigned.

So we will all miss her tremendously. But those of us as women who have had the opportunity to just be up close and personal, touch her, be a part of her influence, will miss her a great deal more.

Thank you, Mr. Chairman. And thank you, Diane, for this resolution.

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

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

(Response of "Aye.")

ACTING PRESIDENT FLANAGAN: Opposed, nay.

(No response.)

ACTING PRESIDENT FLANAGAN: The resolution is adopted.

Senator Savino has opened the resolution for cosponsorship. Should anyone wish to not be on the resolution, please notify the desk.

Senator Libous.

SENATOR LIBOUS: Mr. President, could I ask my colleagues to please rise in a moment of silence for Congresswoman Ferraro.

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

ACTING PRESIDENT FLANAGAN: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

There's another privileged resolution at the desk, by Senator Gallivan. May we please have it read in its entirety and call on Senator Gallivan before we move for its adoption, please.

ACTING PRESIDENT FLANAGAN: The

Secretary will read.

THE SECRETARY: Legislative resolution by Senators Gallivan, Grisanti, Ranzenhofer and Maziarz, mourning the tragic and untimely death of New York State Trooper Kevin P. Dobson on Sunday, March 27, 2011.

"WHEREAS, It is the sense of this Legislative Body to convey its grateful appreciation and heartfelt regret in recognition of the loss of a courageous police officer who dedicated his purposeful life and career in faithful service to his family, community, and the New York State Police; and

"WHEREAS, It is with profound sadness that this Legislative Body records the passing of New York State Trooper Kevin P. Dobson, who made the ultimate sacrifice on Sunday, March 27, 2011, while faithfully executing his responsibilities serving with dedication, loyalty and compassion, and who devoted his purposeful life and career to serve and protect; and

"WHEREAS, A 14-year veteran of the New York State Police, 43-year-old Kevin P. Dobson of Buffalo, New York, was assigned to

the Clarence Trooper Barracks; and

"WHEREAS, Trooper Kevin P. Dobson lived his life with great dignity and genuine grace, always demonstrating a deep and continuing concern for the welfare of others and the great State of New York; and

"WHEREAS, Trooper Kevin P. Dobson is survived by his father, Richard Dobson, who is retired from the Erie County Sheriff's Department; his girlfriend, three children, and her child; and

"WHEREAS, Armed with a humanistic spirit, imbued with a sense of compassion, and comforted by a loving family, Trooper Kevin P. Dobson leaves behind a legacy which will long endure the passage of time and will remain as a comforting memory to all he served and befriended. He will be deeply missed and truly merits the grateful tribute of this Legislative Body; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to mourn the untimely death of New York State Trooper Kevin P. Dobson, noting the significance of his contributions on behalf of the citizens of

this noble Empire State and expressing its deepest condolences to his family; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to the family of Trooper Kevin P. Dobson."

ACTING PRESIDENT FLANAGAN: Senator Gallivan on the resolution.

SENATOR GALLIVAN: Thank you, Mr. President.

I rise today to honor Trooper Kevin P. Dobson. Trooper Dobson was born in Buffalo in 1967. He graduated from Iroquois Central High School -- which is the district in which I live and where my children attend -- in Elma, and went on to further his education at Erie Community College.

I served a short time in the State Police with Kevin as he began his career in the State Police on April 30, 1997. He worked out of many areas of the state, throughout my district, throughout the districts of many other of our colleagues in Western New York, serving hundreds of thousands of citizens in an effort, of course, to keep our communities

safe.

His last assignment was on the interstate patrol out of Clarence, and it was there he met his tragic passing, his tragic demise, serving the community.

He was a leader in drug interdiction, arrests and enforcement. He volunteered to work in the most dangerous parts of our state as part of Operation Impact, an initiative that many in this house have supported over the years. He was a field training officer responsible for training new troopers.

He also, on his own, pursued training and became a child seat technician, installed hundreds of child safety seats for parents and families in Western New York. In his off-duty time, he volunteered to support and help and serve the Special Olympics.

He's received numerous commendations throughout his career and was the Public Safety Officer of the Year in 2007 recognized by the Knights of Columbus in Erie County.

Kevin was the type of public

servant all public servants should aspire to be. We should all be rightly proud of and grateful for his service. The entire Western New York community, the law enforcement community, the entire New York State community has suffered a tremendous loss this past weekend. Our thoughts and prayers are with the Dobson family, especially his children and his father, the rightly proud retired Lieutenant Richard Dobson of the Erie County Sheriff's Office, whom I also had the high honor of serving with during my tenure as sheriff of Erie County.

The New York State Police, Erie County Sheriff's Office, law enforcement officers across the state, across the nation are a family, just as all of those who serve the public are part of a larger family. When we lose one of our own, all of us here today included, we suffer, we grieve and hopefully move forward together. While nothing can be done to fill this sudden void in our hearts and the hearts of the Dobson family, I can assure them today that they do not mourn alone.

I'd like to thank all of my colleagues here today as together we mourn the untimely death of New York State Trooper Kevin P. Dobson, as we note the significance of his contributions on behalf of the citizens of this great state, and as we pass on our deepest condolences to Kevin Dobson's family.

Thank you, Mr. President.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Gallivan.

Senator Adams on the resolution.

SENATOR ADAMS: Thank you. And I want to thank the Senator for introducing this resolution.

And I just also want to also join my voice to Kevin and this loss and what the entire State Trooper family feels when they lose a member of their department and we as a member of the state lose a person who's serving the public in this magnitude.

We lost two officers, one on Long Island and one in New York City. And there's no call of service that's a simple call of service. The officer in New York City was responding to a domestic violence incident

when he was pushed over the rail and he struck his head and he was killed. And as with Officer Dobson, Officer Dobson was responding to what one would consider a routine car stop when he was struck.

So there is no routine assignment for an officer. And I recall throughout my career in law enforcement, just from time to time when my brother was injured, who followed me into law enforcement, your family never really get over it. They never really rest until the career is concluded.

And from time to time we stop and we pause in this chamber when a state trooper or member of the law enforcement community was a victim of some form of violence. And by doing so today, of acknowledging the life of Officer Dobson, we're saying how much we do value and how much we appreciate our men and women who adorn the various uniforms in law enforcement throughout the city.

I recall on September 11th when the two planes took down our towers and how many officers, although they were stunned, although they were afraid, although they were concerned

about their families, there was a level of uncertainty of what the city and state was going through. And they responded. And our state troopers, our police officers, our sheriffs all continue to respond. They don't decide if they're going to respond if you're a Democrat or Republican, they respond because it's the right thing to do.

And Officer Dobson is a signal of what's great about our law enforcement community. And we should keep them in mind when we make laws, pass laws or ensure that our laws will continue to protect those who protect us. We sleep comfortably in this state because we have some of the finest law enforcement men and women in the entire country.

And I thank the Senator for introducing this resolution, and I hope we all will realize the importance of the duty and the roles of the Officer Dobsons throughout the State of New York.

Thank you, Mr. President.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Adams.

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

(Response of "Aye.")

ACTING PRESIDENT FLANAGAN: Opposed, nay.

(No response.)

ACTING PRESIDENT FLANAGAN: The resolution is adopted.

Senator Gallivan has also opened that resolution for cosponsorship. If anyone would like not to be on that resolution, please notify the desk.

Senator Libous.

SENATOR LIBOUS: Mr. President, could I again ask my colleagues to join me in a moment of silence for Trooper Kevin Dobson, who gave his life in the line of duty for the taxpayers of this state.

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

ACTING PRESIDENT FLANAGAN: Senator Libous.

SENATOR LIBOUS: Mr. President, there will be an immediate meeting of the Finance Committee, followed by an immediate

meeting of the Rules Committee in Room 332.

The Senate will remain at ease until those meetings are completed.

ACTING PRESIDENT FLANAGAN: The Senate stands at ease.

(Whereupon, the Senate stood at ease at 6:51 p.m.)

(Whereupon, the Senate reconvened at 7:41 p.m.)

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT FLANAGAN: The Senate will come to order.

Senator Libous.

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

ACTING PRESIDENT FLANAGAN: The Secretary will read.

THE SECRETARY: Senator DeFrancisco, from the Committee on Finance, offers the following nomination.

As a trustee of the New York State Power Authority, John S. Dyson, of Millbrook.

ACTING PRESIDENT FLANAGAN: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, I proudly rise to move the nomination of John S. Dyson, of Millbrook, for a trustee of the New York State Power Authority, term to expire in May of 2015.

I would like to state publicly that, number one, this was an incredible nomination by the Governor.

But even more importantly, that a man who has served his country and served the State of New York and the City of New York with such distinction at this time in his life would be willing to come back and give even some more to the State of New York is truly an admirable thing. And we are very, very fortunate that Mr. Dyson is willing to continue to serve at this critical time in New York State history.

And I'm proud to move his nomination and request that, Mr. President, you recognize Senator Maziarz, the chairman of the Energy Committee, to second the nomination.

ACTING PRESIDENT FLANAGAN: Senator Maziarz, on the nomination.

SENATOR MAZIARZ: Thank you very much, Mr. President. Thank you, Senator DeFrancisco. I rise to second this nomination.

I thought it was rather noteworthy that Governor Cuomo, the first nominee that he sent up for confirmation outside of the commissioner level, was a nominee to the board of trustees of the New York Power Authority, and that nominee was Mr. Dyson.

I have to admit to you, Mr. President, I had never met John Dyson, really do not know much about him at all. I know he was very well acquainted with my predecessor here in the Senate, former Senator, late Senator John Daly.

But I do have to say that in meeting personally with Mr. Dyson, he certainly has a great knowledge of energy issues, of issues affecting the New York Power Authority. Mr. Dyson extended every courtesy to myself as chair, to Senator Parker, the ranking member, and to all members of the Energy Committee in meeting with us individually to talk about his background and

his vision for the New York Power Authority.

And I have to say, Mr. President, that Mr. Dyson truly understands, I think, the fact that the Power Authority, although it is a state authority and many times in the executive branch and in the legislative branch is thought of as the statewide entity, that the Power Authority generates almost all of its revenue in really two areas: St. Lawrence County and Niagara County.

And I know that I am joined by my colleagues Senator Griffo and Senator Ritchie in bringing the problems of those two areas, Western New York and the North Country, before Mr. Dyson. He truly understands them even though he lives in downstate New York.

Just this week we saw the census numbers come out, and the areas that had lost the most population were the City of Buffalo and the City of Niagara Falls in Western New York. And they lose population not because it's not a great place to live, not because it's not a great place to raise your family. As I have said many times on the floor of this Senate, in the City of Niagara

Falls -- an area that I do not represent -- but in the City of Niagara Falls there are six elementary schools. In four of those six elementary schools 94 percent, 94 percent of the kids live below the federal poverty level.

These are kids in kindergarten through the sixth grade. They don't choose to live in poverty. They live in poverty for the same reason that the population in Buffalo and Niagara Falls is declining at such a rapid rate, because their parents don't have jobs, because there are not economic opportunities for people to make a decent living in Western New York.

And juxtapose that with the fact that just down the road, just down the road is the largest producer of hydroelectricity in the northeastern United States of America.

And the best use -- and John Dyson understands that the best use, the best way to create economic opportunities and create jobs is by utilizing hydropower.

This is an excellent nominee that the Governor gave to us. I'd have to say if I had just one qualification, John, I wish that

you were from Niagara County, because Niagara County more than anything deserves a seat on the board of trustees of the Power Authority.

But, Mr. President, I think this is an excellent nomination that the Governor made. And I would urge all of my colleagues to join me and the members of the Energy Committee, which unanimously supported this nominee.

Thank you, Mr. President.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Maziarz.

Senator Nozzolio on the nomination.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President and my colleagues, I echo the sentiments and the support given to John Dyson by my colleagues in articulating his strength of character, his service to his state and nation, and that complimenting Governor Cuomo on this nomination. Because it is through this nomination that we'll see a tremendous intersection, an intersection of Mr. Dyson's experience as former agriculture commissioner and commerce commissioner, those

two important elements now sandwiched around energy.

Energy, with agriculture, is key to the development of upstate and particularly Central and Western New York. That agriculture is our number-one industry in this state. It is not given that type of credential enough by state government and by the general public. Many jobs are the result of agriculture. And agri-energy, when we hear about alternative energies, agri-energy is forefront in the support and development of alternative energy.

Mr. Dyson's background and education as first a student at Cornell and most recently as a trustee of that fine university again brings him full circle with agriculture, agriculture research, and having energy now with his responsibilities as chair of the Power Authority to meet that intersection, to grow jobs for our state, to continue to move us forward. And that I look forward to working with Chairman Dyson in this very important capacity.

Thank you, Mr. President.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Nozzolio.

Senator Saland on the nomination.

SENATOR SALAND: Thank you, Mr. President.

I too rise to second the nomination of John Dyson, a gentleman who I've known for decades, as I have his family. I'm proud that he and his family call Dutchess County their home.

I was looking at his bio. And I certainly know a lot about John and his brother Rob as well. And it starts off rather succinctly and says "John Dyson has had a successful career in government, business, vineyard and winery management, and charitable activities." And if ever I saw an understatement, that was truly the understatement of all understatements.

John has the good fortune of not only being a gifted person, a talented person, a person who regardless of what endeavor he has pursued, whatever he does, he manages to do well. Whether it's earning a Bronze Star serving his country during Vietnam, whether it

was as an ag commissioner who started the Grown in New York program or the commissioner of commerce and the I Love New York program.

I don't profess to have but an iota of the knowledge that our colleague Senator Maziarz has about energy issues, nor that Mr. Dyson has about energy issues, but I rest comfortably knowing that he's been there and done that for some six years, both under former Governors Carey and shall I say Cuomo One.

I commend Cuomo Two, Governor Andrew Cuomo, for this appointment. It's a sterling appointment. He has certainly, in the private sector, risen to the top. In the public sector he has risen to the top. And he and his family -- and incidentally, I should mention, I made mention of his brother Rob. We all know how critically important energy is to economic development. Well, his brother Rob, also serving as magnanimously for a lack of compensation, is as John, is on the board of directors of the Empire State Development Corp., also trying to better New York's economic environment, trying to bring his

experience in the business world to people from one end of New York State to another.

But I couldn't rise in support of the nominee without mentioning all the wonderful things that the Dyson Foundation has done over the course of however many years, initially I think first in Dutchess County and then throughout the Hudson Valley, really contributing millions upon millions of dollars to the betterment of the quality of life in a host of different areas, in a host of different venues. Truly a reflection of the selflessness, of the dedication, of the commitment, both morally, financially and intellectually, to the well-being of communities throughout this state and to the betterment of our state.

I thank the Governor for affording us the opportunity to confirm John, and I rest comfortably knowing that he will do a superb job for all of the people of the State of New York and bring all of his extraordinarily capable talents to performing for all of us.

So thank you, John, and I wish you well.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Saland.

Senator Kennedy on the nomination.

SENATOR KENNEDY: Thank you, Mr. President.

I want to stand and congratulate Mr. John Dyson on his nomination and ultimately his confirmation today. I want to thank the chair of the Energy Committee, Senator Maziarz, for affording the committee the opportunity to meet privately with Mr. Dyson prior to the hearing within the Energy Committee for the confirmation there.

It was in this meeting that I got to meet Mr. Dyson for the first time and hear about his history, his expertise, his knowledge and his talents and how he's given of himself to this state, to this world, to his country, having served this country admirably and honorably back in wartime.

And in giving of himself as a public servant, he has served this state. And part of what he discussed with us privately was his dedication to economic development and his acknowledgment of his position as a

trustee within the New York Power Authority and his ability to use his influence to grow jobs.

And it was in his history of working in New York State government where Mr. Dyson came to Western New York, where Dunlop Tire, 2,000 jobs were on the chopping block. He came into Western New York, sat down with the administration of Dunlop Tire years ago, decades ago, sat down with government officials, figured out what was necessary in order to keep 2,000 jobs in Western New York, sustain those jobs and ultimately grow those jobs.

That was decades ago. But unfortunately we across the state, whether in Western New York, upstate New York, New York City or Long Island, are often faced with the same set of circumstances, and we're going to need someone like Mr. John Dyson who gets it on a very grassroots level, who's willing to do the work, who's willing to work with government officials, who's willing to use his influence on the Power Authority to work with whoever it takes to bring jobs and opportunity

to the people of New York State.

I commend you on your history, on your talents, on your resume, and on your confirmation. And I'm proud and honored to vote in the affirmative today.

Thank you.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Kennedy.

Senator Seward on the nomination.

SENATOR SEWARD: Yes, thank you, Mr. President.

I am very pleased to join my colleagues in rising and congratulating the Governor on this outstanding nomination of the John Dyson to be a trustee of the New York State Power Authority and to be among those who are welcoming John Dyson back to state service.

Without question, the New York State Power Authority is a tremendous asset for the people of the State of New York, helping us with the full spectrum of energy-related services, from the generation of electricity on one end to the actual conservation and energy efficiency programs on

the other, all very important to the people of our state.

As others have pointed out, and we cannot say it enough, the Power Authority is a real key to our economic development job creation initiatives as a state. And with John Dyson's involvement at the Power Authority, that's going to mean some good things, not only for the authority, but it will mean good things for our economic development and job creation future here in the State of New York.

Schoharie County in the 51st Senatorial District is the proud home of the Blenheim-Gilboa Generating Facility. Nowhere near on the scale of Niagara Falls, but still, to those of us in Schoharie County, we're very proud to have that facility. It is important, makes an important contribution to the Power Authority. But also the fact that it is in that rural county, that makes a very significant contribution to our local economy.

So we're very, very pleased with this nomination. I'm very pleased to stand to support the confirmation of John Dyson as a

trustee of the New York Power Authority.

Thank you, Mr. President.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Seward.

Senator Perkins on the nomination.

SENATOR PERKINS: Thank you very much.

I'm not going to be able to support this nomination. I know that this individual has some commendable credentials with regard to the appointment. However, there's some history that I'm familiar with in terms of when he was with New York City, under the Giuliani administration, some very racially insensitive and inflammatory instances in which he was a part of.

And so at this point I'm not going to be voting for this nomination. Thank you. I vote no -- nay.

ACTING PRESIDENT FLANAGAN: Senator Perkins, thank you.

Senator Oppenheimer on the nomination.

SENATOR OPPENHEIMER: Well, I'm very enthusiastic about the nomination. And

like many of us here who have been serving for quite a while, we have voted for John Dyson on many, many times, many opportunities. And he has always fulfilled the work that he has to do for New York State to the best of his ability, which is far and away better ability than most people.

So for his dedication and for the fact that he is willing to come back and serve once again, after having served so many times, I think it is quite a remarkable commitment to public service.

And also John has said that he is willing to work to look at the Indian point nuclear power plant and to discuss and look for alternative energies, clean energies of solar and wind and water. And these are very important to us. Ever since the Fukushima plant problem in Japan, and because of our concern about what has happened there, we are really serious in trying to look at alternatives for the plant that exists now.

So my thanks to him for his interest in this and also in the interest of conservation, which is very dear to my heart,

and for his willingness to commit again, yet again to service to New York State. Thank you.

ACTING PRESIDENT FLANAGAN: Senator Diaz on the nomination.

SENATOR DIAZ: Thank you, sir.

I rise to support -- not to support, to join my colleague from Harlem, Senator Perkins, when he referred to some comments made by Mr. Dyson sometime ago. But Mr. McCauley {ph} didn't mention what was those comments. And I would like to refresh your memories.

In 1994, during a dispute between then-Comptroller Alan Hevesi and Mr. Dyson about the rehiring of a company owned by a black woman, Mr. Dyson said the comptroller ought to know the difference between a bid and a watermelon.

In another comment, another time, after a newspaper article asked Mr. Giuliani and his chief of staff Peter Powers if they were capable of governing a diverse city, Mr. Dyson wrote in a memo to Mr. Powers that don't worry, "Do not worry, two white guys

have been running this city of immigrants for over 200 years."

At another point, after the administration held a cabinet meeting in Staten Island, Mr. Dyson said, suggested that a similar cabinet meeting was unlikely to happen in Harlem.

He's a great guy, and he has a great knowledge on energy. I hope that now he has better knowledge and sensibility in humanity. And that he said that Governor Paterson asked him to serve. And people are saying that he's the great guy that's going to save our state.

I hope that happens. But I have to join my colleague Senator Perkins from Harlem in voting no. Thank you.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Diaz.

Senator Marcellino on the nomination.

SENATOR MARCELLINO: I waive.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Marcellino.

The question is on the nomination

of John S. Dyson as a trustee of the Power Authority of the State of New York. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT FLANAGAN: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT FLANAGAN: Mr. Dyson is hereby confirmed as a trustee for the Power Authority of the State of New York.

Mr. Dyson, congratulations.

(Applause.)

ACTING PRESIDENT FLANAGAN: Senator Libous.

SENATOR LIBOUS: Mr. President, could we at this time take up the noncontroversial reading of the calendar, please.

ACTING PRESIDENT FLANAGAN: The Secretary will read.

THE SECRETARY: Calendar Number 72, by Senator Bonacic, Senate Print 2769B, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT FLANAGAN: Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 140, by Senator Ball, Senate Print 1074, an act to amend the Penal Law.

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT FLANAGAN: The bill is laid aside.

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

SENATOR LIBOUS: Thank you, Mr. President.

Could we now have the controversial reading of the calendar, please.

ACTING PRESIDENT FLANAGAN: The Secretary will read.

THE SECRETARY: Calendar Number 140, by Senator Ball, Senate Print 1074, an act to amend the Penal Law.

SENATOR LIZ KRUEGER:

Explanation.

ACTING PRESIDENT FLANAGAN: An explanation has been asked for by Senator Liz Krueger.

Senator Ball.

SENATOR BALL: This bill would amend the Penal Law to create a new crime of the unlawful defilement of a water supply. A person would be guilty of this crime if they intentionally or recklessly placed a defiling agent into a water supply with the intent to cause sickness, physical injury, severe disfigurement or death to another human being.

ACTING PRESIDENT FLANAGAN: Senator Krueger, why do you rise?

SENATOR LIZ KRUEGER: Thank you. If the sponsor would please yield to a question.

ACTING PRESIDENT FLANAGAN: Senator Ball, will you yield to Senator Krueger?

SENATOR BALL: Absolutely.

ACTING PRESIDENT FLANAGAN: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

So as I read the bill, if anyone were illegally to defile our water supply through personal action or through violating laws in their business activity, that this law would in fact now apply to them under criminal law; is that correct?

SENATOR BALL: Mr. President, as -- you say as you would read. So a person is guilty of unlawful -- and I'll just read directly, as you did. A person is guilty of unlawful defilement of a water supply when he intentionally -- when he or she intentionally introduces, places or causes to be introduced or placed into a water supply a defiling agent.

Now, a defiling agent is defined. and it means any chemical, biological or radioactive agent or substance which is capable, when introduced or placed into a water supply, of causing the sickness, physical injury, severe disfigurement or death of a human being. Introduced or placed into a water supply a defiling agent with the intent

to cause the sickness, physical injury, severe disfigurement or death of another human being, or with the reckless disregard of causing the sickness, physical injury, severe disfigurement or death of another human being.

So it's either intentionally introduced or with a reckless disregard.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

On the bill.

ACTING PRESIDENT FLANAGAN: Senator Krueger on the bill.

SENATOR LIZ KRUEGER: Thank you.

I want to thank the Senator for his explanation and tell him I am a big supporter of his bill. I read this bill first when it came through committee, and I thought, oh, finally criminal penalties for companies who knowingly pollute our water.

And I've gone through, and I have a pile of cases where we've been able to go after corporations for intentionally and illegally dumping hazardous pollutants in our water system. But so far, it seems, we mostly have been able to go after them under civil

fines and perhaps get a money judgment and perhaps force them to clean up.

But with Senator Ball's bill -- and I hope it becomes law very soon -- there will be an opportunity to make it clear that when firms knowingly violate our clean water laws and pollute our water systems and our wells and our groundwater and our reservoirs through knowingly violating our law and knowing that what they will be illegally dumping -- and again, there's almost endless cases on illegal dumping -- that they now can face, or they will, when we pass this law, in fact also face criminal penalties.

And I think that will go a long way towards discouraging companies and the individuals who work for them from casually dumping illegal chemicals and products in our water system. So I'm very happy we're passing this bill tonight and certainly encourage all of my colleagues to vote yes.

Thank you, Mr. President.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Krueger.

Is there any other Senator wishing

to be heard?

Hearing none, the debate is closed.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT FLANAGAN: Senator DeFrancisco to explain his vote.

SENATOR DeFRANCISCO: Yes, I'm going to vote yes, but I wanted to clarify a part of the bill, in view of the legislative debate, to show the true legislative intent here.

First of all, a defiling agent, according to the bill, does not include a substance introduced by an agricultural or industrial entity as a result of the ordinary lawful operation. So that's got to be clear.

And most importantly, unlawful defilement is the defilement of the water supply when someone intentionally introduces,

et cetera, et cetera, with intent to cause the sickness, physical injury, severe disfigurement or death of another person.

This is an intentional act to cause serious physical injury or death. It's not just anyone through normal operations with no intent. Those types of individuals or organizations cannot be found guilty under this bill. And I just want to clarify that.

For those reasons, I vote yes.

ACTING PRESIDENT FLANAGAN: Thank you, Senator DeFrancisco. Senator DeFrancisco will be recorded in the affirmative.

Senator Ball to explain his vote.

SENATOR BALL: I want to thank my colleague Senator Krueger and ask that she join my efforts and lobbying to make sure that this actually gets out of committee in the New York State Assembly.

I would just like to underline the fact that this is indeed a homeland security bill. I appreciate all my colleagues from both sides of the aisle supporting this legislation whatever the perspective may be.

You know, it was I think in the

6th century in Greece, which is -- some of us may have been here; most of us were not -- when the very first days -- nobody take offense to that -- the very first days of terrorism started. And in Greece you actually had individuals outside of a traditional army who would poison the wells of those who they hoped to hurt. And using untraditional means, they were able to defile those water supplies.

And it's taken this long for the New York State Legislature to amend that. But this is a very serious issue. The water that is in my county ends up in much of your drinking water in New York City. And I'll tell you what, those reservoirs, many of the people who I know fish on those reservoirs, there are people who drive by those reservoirs every single day. And you want to make sure that law enforcement has a double set of eyes on your drinking water. Because remember in the days of Katrina how it only took a few hours to bring massive havoc when there was a lack of a supply for clean drinking water.

And just the question of whether your drinking water is tainted could bring

massive havoc from a homeland security perspective to many of the neighborhoods in which you live in New York City and beyond.

And on the cusp of being nearly 10 years outside 9/11, the fact that not only since Greece -- since 9/11, and the sixth century in Greece -- but since 9/11 that we have not addressed this issue, I ask that Senator Krueger join with me and make sure that the Assembly follows suit.

Thank you. And I'll be voting, of course, in the affirmative.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Ball. Senator Ball to be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 140, those absent from voting are Senators Huntley and Smith.

Ayes, 60.

ACTING PRESIDENT FLANAGAN: The bill is passed.

Senator Libous, that --

SENATOR LIBOUS: Mr. President,

can we go back to the reports of standing committees, please.

ACTING PRESIDENT FLANAGAN: -- completes the reading of the controversial calendar.

SENATOR LIBOUS: I believe there's a report of the Rules Committee at the desk.

ACTING PRESIDENT FLANAGAN: Senator Libous, there is.

The Secretary will read.

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

Senate resolution amending Rules VI and VII of the Senate rules, in relation to committees.

SENATOR LIBOUS: Mr. President, I move that we accept the Rules report.

ACTING PRESIDENT FLANAGAN: Move to accept the Rules report. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT FLANAGAN: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT FLANAGAN: The Rules report is adopted.

Senator Libous.

SENATOR LIBOUS: Is there any further business at the desk?

ACTING PRESIDENT FLANAGAN: Senator Libous, there is --

SENATOR LIBOUS: Mr. President, I got ahead of myself.

There's a privileged resolution at the desk. I ask that it be read, its title read and we adopt it.

ACTING PRESIDENT FLANAGAN: The Secretary will read.

THE SECRETARY: Senate resolution by Senator Skelos, amending Rules VI and VII of the Senate rules, in relation to committees.

ACTING PRESIDENT FLANAGAN: Senator Squadron.

SENATOR SQUADRON: Mr. President, I object to this resolution and would like to debate it. I was wondering if Senator Libous, on behalf of Senator Skelos, would yield to a

couple of questions.

SENATOR LIBOUS: Sure, Mr. President.

ACTING PRESIDENT FLANAGAN: Senator Libous, will you yield to Senator Squadron?

SENATOR LIBOUS: I will. I will.

SENATOR SQUADRON: Thank you very much. And I do know the hour is late, the night is dark. In fact, we maybe having this debate under the dark of night, one could say. And I appreciate that.

So, Senator Libous, I just would like to know, do you know when this resolution was furnished to the Minority Leader pursuant to Rule VI, Section 9A?

SENATOR LIBOUS: Well, that rule doesn't pertain to this resolution.

But I could tell you that it was probably given to the Minority Leader this afternoon. Through you, Mr. President.

SENATOR SQUADRON: Through you, Mr. President, Rule --

ACTING PRESIDENT FLANAGAN: Senator Squadron, are you asking Senator

Libous to continue to yield?

SENATOR SQUADRON: Yes, please, Mr. President.

ACTING PRESIDENT FLANAGAN: Senator Libous, will you continue to yield?

SENATOR LIBOUS: I will, Mr. President.

ACTING PRESIDENT FLANAGAN: Thank you.

Senator Squadron.

SENATOR SQUADRON: Thank you, Mr. President. Through you.

Rule VI, Section 9A is simply the rule that creates some standard for resolutions so that they don't get driven through this house without consideration. It says that you need 48 hours notice for the Minority Leader and the Majority Leader.

Senator Libous suggested that that doesn't apply here. And I would wonder, relative to Rule XI, Section 1, which says that all resolutions that change the Senate rules need to be introduced, how it could possibly be that a simple 48-hour notice, when you're talking about something as important as

the Senate rules, doesn't apply.

SENATOR LIBOUS: Mr. President, through you, we believe that it doesn't apply.

And, Mr. President, I can go back and use precedent when they were in charge, Mr. President. And if I could relate an example, on July 9th of '09, Senator Sampson referred to Rules a rules change. On the same day, it was reported, and on the same day, Mr. President, it was adopted.

That rules change at the time separated the positions, I believe, of Temporary President and Majority Leader. But it was done when they were in charge. It was a procedural change, it was a rule change, all done the same day, just like this. Therefore, we believe that what we're doing is absolutely right.

SENATOR SQUADRON: Thank you, Mr. President. On the resolution at the moment. And I thank Senator Libous for that.

As Senator Libous probably remembers about the example --

ACTING PRESIDENT FLANAGAN: Excuse me, Senator Squadron, are you asking

Senator Libous to continue to yield?

SENATOR SQUADRON: On the resolution. No, sorry, Mr. President, on the resolution.

ACTING PRESIDENT FLANAGAN: On the resolution.

SENATOR SQUADRON: Thank you.

As Senator Libous probably -- may or may not recall, that was at the end of the so-called coup that shut down this Senate for over a month. It was truly extraordinary circumstances. And those rules, in fact, had been negotiated and agreed upon by both the majority and minority at the time. So it's a vastly different situation than the one that we're talking about here.

The situation here is very simple. Here, on this very busy week, when we have incredibly important business before us in this house, we have one of the toughest budgets that hopefully any of us will ever see that has just been hopefully finally negotiated, that's going to be facing this house. Everyone's focused in this state, 19.3 million New Yorkers or more, are focused

on getting this budget done. And in that moment, 10 minutes before we were supposed to come into session, something that changes the rules, changes the operations of the house was presented in contradiction to the current Senate rules and in contradiction to good faith, to transparency.

So the 2009 example certainly reminds us of some of the darkest days in the Senate's history. I think that repeating those days this week, when we should be working together to focus on this budget -- some of us will support it, some of us will have questions about it -- is really a mistake. And I think it's exactly the example of why this is so problematic.

None of us want to be here at 8:20 at night under the dark of night, as I said, talking about Senate rules. We want to be here talking about a budget that affects New Yorkers every day. And unfortunately, that's not possible. Unfortunately, we're forced into this situation and harken back to some of the darkest days, certainly the darkest days that this Senate has seen in a

long, long time.

Look. This resolution, Mr. President, is clearly in contradiction to the Senate rules. The idea that this is somehow a privileged resolution means that there are no rules when it comes to a resolution the Majority wants to put forward, and that is a huge problem.

In fact, there's an entire section of our rules that are set up to protect against this. Rule XI, Section A -- Section 1, excuse me, is very, very, very clear. Changes to the Senate rules need to be done very carefully. They need a memo or a description. I don't know if this typewritten document on the back of the voting sheet counts as a memo or a summary or it follows the rules here explaining the justification.

It clearly doesn't. The idea of a 10-minute notice certainly doesn't. The idea of doing this at a moment when we have $132 billion budget just waiting to get done, the idea of a rule change at that moment certainly does not keep with the spirit of the Senate rules. And that is an enormous

problem, Mr. President.

Now, look, when you look at the rules themselves -- and again, I'm glad Senator Libous talked about some of the historic rules changes that came out of that darkest day in the Senate in the 2009. These rules changed some of that.

And through you, Mr. President, I would request Senator Libous to yield for a couple more questions on this resolution.

ACTING PRESIDENT FLANAGAN: Senator Libous, will you yield to Senator Squadron?

SENATOR LIBOUS: I will, Mr. President.

ACTING PRESIDENT FLANAGAN: Senator Squadron.

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

Senator Libous, as you know, this rules resolution that we're debating here tonight amends Rule VI, Section 1, paragraph C. Is that right, Senator Libous?

SENATOR LIBOUS: If that's what the resolution says, Mr. President, that's

what it does.

SENATOR SQUADRON: Thank you.

Through you, Mr. President, will Senator Squadron continue to yield.

ACTING PRESIDENT FLANAGAN: Senator Libous, will you continue to yield?

SENATOR LIBOUS: I will, Mr. President.

ACTING PRESIDENT FLANAGAN: Senator Squadron.

SENATOR SQUADRON: Thank you very much.

The rule I just referenced, Mr. President, talks about the proportional membership of Senate committees and the fact that Senate committees should be proportional to the partisan divide in the house. I would like to ask Senator Libous, do you remember how that rule came about and when it came about?

SENATOR LIBOUS: I believe, Mr. President, it came about sometime after that famous day in June. Or maybe it was even July.

SENATOR SQUADRON: Thank you very

much.

Would Senator Libous continue to yield?

ACTING PRESIDENT FLANAGAN: Senator Libous.

SENATOR LIBOUS: I will, sir.

ACTING PRESIDENT FLANAGAN: Senator Squadron.

SENATOR SQUADRON: Thank you.

And my recollection is that that proportional representation was about making sure that both parties would be represented in every committee, committees do such important work, in the same way they are here on the Senate floor, and that there would be some equity to that.

Senator Libous, the rules amendment here, do you know what it does to that proportional representation that, out of those dark days, we codified in the rules?

SENATOR LIBOUS: Actually, Mr. President, I do. And it makes it very similar to what it was last year when they were in charge.

SENATOR SQUADRON: Would Senator

Libous continue to yield?

ACTING PRESIDENT FLANAGAN: Senator Libous, will you continue to yield?

SENATOR LIBOUS: My pleasure, Mr. President.

ACTING PRESIDENT FLANAGAN: Senator Squadron.

SENATOR SQUADRON: Would Senator Libous please explain that statement.

SENATOR LIBOUS: Mr. President, I believe when the Democrats were in charge they had 14 members on Rules, we had 10. I believe they had 19 on Finance; we had 14.

Now, we understood when they were in charge, Mr. President, that they controlled the agenda and that the makeup of the committee didn't matter because they still had more Democrats than Republicans. Therefore, the makeup of the committee was still in their favor.

Nothing has changed here. We add two members to Finance, one in Rules. The makeup of the committee is still -- we as the majority party still have more members because we're in the majority. And if you look at the

breakout, as I said, they had 14 members on Rules; we had 10. They had 19 members on Finance; we had 14.

To the Senator's point, I -- I'm missing it.

SENATOR SQUADRON: Thank you. Through you, Mr. President, to respond to that before I ask Senator Libous to yield again.

Clearly these rules take what was a proportional representation and for the majority party say, in terms of the two what are often considered the two most important committees here, it's proportional plus 5 percent. So those numbers, it seems to me, would not suggest what I would like to ask Senator Libous to yield again to.

ACTING PRESIDENT FLANAGAN: Senator Squadron, are you asking Senator Libous that question? Or are you commenting and now asking him to yield?

SENATOR SQUADRON: I am commenting and now asking him to yield.

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

SENATOR LIBOUS: I'd be happy to yield, Mr. President.

ACTING PRESIDENT FLANAGAN: Senator Squadron.

SENATOR SQUADRON: Thank you very much.

Just to be clear, the effect of this rules change is to increase the proportion of majority members on the Senate Rules and the Senate Finance Committee beyond the proportional representation in the house.

SENATOR LIBOUS: No, Mr. President, that's not what it does. What it does, it brings us pretty much to parity to what they had when they were in the majority. That's how I read the numbers.

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

I think that when Senator Libous says that it does not do what I suggested, which is increase the majority representation beyond the proportional representation of the house on the Rules and the Finance Committee, that simply isn't accurate. I wish it were, but it's not. It clearly does. It increases

beyond the proportional representation of the house by 5 percent.

Now, that's particularly insidious here because the rule and the practice is that anything over a whole number, you get to 50.01 percent, that's an additional percent. You get to 55.01 percent, that's an additional person. So the effect of this is very clear. It disempowers the minority members, disenfranchises their constituents on the Senate Rules and the Senate Finance Committee.

Because in the case of the Senate Finance Committee, it's going to be -- let me just make sure I get it right. In the Senate Finance Committee you're going to have two additional majority members, just like that, thanks to this rule that we've now been considering, we've now been aware of for less than three hours.

In the Senate Rules Committee, you're going to have one additional majority member. In both cases, you're going to see a supermajority for the majority party and increasing difficulty for the minority party in standing up.

And that's a real problem. And it undoes the improvements that were made in the last term. It undoes the improvements that many members of this house, the majority, voted for earlier this year. And it does it in this most important of weeks when we should be talking about issues much less arcane and much more significant.

And so, you know, I think that it's simply not accurate to say that it doesn't change the proportion. It definitively does.

It does something else very disturbing, and that is it gives the counsels in the Majority Conference the power to decide who sits and has voting rights on a committee. Now, this is completely and absolutely unprecedented, the idea that rather than committee memberships being passed up, as we've done many times this year, instead you can now swap out committee members on the Rules Committee. If anyone has an excused absence, the counsel for the majority is able to decide "I would like someone else on that committee" or "I refuse to have someone else on that committee."

The idea that not even on the Senate floor you would be able to have someone who is not elected, who does not engage -- is on the Senate floor decide who is a voting member on the Rules Committee and the Finance Committee is truly shocking.

Later this week we are going to have, going through the Finance Committee, budget bills, budget bills totaling, as I said earlier, $132 billion, one of the most difficult budgets in the history of this state. If this rule is in effect, then the voting membership of the committee is going to be decided by an unelected counsel to the Senate Majority.

That, as I say, is unprecedented and is a disturbing slippage -- not back to the bad old days before the rules reform of last term, but a slippage to a place we have never been before as a house. Whether you're minority party or majority party, I think we can all agree that the idea of taking the power of committee membership, taking the power of who votes on the Finance Committee, on the Rules Committee, on any committee,

outside of this body to someone who is unelected is something that none of us can feel comfortable with.

So, look, I know the partisan games. I know that we're coming on 8:30 here at night the week the budget is due. I know that most folks, if they're watching, are wondering why it is we could possibly be talking about this instead of talking about the state budget. And I agree with them. I am sympathetic to them.

But we have this rules resolution before us. We shouldn't. We should have had 48 hours to consider it, we should have had a much more thorough description of it, all pursuant to the current rules. But here we are, and we have it before us. I would urge every member of this house, on the basis of not losing the progress that we made last year, that did not go back, did not slip back at the beginning of this year, and on the basis of not, for the first time ever, putting significant power outside of the elected body, outside of our constituents, and into an unelected member, I would urge every member of

this house -- Majority, Minority -- to rise above politics, rise above this dark of night, rise above this, to quote my colleague Senator Ball, poisoning of the well of these rules, and together vote against these rules.

Let's have some time to discuss them and consider them. I am sure that, when considered, the Majority will not feel comfortable with this idea that an unelected person decides who has voting power. Perhaps that 48-hour consideration period will fix that problem. And perhaps it will, as well, give us an opportunity to have a proportional representation so that we're not disempowering the constituents who are represented by Minority members of this Senate. We did that for a long time in this Senate. We've started to make improvements. Let's not tonight, in this most important of weeks, slip back.

I look forward to working with many of the members who have stood up for rules changes, hopefully will vote with us tonight. And hopefully if these rules do come back before us, they will come back in a much fairer form and a form that respects the

intrinsic importance of elected members of this house deciding who the voting members are on our committees.

So with that I will vote no, Mr. President. Thank you.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Squadron.

Senator Libous on the resolution.

SENATOR LIBOUS: Thank you, Mr. President.

In all due respect to my colleague Senator Squadron, I really think you're reading this wrong. Nobody is diminishing representation on the committee. If anything, we're going to parity. We're doing what you did. We're going to the same spread on the committees that you did. And the numbers are in the book. It's published. And, Senator, I'd be happy to provide you with that later on.

And just on the other issue about the resolution and late at night and it's been six hours, I found two other examples when you were in the majority, both resolutions by Senator Smith. Reported to Rules on the 15th

of July, reported to the floor on the 15th of July and adopted. Senate resolution amending the rules of the Senate.

On the same day, July 15, '09, reported to Rules. July 15, '09, reported to the floor. July 15, '09, adopted.

So, Mr. President, this has been a practice that this body has done for a long time. It's obvious that our colleagues from the other side of the aisle, when they were in charge, did it the same way we're doing it. These are the same rules. We are not looking to take anything away from anybody. It's all documented. It's in the Senate minutes.

And the breakouts are there. Again, last year they had 19 members on Finance, two more Democrats than Republicans. That's what we're doing here. They had 14 members on Rules, one more voting member. Just like we're doing here.

So, Mr. President, there's no special movement at 8:30 at night, there's no secret stealth thing here. This is pretty simple. This is the way we've been functioning.

As far as the way Senator Squadron, Mr. President, is interpreting the rule, certainly the counsel has to be notified. Counsels talk all the time. But at the end of the day, it's Senator Sampson and Senator Skelos who are going to make the final determinations on who he wants to substitute in the Minority on a committee or who Senator Skelos wants to substitute. It's not the counsels that make those decisions. We all know the members make those decisions and the leaders make those decisions.

And so, Mr. President, I would just like to move this resolution right now because I think it is pretty clear in what it does.

ACTING PRESIDENT FLANAGAN: Senator Libous, the question is on the resolution.

Senator Krueger, why do you rise?

SENATOR LIZ KRUEGER: Thank you.

Will the sponsor please yield to an additional question?

ACTING PRESIDENT FLANAGAN: Senator Libous, would you yield to a question from Senator Krueger?

SENATOR LIBOUS: I will, Mr. President, I'm sorry.

ACTING PRESIDENT FLANAGAN: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

So the first section of the rules change, Section VI, budget bills, the underlined new language is "Budget bills may be reported from the Finance Committee direct to the Third Reading Calendar."

I distinctly remember a week or two ago, when we objected to moving from Finance to third reading because you needed a unanimous consent or needed to move a bill through Rules, we were told by a ruling of the chair that the existing rules allowed a budget bill to be moved from Finance to the Third Reading Calendar.

Senator Libous, why, since we had that ruling of the chair either one or two weeks ago, would we need to change the rule tonight?

SENATOR LIBOUS: Mr. President, I'd be happy to answer that.

Because, as I explained on the

floor, Mr. President, about a week ago or whenever that took place, for the past number of years when we were in the majority, it was always the Republicans' policy to report a budget bill from the Senate Finance Committee to the floor. For whatever reason, when the Democrats were in charge, they changed that policy and they reported it from Finance to Rules and to the floor. They believe they're right, we believe we're right. That's everybody's respectful right to disagree.

So what we're doing here, since I think within the next 24 hours a number of major budget bills are going to come to the floor, and because we think it's important to get those bills passed before midnight on Thursday, and because we believe we were always right, we're codifying the rule.

And I don't think there's anything wrong in codifying the rule, making it a matter of fact. Because, Mr. President, I would guess if we didn't and we continued to do it the way we believe is right, my guess is the other side of the aisle might challenge us.

SENATOR LIZ KRUEGER: Thank you, Mr. President. On the resolution.

ACTING PRESIDENT FLANAGAN: Senator Krueger on the resolution.

SENATOR LIZ KRUEGER: Thank you.

First off, since you didn't need the rule change last week but you need the rule change this week -- suddenly, urgently, with no notice to anyone that they're doing these rules tonight -- I would actually question the sincerity of the argument for codifying as opposed to actually changing the rules. We are changing the rules. We're skipping a process for budget bills.

Budget bills are the most important legislation we do here in the Legislature each year. Budget bills should be publicly available, easy to understand, transparent. They should not be done by skipping the process. The process is critical for budget bills. So for the record, budget bills should have to move from Finance to either a third reading, a unanimous consent, or the Rules Committee. We have three options available to us. And this rule change is intended to skip

that public process.

Second off, I have to disagree with my colleague's response to Senator Squadron's questioning. These weren't the numbers, as referenced by Senator Libous. Actually, we looked and when the Democrats had the Senate prior to the coup, it was 18 Democrats, 15 Republicans, the ratio -- I'm sorry, and after the coup, excuse me.

And so there's a logic to having a weighted number of Democrats and Republicans on committees. In fact, those rules were negotiated, negotiated between the Republicans and the Democrats. July 9th and July 15th, the two dates referenced, those were negotiated changes because of the recognition during the coup that the rules were not in everybody's best interest.

So when I hear my colleagues here tonight say we need to change the rules to pre-coup, I have to say I don't think that's a very good idea for any of us. And in fact I've heard many of my colleagues from both sides of the aisle speak about why the coup might have happened.

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

SENATOR LIBOUS: Would Senator Krueger yield for a question?

ACTING PRESIDENT FLANAGAN: Senator Krueger, will you yield to Senator Libous?

SENATOR LIZ KRUEGER: Let me just finish the sentence and I'll be happy to yield.

SENATOR LIBOUS: Thank you, Mr. President.

SENATOR LIZ KRUEGER: Thank you.

So again, when I hear my colleagues talk about wanting to go back to pre-coup rules, it gives me pause and I think it should give all of us pause. Because this has been a process where each time we've changed the rules in the last few years, and we've done it now several times, we've all talked about wanting to move forward, we've talked about wanting to get more things on the agenda for improved rules for the Senate. And I see this as a giant step backwards.

And now I'm happy to yield to

Senator Libous.

ACTING PRESIDENT FLANAGAN: Senator Libous, Senator Krueger will yield to a question.

SENATOR LIBOUS: Thank you, Mr. President.

Senator Krueger, are you familiar with a document that was put out by your side of the aisle, Senator Smith, it was April 1, 2009, to March 31, 2010, it was the Fiscal Committees' Executive Budget?

SENATOR LIZ KRUEGER: I don't have it memorized. I'm sure that that is true, and I'm sure if I took a look at it I could remind myself of the details. But please, Senator Libous, continue.

SENATOR LIBOUS: Well, I just -- for the record, Mr. President, it shows in that document 19 Democrats and 14 Republicans on the Senate Finance Committee.

I have another document here which is the actual record of the Senate. And in all due respect to my colleague, Mr. President, on January 11, 2010, it shows 19 Democrats and 14 Republicans on the Finance

Committee and 14 Democrats on Rules and 10 Republicans.

So I certainly understand that possibly Senator Krueger's numbers are a little mixed up. But I'm referencing official documents of the Senate.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Libous.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

Responding to Senator Libous, I will be happy to take a look at the report. Looking at the Legislative Digest for 2010, it's 18/15.

But again, to clarify the change, that was made post-coup. So I did misspeak and correct myself earlier about pre- and post-coup.

Again, post-coup, I think we made some progress. I'm very disturbed to see us going back to pre-coup rules, taking a step backwards at this time both in skipping an important procedural step for moving budget bills -- again, Senator Libous is absolutely right. The Republicans have the majority.

That is established in each committee. It is established by what bills come to the floor. It is established by what agenda gets moved.

I really don't understand why tonight, before we do the budget, having a majority isn't apparently enough, we need to plus 5 percent on the two most critical committees of the State Senate.

I also don't quite understand why we have a model or we're proposing a model where you get to swap in and out your members in these two key committees with an hour's notice. I don't think I have ever heard of any process for establishing legislative committees or the important role of legislative committees where you just move the members on and off with an hour's notice, perhaps because somebody hasn't shown up in time. I think that is fundamentally a dangerous procedure for a legislative body to follow, sort of musical chairs to make sure you have the chairs filled in two committees at any given time.

And again, to point out the role of the Majority counsel in accepting changes in

the Finance and Rules Committee, conceivably that means the Majority counsel can reject the change in the Finance and Rules Committee. And that is, granted, a decision for my colleagues on the other side of the aisle. But I think we all talk quite a bit in this place about sometimes having too many staff-driven decisions as opposed to the elected driven decisions.

And to note several times now in the Rules Committee this year, when Senator Breslin attempted to follow the rules of this house and move a petition to move a bill for a hearing, we were told that the chair of the committee, Senator Libous, couldn't accept or reject the petition to move a bill to a public hearing, it was the clerk of the committee. And I've argued before and I'll argue again that's not supposed to be the model, that legislators get overridden by counsels or clerks.

So I think all of these changes in the Senate rules are going in the wrong direction. They are not in the best interests of democracy, small-D democracy. One has to

raise the question why they are popping up tonight with no notice and no opportunity for anyone other than those of us standing here tonight and sitting here tonight to really review or even ask questions about why these rule changes must be done tonight. I'm urging every member to vote no.

Thank you, Mr. President.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Krueger.

Senator DeFrancisco on the resolution.

SENATOR DeFRANCISCO: I think we've had enough. Thank you.

ACTING PRESIDENT FLANAGAN: Thank you, Senator DeFrancisco.

Senator Skelos on the resolution. Senator Skelos.

SENATOR SKELOS: Would Senator Squadron yield for a question?

SENATOR SQUADRON: Absolutely, Mr. President.

SENATOR SKELOS: Senator Squadron, right now in the Senate, how many Democrats have chairmanships of committees?

SENATOR SQUADRON: Through you, Mr. President, I am less familiar with the makeup of the Senate than the leader is, so I would defer back to him.

SENATOR SKELOS: So we have three Democrats and a chairman of a legislative commission, so we have four Democrats in leadership positions that we've appointed. Is that correct?

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

SENATOR SKELOS: On the joint conference committees, where they're normally Republican-Democrat appointments, how many Democrats have been appointed by the Republican side to be on joint conference committees as one of our appointments?

SENATOR SQUADRON: Through you, Mr. President, I believe the same Democrats.

SENATOR SKELOS: Four. Do you recall how many Republicans when we were in the minority were appointed to joint conference committees by the then-Democrat majority?

SENATOR SQUADRON: Through you,

Mr. President, I don't. I believe the number is none.

SENATOR SKELOS: Now, let me ask you, how do you define proportional representation?

SENATOR SQUADRON: Through you, Mr. President, I wouldn't deign to define proportional representation, I would refer to the current rules to do so. In -- I believe it's Rule VI, Section 1, paragraph C.

SENATOR SKELOS: So again, how would you define it? Would it be 32 Republicans, 30 Democrats? Or would it be 32 Republicans, 26 Democrats, and four independent Democrats?

SENATOR SQUADRON: Through you, Mr. President, as we discussed quite a bit at the beginning of this session, both on and off this floor, there really is no process. I believe we in fact had this debate around the adoption of the rules. There is no process for anything other than two conferences.

SENATOR SKELOS: So we couldn't --

SENATOR SQUADRON: So based on

that I would say 30/32.

SENATOR SKELOS: -- proportional representation and through the Majority Leader, because appointments are made in consultation to make sure that all are represented well, technically the Majority Leader could appoint four from the Independent Democrat Conference to these committees.

SENATOR SQUADRON: Through you, Mr. President, in order to ensure that both conferences are represented well, I would very respectfully -- and I appreciate the opportunity to have this conversation with Senator Skelos on the floor, but I would respectfully suggest that any time that the majority is deciding what fair representation for the minority is isn't fair by its very nature.

So certainly the points that Senator Skelos made are accurate and reflect there are four Democrats in the position Senator Skelos said. Those same four Democrats had roles on the conference committees appointed by Senator Skelos.

The truth is that real

representation for a minority really must come through the minority leader, because otherwise there are all sorts of risks. And in fact we had this very debate on this floor at the beginning of the session when we talked about some of the risk of having multiple conferences and having the majority decide which minority members get representation.

The real concern here tonight, Mr. President, has to do with the makeup of these committees, though I'm certain in a week as serious and important as this one we're not going to see games or any such thing in terms of the committees. The issue is the change of the rules, the way the change of the rules is happening, the permanence of it, the slippage back to a time when this Senate wasn't as fair to the majority/minority parties, and an unprecedented empowerment of someone who's not elected to the Senate at all to accept or reject voting members of these committees.

So, you know, I don't think that it is up to the majority to decide what's fair for the minority or, equally, for the minority to decide what's fair for the majority.

That's why we have two conferences and two conference leaders.

Thank you, Mr. President.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Squadron.

The question is on the adoption of the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT FLANAGAN: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT FLANAGAN: Senator Breslin.

SENATOR BRESLIN: Mr. President, can we have a show of hands, please.

ACTING PRESIDENT FLANAGAN: Those wishing to be in the negative please raise your hands.

(There was a show of hands.)

ACTING PRESIDENT FLANAGAN: The Secretary will announce the results.

THE SECRETARY: Ayes, 35. Nays, 23.

ACTING PRESIDENT FLANAGAN: The

resolution is adopted.

Senator Libous.

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

ACTING PRESIDENT FLANAGAN: There is no further business, Senator Libous.

SENATOR LIBOUS: Mr. President, I hand up the follow committee assignment by Senator Skelos and ask that it be filed.

Mr. President, have we adjourned?

ACTING PRESIDENT FLANAGAN: No, Senator Libous, we haven't.

SENATOR LIBOUS: Thank you. Because for a moment there I thought we had adjourned.

Because I have a very important message to announce, Mr. President. There being no further business to come before the Senate, I move that we adjourn until Tuesday, March 29th, at 3:00 p.m.

ACTING PRESIDENT FLANAGAN: Senator Libous, the committee assignment is so ordered to be filed in the Journal.

On motion, the Senate stands adjourned until Tuesday, March 29th, at

3:00 p.m.

(Whereupon, at 8:52 p.m., the Senate adjourned.)