NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 6, 2011

2:19 p.m.

REGULAR SESSION

SENATOR THOMAS F. O'MARA, Acting President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT O'MARA: The Senate will come to order.

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

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

ACTING PRESIDENT O'MARA: We're joined today by the Reverend Peter G. Young, of the Mother Teresa Community here in Albany.

Reverend?

REVEREND YOUNG: Thank you, Senator.

As we prepare for the barbecue season, we know, O, God, You never fail to provide us with our dedicated people. Our Senators are an example.

May God pour forth His blessings on our legislators and provide them a spirit of courage to accept the many demands of their elected office.

As Senators we report on this day when the session bell rings and calls us

to hear one another for the benefit of our New York State constituents.

This invocation calls us to be true to our best at what we can do so that we will be able to be that responsible person for the position that we hold. We need to heed the call of our own heart with compassion and with equity.

Amen.

ACTING PRESIDENT O'MARA: Thank you, Reverend.

Reading of the Journal.

THE SECRETARY: In Senate, Sunday, June 5th, the Senate met pursuant to adjournment. The Journal of Saturday, June 4th, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT O'MARA: Without objection, the Journal stands approved as read.

Can we have some order, please, so we can get moving.

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: Thank you, Mr. President.

At this time Senator Griffo has a privileged resolution at the desk. May we have it read in its entirety and then please call on Senator Griffo.

ACTING PRESIDENT O'MARA: The Secretary will read.

THE SECRETARY: Legislative resolution by Senator Griffo, honoring Chazz Palminteri for his commitment to preserving Italian-American heritage.

"WHEREAS, It is the sense of this Legislative Body to pay tribute to those individuals of true purpose and worthy accomplishment that provide opportunities to celebrate their rich ethnic flavor and which strive to preserve their cultural heritage; and

"WHEREAS, Attendant to such concern,

and in full accord with its long-standing traditions, this Legislative Body is justly proud to honor Chazz Palminteri for his commitment to preserving Italian-American heritage, to be observed at the Italian-American Day celebration in Albany, New York, on Monday, June 6, 2011; and

"WHEREAS, Born on May 15, 1952, in the Bronx, New York, Calogero Lorenzo Palminteri known as Chazz, grew up in a rough neighborhood which taught him vital life lessons that would later prove very useful in pursuing his passion and lifework; and

"WHEREAS, After graduating from Theodore Roosevelt High School, Chazz Palminteri went on to foster his craft of writing, acting and directing, and in 1973, studied with Lee Strasberg at the Actors Studio; and

"WHEREAS, Due to the negative stereotypes of the wise guys and hoodlums of the Italian-American community, Chazz Palminteri, through his dedication and hard work, has attempted to shed light on the accomplishments of his true hero, the working man, the glue that holds together all the Italian-American communities throughout the country; and

"WHEREAS, Chazz Palminteri has been a natural choice to continue the Italianate torch in film, bringing true grit, muscle, and an evocative realism to the sidewalks of his New York neighborhood; and

"WHEREAS, Well known for 'A Bronx Tale,' Chazz Palminteri originally wrote the semi-autobiographical script for the stage, and in 1988 performed the masterpiece as a one-man show in Los Angeles, in which he played 18 different roles, before moving the production to New York. This outstanding performance earned him nominations for the New York Outer Critics Circle for both acting and writing; and

"WHEREAS, While in New York, Chazz Palminteri completed the screenplay of 'A Bronx Tale' and in 1993 found himself starring opposite Robert DeNiro in the film, who chose the script for his directorial debut; and

"WHEREAS, Extremely talented and multifaceted, Chazz Palminteri has given acclaimed performances in film, television, and on stage, portraying both dramatic and comedic roles. He has also voiced characters in various animated films, and has written as well as

directed, while always remaining true to his proud Italian-American heritage; and

"WHEREAS, The recipient of numerous awards and accolades, Chazz Palminteri received the 1996 Leadership in Entertainment Award from the Coalition of Italo-American Associations, Inc., and was honored by President Clinton with a Special Achievement Award for the Performing Arts from the National Italian-American Foundation in Washington, D.C.; and

"WHEREAS, Chazz Palminteri earned high praise and an Academy Award nomination for his performance in 'Bullets Over Broadway,' in which he portrayed a gangster with unexpected dramaturgical gifts. This earned him an Independent Spirit Award for Best Supporting Actor, as well as nominations for a Screen Actors Guild Award and an American Comedy Award; and

"WHEREAS, In addition, Chazz Palminteri is the national spokesperson for the Cooley's Anemia Foundation, leading the fight in finding a cure for thalassemia; and

"WHEREAS, With him throughout have been his wife, Gianna, and their two children, Dante Lorenzo and Gabriella Rose, all of whom

feel privileged to be part of his life and rejoice in his achievements; and

"WHEREAS, It is the sense of this Legislative Body, in keeping with its time-honored traditions, to recognize and pay tribute to those individuals who foster ethnic pride and enhance the profile of cultural diversity which strengthens the fabric of the communities of New York State; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to honor Chazz Palminteri for his commitment to preserving Italian-American heritage; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to Chazz Palminteri."

ACTING PRESIDENT O'MARA: Senator Griffo.

SENATOR GRIFFO: Thank you, Mr. President.

We are indeed honored to have to have with us Calogero Lorenzo Palminteri, Chazz Palminteri. Chazz's family originally comes from Sicily, and he was born in the Bronx. He's a

great American success story, as you heard in the resolution talking about what he has accomplished in his life.

He is a truly remarkable individual -- I've had an opportunity to meet with him -- not only because of what he has done with his talents and his skills to be such a renowned actor and recognized accordingly, but also what he's done in ways that he's contributed back to his community -- to the City of New York, to the State of New York, and also to the Italian-American community, which I know many Italian-Americans are very proud.

As you heard, he got a big break when Robert DeNiro recognized some great talent and saw him off-Broadway. And as a result, when they saw him performing "A Bronx Tale," this was when Robert DeNiro made him an offer with a handshake, I think. And that is truly remarkable and says a lot about the individuals that we're talking about here, both Robert DeNiro and Chazz Palminteri.

He's had an enormously successful career that's spanned every landmark and achievement. He's appeared off-Broadway, on

Broadway, television, movies. He has really covered all genres and really appealed to so many people, including comedy as well as drama.

And there are times, Chazz, when people may look at the Capitol and wonder whether or not we can do a story about Albany and the State of New York too. So maybe someday if you get into directing you may want to consider that.

But this is a really remarkable career. And as I said, I'm so pleased that he was able to join us tonight. He will be recognized at the Festa Italiana tonight as well as in the Assembly Chamber later.

And I think his life and career epitomize the American dream -- with hard work and talent, you can achieve great success.

And I want to thank you for honoring us with your presence here today, Chazz, and those who are with you. I want to congratulate you and your beautiful wife, Gianna, and your children. Twenty years of marriage, God bless you -- many more.

So I present to the body today Chazz Palminteri, and thank you for being with us.

(Standing ovation.)

ACTING PRESIDENT O'MARA: The question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT O'MARA: Opposed, nay.

(No response.)

ACTING PRESIDENT O'MARA: The resolution is adopted.

Congratulations, Mr. Palminteri. Welcome to the New York State Senate today. It's a pleasure to have you with us here. We extend the courtesies of the house to you this afternoon. Thank you.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

And on behalf of Senator Griffo, we'd like to open the resolution for cosponsorship. As is our usual custom, anyone wishing not to be on the resolution please notify the desk.

ACTING PRESIDENT O'MARA: Thank you, Senator Marcellino. The resolution will be left open for all members. Anyone not wishing to

be on the resolution please see the desk.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, there are two more resolutions at the desk, I believe, by Senator Griffo. And we would like to have the titles read and move for their immediate adoption.

ACTING PRESIDENT O'MARA: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 2212, by Senator Griffo, commemorating the 150th Anniversary of the Unification of Italy.

And Legislative Resolution Number 2213, by Senator Griffo, memorializing Governor Andrew M. Cuomo to proclaim June 2, 2011, as Italian-American Day in New York State.

ACTING PRESIDENT O'MARA: The question is on the resolutions. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT O'MARA: Opposed, nay.

(No response.)

ACTING PRESIDENT O'MARA: The

resolutions are adopted.

The Secretary will read the next resolution.

THE SECRETARY: Legislative resolution by Senator Sampson, memorializing Governor Andrew M. Cuomo to proclaim June 13-19, 2011, as Men's Health Awareness Week in the State of New York.

ACTING PRESIDENT O'MARA: The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT O'MARA: Opposed, nay.

(No response.)

ACTING PRESIDENT O'MARA: The resolution is adopted.

SENATOR SQUADRON: Mr. President.

SENATOR MARCELLINO: Mr. President, would you recognize Senator Squadron.

And before we do that, I was remiss, but the previous two resolutions by Senator Griffo and the resolution by Senator Sampson we would like to open also up for cosponsorship. And as the policy is, anyone wishing not to be on

the resolutions please notify the desk.

Senator Squadron.

ACTING PRESIDENT O'MARA: Senator Squadron.

SENATOR SQUADRON: Thank you, Mr. President.

On behalf of Senator Avella, I wish to call up Senate Print Number 4838, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT O'MARA: The Secretary will read.

THE SECRETARY: Calendar Number 676, by Senator Avella, Senate Print 4838, an act to amend Chapter 709 of the Laws of 2005.

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

ACTING PRESIDENT O'MARA: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

ACTING PRESIDENT O'MARA: The bill is restored to its place on the Third Reading Calendar.

SENATOR SQUADRON: Mr. President, I

now offer the following amendments.

ACTING PRESIDENT O'MARA: Amendments received.

SENATOR SQUADRON: On behalf of Senator Montgomery, on page 40 I offer the following amendments to Calendar Number 573, Senate Print 372, and ask that the bill retain its place on the Third Reading Calendar.

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

SENATOR SQUADRON: Thank you.

On behalf of Senator Oppenheimer, on page 23 I offer the following amendments to Calendar Number 254, Print Number 3482, and ask that the bill retain its place on the Third Reading Calendar.

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

SENATOR SQUADRON: On behalf of Senator Gianaris, on page 25, I offer the following amendments to Calendar Number 307,

Print Number 2510, and ask that the bill retain its place on the Third Reading Calendar.

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

Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. President. Would you recognize Senator Valesky.

ACTING PRESIDENT O'MARA: Senator Valesky.

SENATOR VALESKY: Thank you, Mr. President.

On behalf of Senator Klein, on page 62 I offer the following amendments to Calendar Number 852, Senate Print 3414, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Marcellino.

SENATOR MARCELLINO: Yes,

Mr. President. I wish to call up Senator Griffo's bill, Print Number 4521, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT O'MARA: The Secretary will read.

THE SECRETARY: Calendar Number 547, by Senator Griffo, Senate Print 4521, an act to amend the Public Authorities Law.

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

ACTING PRESIDENT O'MARA: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

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

ACTING PRESIDENT O'MARA: Amendments accepted.

SENATOR MARCELLINO: Mr. President, on behalf of Senator Maziarz, I move to amend Senate Bill Number 3755A by striking out the amendments made on March 24th and restoring it to its original Print Number, 3755.

ACTING PRESIDENT O'MARA: So

ordered.

SENATOR MARCELLINO: Mr. President, I would now like to offer quite a few amendments to several different bills. Amendments are offered to the following Third Reading Calendar bills:

On behalf of Senator LaValle, on page number 18, Calendar Number 127, Senate Print Number 2911.

ACTING PRESIDENT O'MARA: Can we have some order, please.

SENATOR MARCELLINO: On behalf of Senator Maziarz, page number 18, Calendar Number 132, Senate Print Number 2913A.

On behalf of Senator Saland, page number 24, Calendar Number 292, Senate Print Number 4244A.

On behalf of Senator Young, page 26, Calendar Number 341, Senate Print Number 2840.

On behalf of myself, Senator Marcellino, on page 26, Calendar Number 342, Senate Print Number 2887.

On behalf of Senator Marcellino, page 37, Calendar Number 522, Senate Print Number 4622.

On behalf of Senator LaValle, page number 37, Calendar Number 529, Senate Print Number 1856.

On behalf of Senator Ball, page number 38, Calendar Number 541, Senate Print Number 4554A.

On behalf of Senator Maziarz, page number 40, Calendar Number 576, Senate Print Number 519A.

On behalf of Senator Gallivan, page number 41, Calendar Number 597, Senate Print Number 4830.

On behalf of Senator Hannon, page 41, Calendar Number 598, Senate Print Number 4991A.

On behalf of Senator Maziarz, page number 47, Calendar Number 672, Senate Print Number 4253.

On behalf of Senator Marcellino, page number 58, Calendar Number 812, Senate Print Number 2914.

On behalf of Senator O'Mara, page number 64, Calendar Number 874, Senate Print Number 4857.

On behalf of Senator Hannon, page

number 24, Calendar Number 280, Senate Print Number 3953A.

On behalf of Senator Fuschillo, page number 42, Calendar Number 607, Senate Print Number 5234.

On behalf of Senator Skelos, page number 45, Calendar Number 644, Senate Print Number 4893.

On behalf of Senator Skelos, page number 45, Calendar Number 646, Senate Print Number 4941.

And last but not least, on behalf of Senator O'Mara, page number 47, Calendar Number 674, Senate Print Number 4267.

Mr. President, I now move that these bills retain their place on the order of third reading.

ACTING PRESIDENT O'MARA: Thank you, Senator. All of the referenced bills' amendments are received and adopted, and the bills shall retain their place on the Third Reading Calendar.

SENATOR MARCELLINO: Mr. President, with unanimous consent, would you recognize Senator Bonacic.

ACTING PRESIDENT O'MARA: Without objection, Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. President.

We also have an honored guest today. Her name is Kayla Rivera. She is Miss Teen New York International. And she will be entered in an international beauty contest on July 25th in Chicago representing the State of New York, coming from Jeffersonville, Sullivan County.

She's with her parents, Heidi and Joe, and they're here behind me. So please welcome them.

Thank you very much, Mr. President.

ACTING PRESIDENT O'MARA: Thank you, Senator.

Welcome to the chamber today. Congratulations on your achievement, and represent us well in Chicago. Our courtesies of the house are extended to you today.

(Applause.)

ACTING PRESIDENT O'MARA: Senator Marcellino.

SENATOR MARCELLINO: Yes,

Mr. President. Also, along the lines of our theme tonight being the Italian Festa night, I would like to recognize in our house today the Italian Consul General, Francesco Talò.

(Applause.)

ACTING PRESIDENT O'MARA: Welcome, and thank you for being with us today in the Senate. We extend the courtesies of the house to you, and enjoy your afternoon.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, can we return to the order of messages from the Assembly for some substitutions.

ACTING PRESIDENT O'MARA: Messages from the Assembly.

The Secretary will read.

THE SECRETARY: On page 33, Senator Seward moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 2802 and substitute it for the identical Senate Bill Number 1688, Third Reading Calendar 460.

ACTING PRESIDENT O'MARA: Substitution ordered.

THE SECRETARY: On page 34, Senator

Stewart-Cousins moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 3059 and substitute it for the identical Senate Bill Number 2984, Third Reading Calendar 466.

ACTING PRESIDENT O'MARA: Substitution ordered.

THE SECRETARY: On page 34, Senator Libous moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 6546 and substitute it for the identical Senate Bill Number 3081, Third Reading Calendar 467.

ACTING PRESIDENT O'MARA: Substitution ordered.

THE SECRETARY: On page 34, Senator O'Mara moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 6494 and substitute it for the identical Senate Bill Number 4162, Third Reading Calendar 482.

ACTING PRESIDENT O'MARA: Substitution ordered.

THE SECRETARY: On page 41, Senator DeFrancisco moves to discharge, from the

Committee on Investigations and Government Operations, Assembly Bill Number 6104 and substitute it for the identical Senate Bill Number 4638, Third Reading Calendar 592.

ACTING PRESIDENT O'MARA: Substitution ordered.

THE SECRETARY: On page 47, Senator LaValle moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 2439 and substitute it for the identical Senate Bill Number 2324, Third Reading Calendar 680.

ACTING PRESIDENT O'MARA: Substitution ordered.

THE SECRETARY: On page 48, Senator Martins moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 6887 and substitute it for the identical Senate Bill Number 4964, Third Reading Calendar 687.

ACTING PRESIDENT O'MARA: Substitution ordered.

THE SECRETARY: On page 48, Senator Martins moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 6961 and substitute it for the identical Senate Bill Number 4965, Third Reading Calendar 688.

ACTING PRESIDENT O'MARA:

Substitution ordered.

THE SECRETARY: On page 48, Senator Grisanti moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 6956 and substitute it for the identical Senate Bill Number 4966, Third Reading Calendar 689.

ACTING PRESIDENT O'MARA:

Substitution ordered.

THE SECRETARY: On page 48, Senator Grisanti moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 6953 and substitute it for the identical Senate Bill Number 4967, Third Reading Calendar 690.

ACTING PRESIDENT O'MARA:

Substitution ordered.

THE SECRETARY: On page 48, Senator Martins moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 6966 and substitute it for the identical Senate Bill Number 4968, Third Reading Calendar 691.

ACTING PRESIDENT O'MARA:

Substitution ordered.

THE SECRETARY: On page 48, Senator Martins moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 6954 and substitute it for the identical Senate Bill Number 4969, Third Reading Calendar 692.

ACTING PRESIDENT O'MARA: Substitution ordered.

THE SECRETARY: On page 49, Senator Martins moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 6964 and substitute it for the identical Senate Bill Number 4970, Third Reading Calendar 693.

ACTING PRESIDENT O'MARA: Substitution ordered.

THE SECRETARY: On page 49, Senator Martins moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 6965 and substitute it for the identical Senate Bill Number 4971, Third Reading Calendar 694.

ACTING PRESIDENT O'MARA: Substitution ordered.

THE SECRETARY: On page 49, Senator Johnson moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 6949 and substitute it for the identical Senate

Bill Number 4972, Third Reading Calendar 695.

ACTING PRESIDENT O'MARA:

Substitution ordered.

THE SECRETARY: On page 49, Senator Johnson moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 6883 and substitute it for the identical Senate Bill Number 4973, Third Reading Calendar 696.

ACTING PRESIDENT O'MARA:

Substitution ordered.

THE SECRETARY: On page 49, Senator Johnson moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 6963 and substitute it for the identical Senate Bill Number 4974, Third Reading Calendar 697.

ACTING PRESIDENT O'MARA:

Substitution ordered.

THE SECRETARY: On page 49, Senator Johnson moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 6946 and substitute it for the identical Senate Bill Number 4975, Third Reading Calendar 698.

ACTING PRESIDENT O'MARA:

Substitution ordered.

THE SECRETARY: On page 49, Senator

Johnson moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 6885 and substitute it for the identical Senate Bill Number 4976, Third Reading Calendar 699.

ACTING PRESIDENT O'MARA:

Substitution ordered.

THE SECRETARY: On page 49, Senator Johnson moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 6960 and substitute it for the identical Senate Bill Number 4977, Third Reading Calendar 700.

ACTING PRESIDENT O'MARA:

Substitution ordered.

THE SECRETARY: On page 49, Senator Johnson moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 6886 and substitute it for the identical Senate Bill Number 4978, Third Reading Calendar 701.

ACTING PRESIDENT O'MARA:

Substitution ordered.

THE SECRETARY: On page 49, Senator Johnson moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 6950 and substitute it for the identical Senate Bill Number 4979, Third Reading Calendar 702.

ACTING PRESIDENT O'MARA:

Substitution ordered.

THE SECRETARY: On page 49, Senator Johnson moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 6962 and substitute it for the identical Senate Bill Number 4980, Third Reading Calendar 703.

ACTING PRESIDENT O'MARA:

Substitution ordered.

THE SECRETARY: On page 50, Senator Marcellino moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 6955 and substitute it for the identical Senate Bill Number 4981, Third Reading Calendar 704.

ACTING PRESIDENT O'MARA:

Substitution ordered.

THE SECRETARY: On page 50, Senator Marcellino moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 6951 and substitute it for the identical Senate Bill Number 4982, Third Reading Calendar 705.

ACTING PRESIDENT O'MARA:

Substitution ordered.

THE SECRETARY: On page 50, Senator Marcellino moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 6958 and substitute it for the identical Senate Bill Number 4983, Third Reading Calendar 706.

ACTING PRESIDENT O'MARA: Substitution ordered.

THE SECRETARY: On page 50, Senator Marcellino moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 7211 and substitute it for the identical Senate Bill Number 4984, Third Reading Calendar 707.

ACTING PRESIDENT O'MARA: Substitution ordered.

THE SECRETARY: On page 50, Senator Johnson moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 7631 and substitute it for the identical Senate Bill Number 5087, Third Reading Calendar 709.

ACTING PRESIDENT O'MARA: Substitution ordered.

THE SECRETARY: On page 50, Senator Avella moves to discharge, from the Committee on

Environmental Conservation, Assembly Bill Number 7150 and substitute it for the identical Senate Bill Number 5134, Third Reading Calendar 713.

ACTING PRESIDENT O'MARA: Substitution ordered.

THE SECRETARY: On page 50, Senator Zeldin moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 6952 and substitute it for the identical Senate Bill Number 5192, Third Reading Calendar 714.

ACTING PRESIDENT O'MARA: Substitution ordered.

THE SECRETARY: On page 50, Senator Zeldin moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 6959 and substitute it for the identical Senate Bill Number 5193, Third Reading Calendar 715.

ACTING PRESIDENT O'MARA: Substitution ordered.

THE SECRETARY: On page 50, Senator Zeldin moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 7078 and substitute it for the identical Senate Bill Number 5194, Third Reading Calendar 716.

ACTING PRESIDENT O'MARA:

Substitution ordered.

THE SECRETARY: On page 50, Senator Zeldin moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 6948 and substitute it for the identical Senate Bill Number 5195, Third Reading Calendar 717.

ACTING PRESIDENT O'MARA:

Substitution ordered.

THE SECRETARY: On page 51, Senator Grisanti moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 7559A and substitute it for the identical Senate Bill Number 5332A, Third Reading Calendar 720.

ACTING PRESIDENT O'MARA:

Substitution ordered.

THE SECRETARY: On page 59, Senator Smith moves to discharge, from the Committee on Transportation, Assembly Bill Number 2294 and substitute it for the identical Senate Bill Number 4456, Third Reading Calendar 817.

ACTING PRESIDENT O'MARA:

Substitution ordered.

THE SECRETARY: On page 60, Senator Gallivan moves to discharge, from the Committee

on Consumer Protection, Assembly Bill Number 372 and substitute it for the identical Senate Bill Number 3102, Third Reading Calendar 829.

ACTING PRESIDENT O'MARA: Substitution ordered.

THE SECRETARY: On page 60, Senator Hannon moves to discharge, from the Committee on Health, Assembly Bill Number 7517 and substitute it for the identical Senate Bill Number 5405, Third Reading Calendar 831.

ACTING PRESIDENT O'MARA: Substitution ordered.

THE SECRETARY: On page 64, Senator Ritchie moves to discharge, from the Committee on Corporations, Authorities and Commissions, Assembly Bill Number 3724 and substitute it for the identical Senate Bill Number 5225, Third Reading Calendar 869.

ACTING PRESIDENT O'MARA: Substitution ordered.

THE SECRETARY: On page 64, Senator Ritchie moves to discharge, from the Committee on Local Government, Assembly Bill Number 5452 and substitute it for the identical Senate Bill Number 5163A, Third Reading Calendar 876.

ACTING PRESIDENT O'MARA: Substitution ordered.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

May we now have the noncontroversial reading of the calendar, please.

ACTING PRESIDENT O'MARA: The Secretary will read.

THE SECRETARY: Calendar Number 16, by Senator Seward, Senate Print 1683A, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 16, those recorded in the negative are Senators Duane, Oppenheimer and Serrano.

Ayes, 57. Nays, 3.

ACTING PRESIDENT O'MARA: The bill

is passed.

THE SECRETARY: Calendar Number 84, by Senator Fuschillo, Senate Print 594, an act to amend the Public Health Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays, 3. Senators Gianaris, Rivera and Sampson recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 181, by Senator Dilan, Senate Print 1316, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 192, by Senator Perkins, Senate Print 3252B, an act to authorize certain healthcare professionals.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 193, by Senator Hannon, Senate Print 3672, an act to amend the Public Health Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 220, by Senator Espaillat, Senate Print 1880, an act to amend the General Business Law.

ACTING PRESIDENT O'MARA: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 120th day.

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 259, by Senator Young, Senate Print 791, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT O'MARA: Read the last section.

THE SECRETARY: Section 5. This

act shall take effect immediately.

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 259, those recorded in the negative are Senators Avella, Duane, Espaillat, Gianaris, L. Krueger, C. Kruger, LaValle, Oppenheimer, Peralta, Perkins, Rivera, Serrano, Squadron, Stavisky and Stewart-Cousins.

Ayes, 45. Nays, 15.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 310, by Senator Klein, Senate Print 3889A, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

(The Secretary called the roll.)

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT O'MARA: Senator

Klein to explain his vote.

SENATOR KLEIN: Thank you, Mr. President.

This legislation will effectively ban the sale of caffeinated or stimulant-enhanced alcoholic beverages in the New York.

Earlier in the year myself and the chair of the State Liquor Authority worked out an agreement with several of these companies that were manufacturing and selling in New York drinks that had high amounts of alcohol -- 12 percent alcohol, to be exact -- with very high amounts of caffeine, the equivalent of two cans of Red Bull and a cup of coffee.

The FDA earlier in the year put down an opinion that said this was indeed a dangerous product. This legislation merely codifies what the FDA is saying and prevents any other manufacturer from entering the New York market with this toxic brew.

I vote yes.

ACTING PRESIDENT O'MARA: Thank you, Senator Klein.

Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 317, by Senator Dilan, Senate Print 1348, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 372, by Senator DeFrancisco, Senate Print 2860A, an act to amend the Navigation Law.

ACTING PRESIDENT O'MARA: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 120th day.

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT O'MARA: Senator DeFrancisco to explain his vote.

SENATOR DEFRANCISCO: Yes, this bill was brought about as a result of a series of deaths in Onondaga County from boating accidents.

One in particular was an accident which resulted in the death of Tiffany Heitkamp. And when the investigation was done of the person who actually ran into her boat, the boat she was in, in an intoxicated condition, it turned out that that individual had a previous driving a motor vehicle while intoxicated.

The way the law is, until hopefully this bill becomes law, is that you can't use a prior alcohol-related offense as a predicate to increase the penalties of a different vehicle that you're driving in an intoxicated fashion. This would correct that.

So in this case this driver of the boat who was intoxicated could have been charged with a much more serious charge as a second alcohol-related offense when he struck the boat that Tiffany Heitkamp was in and later died from injuries in the accident.

So hopefully we'll have full support. And I'm standing also to call to the Assembly on the other side of this building to get moving with the bill, because we don't have much time left in session, and it's a good, commonsense bill that will protect the general public.

Thank you, Mr. President.

ACTING PRESIDENT O'MARA: Thank you, Senator DeFrancisco.

Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 389, by Senator Hannon, Senate Print 4376B, an act to amend the Public Health Law.

ACTING PRESIDENT O'MARA: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the first of January.

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 460, substituted earlier today by Member of the Assembly Magee, Assembly Print 2802, an act to amend the Tax Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 465, by Senator Stewart-Cousins, Senate Print 2983, an act to amend the Tax Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 466, substituted earlier today by Member of the Assembly Pretlow, Assembly Print Number 3059, an act to amend the Tax Law and Chapter 535 of the Laws of 1987.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 467, substituted earlier today by Member of the Assembly Lupardo, Assembly Print 6546, an act to amend the Tax Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 472, by Senator Farley, Senate Print 3769, an act to amend the Tax Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 474, by Senator Maziarz, Senate Print 3792, an act to amend the Tax Law.

ACTING PRESIDENT O'MARA: Read the

last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Grisanti recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 482, substituted earlier today by Member of the Assembly Lifton, Assembly Print Number 6494, an act to amend the Tax Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number

487, by Senator Johnson, Senate Print 4196, an act to amend the Tax Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 488, by Senator Oppenheimer, Senate Print 4216, an act to amend Chapter 272 of the Laws of 1991.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 491, by Senator McDonald, Senate Print 4445, an act to amend the Tax Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 498, by the Senate Committee on Rules, Senate Print 4573, an act to amend the Tax Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT O'MARA: Senator Squadron to explain your vote.

SENATOR SQUADRON: Mr. President, we are going through a number of different tax bills today. We did a couple of weeks ago; we will in a couple of weeks. Unfortunately, some of them don't have a Senate sponsor, or the Senate sponsor is not an individual, wasn't elected by any constituents.

So if the Senator who represents Seneca County, if this is important, then it should be sponsored appropriately. The idea of Senator Rules passing bills with no accountability, no constituents, is problematic. That's why I'm voting no on this bill and the subsequent Rules bills.

Thank you, Mr. President. I'll be voting no.

ACTING PRESIDENT O'MARA: Senator Squadron will be recorded in the negative.

Senator Liz Krueger to explain your vote.

SENATOR LIZ KRUEGER: Thank you.

Ibid on what Senator Squadron said on this bill and all the other bills where no Senator is willing to put their name on a bill.

Thank you. I'll be voting no.

ACTING PRESIDENT O'MARA: Senator Liz Krueger to be recorded in the negative.

Announce the results.

THE SECRETARY: In relation to Calendar Number 498, those recorded in the negative are Senators Espaillat, L. Krueger, Peralta, Rivera, Squadron and Stavisky.

Ayes, 54. Nays, 6.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 499, by the Senate Committee on Rules, Senate Print 4574, an act to amend the Tax Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 499, those recorded in the negative are Senators Espaillat, L. Krueger, Peralta, Rivera, Squadron and Stavisky.

Ayes, 54. Nays, 6.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 502, by Senator Saland, Senate Print 4650, an act to amend the Tax Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 505, by the Senate Committee on Rules, Senate Print 4771, an act to amend the Tax Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 505, those recorded in the negative are Senators Espaillat, L. Krueger, Peralta, Rivera, Squadron and Stavisky.

Ayes, 54. Nays, 6.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 506, by Senator Young, Senate Print 4784, an act to amend the Tax Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 507, by Senator Ranzenhofer, Senate Print 4791, an act to amend the Tax Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Grisanti recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 509, by the Senate Committee on Rules, Senate Print 4867, an act to amend the Tax Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 509, those recorded in the negative are Senators Espaillat, L. Krueger, Rivera, Squadron and Stavisky.

Ayes, 55. Nays, 5.

ACTING PRESIDENT O'MARA: The bill

is passed.

THE SECRETARY: Calendar Number 524, by Senator Hannon, Senate Print 4875B, an act to amend Chapter 155 of the Laws of 1986.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 554, by Senator Klein, Senate Print 4847, an act to amend the Insurance Law.

ACTING PRESIDENT O'MARA: Read the last section.

THE SECRETARY: Section 12. This act shall take effect on the same date and in the same manner.

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT O'MARA: Senator Klein to explain your vote.

SENATOR KLEIN: Thank you, Mr. President.

The purpose of this legislation is to reduce the incidence of auto insurance fraud, which unfortunately is growing rapidly in the State of New York.

Unfortunately, we're surrounded by other states where the automobile insurance is much cheaper. We even found, through a report that was released, that one home in Pennsylvania had 23 individuals insured in that one home, thus using their car in New York but taking advantage of the lower insurance rate.

This legislation expands the authority of the new superintendent, enhances penalties, and at the end of the day will reward those who are playing by the rules in eventually lowering their insurance rates in New York.

I vote yes, Mr. President.

ACTING PRESIDENT O'MARA: Senator Klein to be recorded in the affirmative.

Senator Carlucci to explain your vote.

SENATOR CARLUCCI: Thank you, Mr. President.

This bill will go a long way to help people who willingly commit auto insurance fraud in New York State to justice. And this is a great first step to start to drive down the cost of our extremely high auto insurance premiums in New York and really put money back into the pockets of New Yorkers across this state.

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

ACTING PRESIDENT O'MARA: Senator Carlucci will be recorded in the affirmative.

Announce the results.

THE SECRETARY: In relation to Calendar Number 554: Ayes, 59. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 592, substituted earlier today by Member of the Assembly Magnarelli, Assembly Print 6104, an act to amend the Tax Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

SENATOR SQUADRON: Lay it aside.

ACTING PRESIDENT O'MARA: The bill is laid aside.

THE SECRETARY: Calendar Number 599, by Senator Hannon, Senate Print 4992, an act to amend the Public Health Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 613, by Senator Young, Senate Print 4358, an act to amend the General City Law.

ACTING PRESIDENT O'MARA: Read the last section.

THE SECRETARY: Section 10. This act shall take effect on the first of July.

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 680, substituted earlier today by Member of the Assembly Englebright, Assembly Print Number 2439, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 687, substituted earlier today by Member of the Assembly Sweeney, Assembly Print Number 6887, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT O'MARA: Senator LaValle to explain your vote.

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

There are -- beginning with this bill, Senator Martins' bill, there are in total 28 bills that regulate, restrict the taking and management of varying fish.

Representing the First Senate District, where we once had an enormous commercial fishing fleet -- and that has really shrunk. Commercial fishing has changed. There are individuals who -- maybe one or two people that have a license and fish.

Over the years we have, through the DEC, placed more regulations on what can be taken, when it can be taken, the size of the fish, and it goes on and on. And when we talk

about small businesses, our fishermen are small businesses. And we have put many out of business.

So I will, beginning with this bill going down -- because I know many of my colleagues will want to know why I will be voting no on 28 separate bills, and the reason is it kills the fishing industry on Eastern Long Island. I vote in the negative.

ACTING PRESIDENT O'MARA: Senator LaValle to be recorded in the negative.

Announce the results.

THE SECRETARY: Ayes, 59. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 688, substituted earlier today by Member of the Assembly Titone, Assembly Print Number 6961, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date as a chapter of the Laws of 2011.

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator LaValle recorded in the negative

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 689, substituted earlier today by Member of the Assembly Peoples-Stokes, Assembly Print Number 6956, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 690, substituted earlier today by Member of the

Assembly Gunther, Assembly Print Number 6953, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 691, substituted earlier today by Member of the Assembly Zebrowski, Assembly Print Number 6966, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date as a chapter of the Laws of 2011.

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 692, substituted earlier today by Member of the Assembly Jaffee, Assembly Print Number 6954, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date as a chapter of the Laws of 2011.

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 693, substituted earlier today by Member of the Assembly Zebrowski, Assembly Print Number 6964, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date as a chapter of the Laws of 2011.

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 694, substituted earlier today by Member of the Assembly Zebrowski, Assembly Print Number 6965, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date as a Chapter of the Laws of 2011.

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 695, substituted earlier today by Member of the Assembly Cymbrowitz, Assembly Print 6949, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 696, substituted earlier today by Member of the Assembly Sweeney, Assembly Print 6883, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 697, substituted earlier today by Member of the Assembly Weisenberg, Assembly Print Number 6963, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 698, substituted earlier today by Member of the Assembly Colton, Assembly Print 6946, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 699, substituted earlier today by Member of the Assembly Sweeney, Assembly Print Number 6885, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 700, substituted earlier today by Member of the Assembly Titone, Assembly Print Number 6960, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 701, substituted earlier today by Member of the Assembly Sweeney, Assembly Print 6886, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the

last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 702, substituted earlier today by Member of the Assembly Cymbrowitz, Assembly Print Number 6950, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT O'MARA: The bill

is passed.

THE SECRETARY: Calendar Number 703, substituted earlier today by Member of the Assembly Weisenberg, Assembly Print Number 6962, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 704, substituted earlier todayby Member of the Assembly Latimer, Assembly Print Number 6955, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date as a

Chapter of the Laws of 2011.

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 705, substituted earlier today by Member of the Assembly Cymbrowitz, Assembly Print Number 6951, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the rolled.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number

706, substituted earlier today by Member of the Assembly Simotas, Assembly Print 6958, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 707, substituted earlier today by Member of the Assembly Jaffee, Assembly Print Number 7211, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date as a chapter of the Laws of 2011.

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 708, by Senator Johnson, Senate Print 5086A, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

THE SECRETARY: Section 2. This act shall take effect December 31, 2011.

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 709, substituted earlier today by Member of the Assembly Abinanti, Assembly Print Number 7631, an act to amend the Environmental Conservation law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 710, by Senator O'Mara, Senate Print 5105, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 710, those recorded in the negative are Senators Duane, Perkins and Serrano.

Ayes, 57. Nays, 3.

ACTING PRESIDENT O'MARA: The bill

is passed.

THE SECRETARY: Calendar Number 711, by Senator O'Mara, Senate Print 5106, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 711, those recorded in the negative are Senators Duane, Espaillat, Perkins and Serrano.

Ayes, 56. Nays, 4.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 713, substituted earlier today by Member of the Assembly Thiele, Assembly Print 7150, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the same date as a chapter of the Laws of 2011.

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 714, substituted earlier today by Member of the Assembly Englebright, Assembly Print Number 6952, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 715, substituted earlier today by Member of the Assembly Thiele, Assembly Print Number 6959, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 716, substituted earlier today by Member of the Assembly Ramos, Assembly Print Number 7078, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.

THE SECRETARY: Ayes, 59. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 717, substituted earlier today by Member of the Assembly Crespo, Assembly Print Number 6948, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 718, by Senator Zeldin, Senate Print 5196, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 720, substituted earlier today by Member of the Assembly Lupardo, Assembly Print Number 7559A, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 720, those recorded in the negative are Senators Perkins and Serrano.

Ayes, 58. Nays, 2.

ACTING PRESIDENT O'MARA: The bill

is passed.

THE SECRETARY: Calendar Number 751, by Senator Young, Senate Print 4621A, an act to amend the Public Health Law.

ACTING PRESIDENT O'MARA: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day.

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 817, substituted earlier today by Member of the Assembly Clark, Assembly Print Number 2294, an act to amend the Transportation Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT O'MARA: Senator Smith, to explain your vote.

SENATOR SMITH: Yes, thank you very much, Mr. President.

Colleagues -- and in particular, I rise to thank my chairman of the committee, Senator Fuschillo. This is a bill that has made the Boggs family and the Franklin family very happy.

Ironically, both of them were actually doing safety work on the tracks of the transportation system when they were both killed. And at the behest of both of the families, that safety program is now being named after them.

And I thank all my colleagues for their support. In particular, Mr. Chairman, I thank you also.

ACTING PRESIDENT O'MARA: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 829, substituted earlier today by Member of the

Assembly Hoyt, Assembly Print Number 372, an act to amend the General Business Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 831, substituted earlier today by Member of the Assembly Sweeney, Assembly Print Number 7517, an act to amend Chapter 459 of the Laws of 1996.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill

is passed.

THE SECRETARY: Calendar Number 835, by Senator Valesky, Senate Print 4923, an act to amend the Tax Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 836, by Senator Seward, Senate Print 5025, an act to amend the Tax Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 837, by Senator Seward, Senate Print 5026, an act to amend Chapter 443 of the Laws of 2007.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 839, by Senator Little, Senate Print 5075, an act to amend Chapter 368 of the Laws of 2008.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 840, by Senator Ritchie, Senate Print 5158, an act to amend the Tax Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 842, by the Senate Committee on Rules, Senate Print 5308, an act to amend the Tax Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 842, those recorded in the negative are Senators Espaillat, Huntley, L. Krueger, Perkins, Rivera, Squadron and Stavisky.

Ayes, 53. Nays, 7.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 843, by the Senate Committee on Rules, Senate Print 5366, an act to amend the Tax Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 843, those recorded in the negative are Senators Espaillat, Huntley, L. Krueger, Perkins, Rivera, Squadron and Stavisky.

Ayes, 53. Nays, 7.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 869, substituted earlier today by Member of the Assembly Russell, Assembly Print Number 3724, an act to amend the Public Authorities Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 876, substituted earlier today by Member of the Assembly Russell, Assembly Print Number 5452, an act to amend the Real Property Tax Law.

ACTING PRESIDENT O'MARA: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

ACTING PRESIDENT O'MARA: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Senator Marcellino, that completes the noncontroversial reading of the calendar.

SENATOR MARCELLINO: Thank you, Mr. President.

At this time can we take up the controversial calendar. And can we ring the bells, tell the members we're taking that up.

ACTING PRESIDENT O'MARA: The Secretary will ring the bells.

The Secretary will read.

THE SECRETARY: Calendar Number 592, by Member of the Assembly Magnarelli, Assembly Print Number 6104, an act to amend the Tax Law.

SENATOR SQUADRON: Explanation.

ACTING PRESIDENT O'MARA: An explanation has been requested by Senator Squadron.

SENATOR DEFRANCISCO: This is an

extension of a tax, a 1 percent tax that was imposed in 2009 to expire in November of this year. It's an extender of that additional 1 percent tax which brought back two years ago the Onondaga County sales tax from 3 percent to 4 percent.

ACTING PRESIDENT O'MARA: Senator Rivera.

SENATOR RIVERA: Thank you, Mr. President. Through you, if the sponsor would yield for a few questions.

ACTING PRESIDENT O'MARA: Senator DeFrancisco, will you yield?

SENATOR DEFRANCISCO: Yes.

SENATOR RIVERA: Thank you, Mr. President.

Through you, Mr. President. So this is a -- so by your definition, is this a tax increase that we are voting on today?

SENATOR DEFRANCISCO: No. The tax was increased in 2009 from 3 percent to 4 percent. And at that time the distribution of that additional 1 percent was negotiated between the city, the county, and towns. And that is set to expire in November of this year.

This would extend that same 1 percent, and it will have the same distribution as negotiated in 2009.

SENATOR RIVERA: Through you, Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT O'MARA: Do you continue to yield, Senator DeFrancisco?

SENATOR DEFRANCISCO: Yes.

SENATOR RIVERA: Thank you, Mr. President.

So then this is a tax that is -- if we do not vote on this increase today, if this does not pass, then we would not have -- this tax would actually cease to exist.

SENATOR DEFRANCISCO: If this did not pass both houses -- well, it already passed the Assembly. If this bill passes, just like every other single extender that just about everybody in the house voted for except some voted no on the Rules extenders, it would not allow that tax that was increased in the past to continue.

SENATOR RIVERA: Through you, Mr. President, if the sponsor would continue to

yield.

ACTING PRESIDENT O'MARA: Do you continue to yield?

SENATOR DEFRANCISCO: Yes.

SENATOR RIVERA: Senator DeFrancisco, I'm not sure if you recall when -- a few months ago when we were debating the personal income tax surcharge extension, there was -- I believe at that time you were arguing -- well, the so-called millionaire's tax. You were arguing that because that tax ended, our extension of it would amount to creating new taxes. Do you recall this argument?

SENATOR DEFRANCISCO: I recall the debate, yes, I do.

SENATOR RIVERA: Through you, Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT O'MARA: Do you continue to yield, Senator?

SENATOR DEFRANCISCO: Yes.

SENATOR RIVERA: So, Senator DeFrancisco, if that was a tax increase that we would have voted on -- and you in a very spirited way defended your action, just saying we should

not vote for it, we should not extend it -- then why is this permissible, is this tax extension permissible and that not?

SENATOR DEFRANCISCO: Well, there are several reasons. They're totally different.

First of all, this is a sales tax extension requested by the city and county that I represent. And it was a tax extension that they wanted, they are seeking to be imposed upon them in order to avoid property tax increases. And they negotiated how those dollars would be spent.

And since they are requesting it, I am deferring to the local governments to determine how to best deal with their particular budgets. And because of that, I'm in favor of it.

SENATOR RIVERA: Thank you.

Mr. President, on the bill.

ACTING PRESIDENT O'MARA: On the bill.

SENATOR RIVERA: Thank you, Mr. President. And thank you, Senator DeFrancisco, for again engaging in a debate, as we have done many, many times.

I had -- two months ago I had a spirited debate with Senator DeFrancisco on the issue of extending a personal income tax surcharge, the so-called millionaire's tax, for New Yorkers. At that time we went back and forth quite a bit on the issue of whether it was a new tax or whether it was an extension of one.

I made the argument then, as I've continued to make the argument and will continue to make the argument, that if we are to speak about shared sacrifice then we should make sure that it is shared. At that time I argued that we should extend -- that it was not a new tax, but that we should extend the personal income tax surcharge because we have serious needs of revenue in this state.

Now, I will be voting in the affirmative on this bill today because, as Senator DeFrancisco does, I will yield to the knowledge of the localities of whether they have particular needs or not. And I believe that we all, across the state, and certainly in different localities and across the state in general we have some serious needs as far as revenue.

I just believe that we should be

consistent and that we should have an honest debate about tax policy. If the personal income tax surcharge would have been a new tax, then so is what we are voting on today. And so is what we voted on more than two dozen times just last week.

It seems to me in this particular instance we are voting to extend a sales tax, which is a flat tax and the most regressive of all taxation, as opposed to considering extending a progressive tax, a tax that exists right now on wealthier New Yorkers that do not -- this is not something that is bothersome to them. This is not something that is burdensome to them. As opposed to a sales tax, which would obviously be burdensome to working-class families and individuals that are not necessarily wealthy.

So again, I will be voting yes on this because I do believe that there are needs that we have for revenue all across the state. But again, I will ask my colleagues as we continue, whether it's today or tomorrow or the day after that, to have a debate about tax policy, that we be honest about it.

And that if we say that we are

willing to increase sales taxes on the majority of the people that we represent, that we should consider whether we extend a tax that will have an impact on, at most, a few thousand people across the state. Even if it's tens of thousands of individuals across the state, it is a very big difference to pass sales tax after sales tax after sales tax that would have an impact on millions of New Yorkers.

Thank you so much, Mr. President.

ACTING PRESIDENT O'MARA: Thank you, Senator.

Any other Senator wishing to be heard?

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

Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT O'MARA: Senator DeFrancisco to explain your vote.

SENATOR DEFRANCISCO: Yes. As I

mentioned during the debate, this is an extender of an existing sales tax --

ACTING PRESIDENT O'MARA: Can we have some order, please, so we can hear Senator DeFrancisco.

Proceed.

SENATOR DEFRANCISCO: As I explained during the debate, this is an extension of an existing sales tax bill, just like all the other extenders that have been passed over the last couple of weeks.

These were requested by the local governments. They should be afforded respect, and they should be able to rule their communities the way they see fit. And it's a question of local preference and how they want to deal with their business.

Quite frankly, I question and have questioned in the past why we should be getting involved in this anyway. Shouldn't the localities be able to make their own decisions about sales taxes? But we have to do it, so we've done it.

As far as the comment about we should debate tax policy -- I'm getting louder

and louder, and I still can't hear myself think. If I could just finish.

ACTING PRESIDENT O'MARA: Can we have some quiet, please.

SENATOR DEFRANCISCO: As far as the argument that we should have a full discussion on tax policy, as Senator Rivera mentioned, well, we did. We had a full debate on tax policy, and the ruling of this house that determines what taxes the State of New York collects was that we should not increase the income tax for anybody.

So these two actions are totally consistent. We determine what revenues are generated by the State of New York. We believed, since it's our responsibility, that those taxes were ill-advised at this time in our history. We felt that cutting spending is the more prudent way to go.

So there was that debate. The votes went the way they did. And we didn't increase taxes, and we decreased spending for the first time in 15 years.

Thank you, Mr. President.

ACTING PRESIDENT O'MARA: Senator DeFrancisco will be recorded in the affirmative.

Senator Stavisky to explain your vote.

SENATOR STAVISKY: To explain my vote, Mr. President.

I was under the impression that the income tax was the fairer tax because the income tax is less regressive. It is based, presumably, on ability to pay, where everybody pays the sales tax. Whether they earn $100,000 a year or whether they earn $30,000 a year, they pay the same sales tax on purchases.

So while I will obviously support this bill, I want to be clear that it's the income tax that we should be increasing because of the fact, as I said, that it is less regressive.

I vote aye, Mr. President.

ACTING PRESIDENT O'MARA: Senator Stavisky will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 57. Nays, 0.

Absent from voting are Senators Adams, Breslin, C. Kruger, Parker and Saland.

ACTING PRESIDENT O'MARA: The bill

is passed.

Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. President. Can we return to the order of motions and resolutions, please.

ACTING PRESIDENT O'MARA: Motions and resolutions.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, on page number 37 I offer the following amendments to Calendar Number 527, Senate Print Number 744, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT O'MARA: The amendments are received, and the bill will retain its place on the Third Reading Calendar.

SENATOR MARCELLINO: Mr. President, on page number 64 I offer the following amendments to Calendar Number 868, Senate Print Number 5198, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT O'MARA: The amendments are received, and the bill will retain its place on the Third Reading Calendar.

SENATOR MARCELLINO: Mr. President,

is there any further business at the desk?

ACTING PRESIDENT O'MARA: There is none.

SENATOR MARCELLINO: In that case, there being no further business, I move that we adjourn until Tuesday, June 7th, at 2:00 p.m.

ACTING PRESIDENT O'MARA: On motion, the Senate stands adjourned until Tuesday, June 7th, at 2:00 p.m.

(Whereupon, at 3:46 p.m., the Senate adjourned.)