

1 NEW YORK STATE SENATE

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3  
4 THE STENOGRAPHIC RECORD

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8  
9 ALBANY, NEW YORK

10 June 7, 2011

11 2:18 p.m.

12  
13  
14 REGULAR SESSION

15  
16  
17  
18 SENATOR CARL L. MARCELLINO, Acting President

19 FRANCIS W. PATIENCE, Secretary

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

2 ACTING PRESIDENT MARCELLINO:

3 The Senate will come to order.

4 I ask everyone present to please  
5 rise and repeat with me the Pledge of  
6 Allegiance to the Flag. That includes the  
7 audience, too.

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

11 ACTING PRESIDENT MARCELLINO:

12 In the absence of clergy, may we have a  
13 moment of silence.

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

16 ACTING PRESIDENT MARCELLINO:

17 The reading of the Journal.

18 THE SECRETARY: In Senate,  
19 Monday, June 6th, the Senate met pursuant to  
20 adjournment. The Journal of Sunday,  
21 June 5th, was read and approved. On motion,  
22 Senate adjourned.

23 ACTING PRESIDENT MARCELLINO:

24 Without objection, the Journal stands  
25 approved as read.

1 Presentation of petitions.

2 Messages from the Assembly.

3 The Secretary will read.

4 THE SECRETARY: On page 29,  
5 Senator O'Mara moves to discharge, from the  
6 Committee on Elections, Assembly Bill Number  
7 6973A --

8 ACTING PRESIDENT MARCELLINO:

9 Hold on a second. Hold on.

10 (Gaveling.) There's a lot of  
11 important stuff that has to be read. The  
12 stenographer has to hear it. Can we have  
13 some silence. Take your conversations out of  
14 the chambers, please. Staff, take your  
15 conversations out of the chambers.

16 The Secretary will continue to  
17 read.

18 THE SECRETARY: On page 29,  
19 Senator O'Mara moves to discharge, from the  
20 Committee on Elections, Assembly Bill Number  
21 6973A and substitute it for the identical  
22 Senate Bill Number 4481A, Third Reading  
23 Calendar 400.

24 ACTING PRESIDENT MARCELLINO:  
25 Substitution ordered.

1                   THE SECRETARY:    On page 29, Senator  
2   O'Mara moves to discharge, from the Committee on  
3   Elections, Assembly Bill Number 263 and  
4   substitute it for the identical Senate Bill  
5   Number 4748, Third Reading Calendar 402.

6                   ACTING PRESIDENT MARCELLINO:  
7   Substitution ordered.

8                   THE SECRETARY:    On page 37, Senator  
9   Perkins moves to discharge, from the Committee on  
10   Finance, Assembly Bill Number 6695 and substitute  
11   it for the identical Senate Bill Number 2009,  
12   Third Reading Calendar 580.

13                  ACTING PRESIDENT MARCELLINO:    The  
14   substitution is ordered.

15                  THE SECRETARY:    And on page 50,  
16   Senator Martins moves to discharge, from the  
17   Committee on Elections, Assembly Bill Number 7469  
18   and substitute it for the identical Senate Bill  
19   Number 5055A, Third Reading Calendar 780.

20                  ACTING PRESIDENT MARCELLINO:    The  
21   substitution is ordered.

22                  Messages from the Governor.

23                  Reports of standing committees.

24                  The Secretary will read.

25                  THE SECRETARY:    Senator

1 DeFrancisco, from the Committee on Finance,  
2 reports the following nomination.

3 As a member of the New York State  
4 Metropolitan Transportation Authority, Jonathan  
5 A. Ballan, of Scarsdale Park.

6 ACTING PRESIDENT MARCELLINO:  
7 Senator DeFrancisco.

8 SENATOR DEFRANCISCO: I move the  
9 nomination of Jonathan A. Ballan, of Scarsdale  
10 Park, as a member of the New York State  
11 Metropolitan Transportation Authority.

12 You know, we've said this before,  
13 but it's true with the nominees again today. The  
14 Governor has really done an incredible job, not  
15 only of selecting good, qualified people, but  
16 also seeking out those people to make sure that  
17 we have the best in the positions that are  
18 available in the State of New York.

19 And that's true with Jonathan  
20 Ballan. His record is incredible. His knowledge  
21 and expertise in areas that are very much needed  
22 by the Metropolitan Transportation Authority are  
23 evident from not only a review of his resume but  
24 also from listening to him explain what he's got  
25 in mind for this particular agency and how he'll

1 keep an open mind and not be afraid.

2 I don't know if it's a bulldog or a  
3 pit bull, but one or the other, he's promised  
4 that he wouldn't kowtow to anybody to make sure  
5 the right things are being done by that important  
6 authority.

7 So I'm very proud and pleased to  
8 move the nomination of Mr. Ballan and wish him  
9 the best of luck in this very difficult but very  
10 important position.

11 ACTING PRESIDENT MARCELLINO: Is  
12 there any other Senator wishing to be heard on  
13 the nomination?

14 Seeing none, the motion is on the  
15 nomination of Jonathan A. Ballan, of Scarsdale  
16 Park, to be a member of the New York State  
17 Metropolitan Transportation Authority. All in  
18 favor signify by saying aye.

19 (Response of "Aye.")

20 ACTING PRESIDENT MARCELLINO:  
21 Opposed, nay.

22 (No response.)

23 ACTING PRESIDENT MARCELLINO: The  
24 appointment is approved.

25 Congratulations, Mr. Ballan.

1                   And your task is a daunting one.  
2   The MTA, as we all know it as, is not an easy  
3   institution to work with and for. So we hope you  
4   will take your duties seriously, and on behalf of  
5   the best interests of the riding public and all  
6   of the people of New York State.

7                   Thank you. Congratulations.

8                   (Applause.)

9                   ACTING PRESIDENT MARCELLINO: The  
10   Secretary will read.

11                  THE SECRETARY: As a member of the  
12   New York State Workers' Compensation Board, David  
13   R. Dudley, of North Chatham.

14                  ACTING PRESIDENT MARCELLINO:  
15   Senator DeFrancisco.

16                  SENATOR DEFRANCISCO: Again, I'm  
17   proud to move the nomination of David R. Dudley,  
18   of North Chatham, as a member of the New York  
19   State Workers' Compensation Board.

20                  I've known David for many years. He  
21   served as counsel in this body to the Senate  
22   Majority. He's competent, he's a caring  
23   individual, and he's someone who would be  
24   outstanding in a judicial-like capacity as a  
25   member of the Workers' Compensation Board.

1           I know that he will take into  
2   consideration both sides of every issue and  
3   impart justice fairly in the workers'  
4   compensation system. And he's had experience  
5   actually in even negotiating some of the changes  
6   in the Workers' Compensation Law, and I'm sure  
7   we'll hear from him with potential future  
8   legislation to make that organization work even  
9   better.

10           So I'm very happy that David was  
11   nominated for this position, and I'm happy that  
12   he's here with his wife, and he's going do a  
13   wonderful job.

14           Thank you, Mr. President.

15           ACTING PRESIDENT MARCELLINO:  
16   Senator Nozzolio on the nomination.

17           SENATOR NOZZOLIO: Thank you,  
18   Mr. President.

19           Mr. President and my colleagues, I  
20   rise and share Senator DeFrancisco's support for  
21   this excellent nomination.

22           Dave Dudley has a very keen legal  
23   mind, has been experienced in many aspects of  
24   representation and the law, was for many years a  
25   very valued member of the New York State Senate



1 staff in helping forge, as Senator DeFrancisco  
2 indicated, many policy changes, so has seen the  
3 many sides of the coin and understands the  
4 complexities and the implementation of the laws  
5 of this state.

6 For that, I believe he will serve in  
7 this new capacity in a fine exemplary way, as he  
8 has done and exemplified in many ways here  
9 working in the New York State Senate.

10 Congratulations to David. We're  
11 very proud of this nomination and of his work,  
12 and that I certainly rise to support it  
13 wholeheartedly.

14 Thank you, Mr. President.

15 ACTING PRESIDENT MARCELLINO: Thank  
16 you, Senator.

17 Are there any other Senators wishing  
18 to be heard on the nomination?

19 Seeing none, the motion is on the  
20 appointment of David R. Dudley, of North Chatham,  
21 to be a member of the New York State Workers'  
22 Compensation Board. All in favor signify by  
23 saying aye.

24 (Response of "Aye.")

25 ACTING PRESIDENT MARCELLINO:

1 Opposed, nay.

2 (No response.)

3 ACTING PRESIDENT MARCELLINO: The  
4 ayes have it. Dave, you are newly appointed to  
5 the Workers' Compensation Board.

6 Congratulations. I hope it's what you want.

7 (Laughter.)

8 ACTING PRESIDENT MARCELLINO: God  
9 bless. Have a great career.

10 (Applause.)

11 ACTING PRESIDENT MARCELLINO: The  
12 Secretary will read.

13 THE SECRETARY: As New York State  
14 Secretary of State, Cesar A. Perales, of  
15 Brooklyn.

16 ACTING PRESIDENT MARCELLINO:  
17 Senator DeFrancisco.

18 SENATOR DEFRANCISCO: I rise to  
19 move the nomination of Cesar Perales, of  
20 Brooklyn, as the New York State Secretary of  
21 State.

22 You know, if you read Mr. Perales's  
23 resume, it's like the Who's Who in government and  
24 in the law. He's had so many incredible  
25 experiences over his lifetime. And most people

1     that have had those experiences would usually  
2     like to sit back, read a book, put their feet up  
3     and maybe watch a sporting event during the  
4     remaining years of his life.  However, that's not  
5     true with Mr. Perales.  He wants to continue  
6     serving.

7                     And the Secretary of State position  
8     is such an important one in our state and affects  
9     so many of us in our districts that we're again  
10    very happy that Mr. Perales is willing to do  
11    this, willing to serve, in a time when most  
12    people look for what government can do for them,  
13    not the other way around.

14                    And Governor Cuomo should be again  
15    congratulated for such a wonderful appointment  
16    and a great addition to his team and the team of  
17    the State of New York.

18                    So I'm proud to move Mr. Perales's  
19    nomination.  Thank you, Mr. President.

20                    ACTING PRESIDENT MARCELLINO:  Thank  
21    you, Senator DeFrancisco.

22                    Senator Oppenheimer.

23                    SENATOR OPPENHEIMER:  Thank you,  
24    Mr. President.

25                    Well, I think Senator DeFrancisco

1 has said what my primary thought is, which is I  
2 go back with Cesar to the '80s and the early '90s  
3 when he was running our public assistance and  
4 Medicaid programs here as head of our Department  
5 of Social Services. And he was an extraordinary  
6 leader.

7                   And even though he doesn't look very  
8 different in appearance from back then to now,  
9 the fact that he has put in so many years to  
10 public service and the fact that he is willing to  
11 continue to fight for health and for human  
12 services and for our youth and for our elderly  
13 and for all of us in this state, I mean, it's  
14 just an example of great courage and great  
15 enthusiasm.

16                   And God bless you, Cesar. Keep up  
17 the great work always.

18                   ACTING PRESIDENT MARCELLINO: Thank  
19 you, Senator.

20                   Any other Senator wishing to be  
21 heard?

22                   The motion is on the nomination of  
23 Cesar A. Perales, of Brooklyn, to be the New York  
24 State Secretary of State. All in favor signify  
25 by saying aye.

1 (Response of "Aye.")

2 ACTING PRESIDENT MARCELLINO: All  
3 opposed, nay.

4 (No response.)

5 ACTING PRESIDENT MARCELLINO: The  
6 ayes have it. Cesar A. Perales is duly confirmed  
7 as Secretary of State.

8 Congratulations.

9 (Applause.)

10 ACTING PRESIDENT MARCELLINO: The  
11 Secretary will read.

12 THE SECRETARY: As a member of the  
13 New York State Housing Finance Agency, Steven J.  
14 Weiss, of Williamsville.

15 ACTING PRESIDENT MARCELLINO:  
16 Senator DeFrancisco.

17 SENATOR DEFRANCISCO: I rise to  
18 move the nomination of Steven J. Weiss, of  
19 Williamsville, as a member of the New York State  
20 Housing Finance Agency.

21 Another great appointment by the  
22 Governor. And in view of the length of the  
23 agenda, I will not elaborate any further, since  
24 Mr. Weiss not here.

25 And I believe that the Governor

1 again has made a wonderful appointment. And he's  
2 going to be a great addition to this agency, and  
3 I proudly move the nomination.

4 Thank you.

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

8 Seeing none, the motion is on the  
9 nomination of Steven J. Weiss, of Williamsville,  
10 to be a member of the New York State Housing  
11 Finance Agency. All in favor signify by saying  
12 aye.

13 (Response of "Aye.")

14 ACTING PRESIDENT MARCELLINO:  
15 Opposed, nay.

16 (No response.)

17 ACTING PRESIDENT MARCELLINO: The  
18 ayes have it. Steven J. Weiss, of Williamsville,  
19 is confirmed as a member of the New York State  
20 Housing Finance Agency.

21 Reports of select committees.

22 Communications and reports of state  
23 officers.

24 Motions and resolutions.

25 Senator Farley.

1                   SENATOR FARLEY:    Mr. President,  
2   we'd like to adopt the Resolution Calendar.

3                   ACTING PRESIDENT MARCELLINO:   All  
4   in favor of adopting the Resolution Calendar  
5   signify by saying aye.

6                   (Response of "Aye.")

7                   ACTING PRESIDENT MARCELLINO:  
8   Opposed, nay.

9                   (No response.)

10                  ACTING PRESIDENT MARCELLINO:   The  
11   Resolution Calendar is adopted.

12                  Senator Farley.

13                  SENATOR FARLEY:    Mr. President,  
14   there's a resolution at the desk by Senator  
15   DeFrancisco.  May we please have it read in its  
16   entirety and move for its immediate adoption.

17                  ACTING PRESIDENT MARCELLINO:   The  
18   Secretary will read.

19                  THE SECRETARY:    Legislative  
20   resolution by Senator DeFrancisco, honoring the  
21   West Genesee High School Academic Decathlon Team  
22   upon the occasion of capturing the first place at  
23   the 2011 New York State Academic Decathlon  
24   Championship.

25                  "WHEREAS, It is the custom of this

1 Legislative Body to honor the youth of today --  
2 the leaders of tomorrow -- whose character and  
3 achievements exemplify the ideals and values  
4 cherished by this great state and nation; and

5 "WHEREAS, Attendant to such concern,  
6 and in full accord with its long-standing  
7 traditions, it is the intent of this Legislative  
8 Body to recognize and commend the West Genesee  
9 High School Academic Decathlon Team upon the  
10 composition of capturing first place at the 2011  
11 State Academic Decathlon; and

12 "WHEREAS, Members of the West  
13 Genesee Academic Decathlon Team, in preparation  
14 for the state competition, devoted one year to  
15 memorizing numerous facts while learning the  
16 importance of hard work and determination; and

17 "WHEREAS, Members of the West  
18 Genesee Academic Decathlon Team were prepared to  
19 answer questions about art, music, English, math,  
20 economics, science, and many other categories;  
21 and

22 "WHEREAS, At the 2011 New York State  
23 Academic Decathlon Championships, the West  
24 Genesee High School team made their district  
25 proud by winning 40 individual medals and a team



1     award; and

2                 "WHEREAS, The West Genesee Academic  
3     Decathlon Team advanced to nationals in  
4     Charlotte, North Carolina, and placed 23rd in the  
5     country; and

6                 "WHEREAS, No team can succeed  
7     without outstanding talent throughout its entire  
8     roster. Such is the case for the members of the  
9     2011 West Genesee High School Academic Decathlon  
10    team: Dennis Campbell, Abigail Hard, Alec  
11    Kearns, Caitlin Nolan, Kaitlyn Richards, Jerry  
12    Roy, Matthew Serrao, Jennifer Smacher, Kevan  
13    Spencer, and Thomas Brogan; and

14                "WHEREAS, It is the sense of this  
15    Legislative Body to commend those students of  
16    outstanding character who have shown initiative  
17    and commitment toward constantly pursuing higher  
18    goals for themselves, and acting as role models  
19    of leadership to be emulated by their peers; and

20                "WHEREAS, The success of the West  
21    Genesee High School Academic Decathlon Team is  
22    due in great part to the dedicated efforts of  
23    Coach Scott Duda; now, therefore, be it

24                "RESOLVED, That this Legislative  
25    Body pause in its deliberations to congratulate

1 the 2011 West Genesee High School Academic  
2 Decathlon Team upon the occasion of capturing  
3 first place at the New York State Academic  
4 Decathlon Championship; and be it further

5 "RESOLVED, That copies of this  
6 resolution, suitably engrossed, be transmitted to  
7 the members of the West Genesee High School  
8 Athletic Decathlon Team and Coach Scott Duda."

9 ACTING PRESIDENT MARCELLINO:  
10 Senator DeFrancisco on the resolution.

11 SENATOR DEFRANCISCO: Thank you,  
12 Mr. President.

13 We're fortunate to have this  
14 wonderful West Genesee High School Academic  
15 Decathlon Team with us.

16 You know, nowadays we hear all the  
17 bad things that young people do. That's  
18 newsworthy. Sometimes the good things that young  
19 people do are never recognized. But we wanted to  
20 recognize them, this decathlon team.

21 And I know everyone's used to me  
22 bringing championship teams from Syracuse, the  
23 home of the athletes of our State of New York,  
24 but we have the minds in our community as well.  
25 This team went to the national championships, won

1 over 40 medals, and did an incredible job as a  
2 team among the nation's finest brains. And they  
3 live in our district -- in my district.

4 And we have students like this all  
5 throughout the State of New York that we all  
6 should be recognizing as often as we can. I'm  
7 pleased that they were able to be here to be  
8 recognized. I'm pleased that their coach,  
9 Mr. Duda is here.

10 And what should be noted is many of  
11 the people they competed against actually had  
12 this as a course required to do during the day  
13 and then they practiced at night. This team, it  
14 was a totally voluntary team. That wasn't a  
15 course that they were required to do, and they  
16 probably had less time than the others to prepare  
17 for this great success.

18 So congratulations. You will be the  
19 Ballans, the Peraleses and the great leaders that  
20 we just recognized today that are being appointed  
21 to high state positions. You will be the leaders  
22 of tomorrow. And hopefully you'll do a better  
23 job than we've done.

24 (Laughter.)

25 SENATOR DeFRANCISCO: Thank you.

1                   ACTING PRESIDENT MARCELLINO:   Any  
2   other Senator wishing to be heard on the  
3   resolution?

4                   Seeing none, all in favor signify by  
5   saying aye.

6                   (Response of "Aye.")

7                   ACTING PRESIDENT MARCELLINO:  
8   Opposed, nay.

9                   (No response.)

10                  ACTING PRESIDENT MARCELLINO:   The  
11   resolution is adopted.

12                  (Applause.)

13                  ACTING PRESIDENT MARCELLINO:   What  
14   Senator DeFrancisco did say is most important --  
15   I've said it many times myself -- that too often  
16   we read about bad things that young people do; we  
17   don't read often enough about some of the good  
18   things.

19                  And it's a pleasure to see some very  
20   fine young people here who are truly great  
21   representatives of their community and their  
22   families. Have a great life, and God bless you  
23   all.

24                  Senator Farley.

25                  SENATOR FARLEY:   Senator

1 DeFrancisco has another privileged resolution at  
2 the desk. Would you read the title, please.

3 ACTING PRESIDENT MARCELLINO: The  
4 Secretary will read just the title of the  
5 resolution.

6 THE SECRETARY: Legislative  
7 resolution by Senator DeFrancisco, commending  
8 Reverend Paul F. Angelicchio for his many years  
9 of faithful service to Our Lady of  
10 Pompeii/St. Peter Parish.

11 ACTING PRESIDENT MARCELLINO: All  
12 in favor of the resolution signify by saying aye.

13 (Response of "Aye.")

14 ACTING PRESIDENT MARCELLINO:  
15 Opposed, nay.

16 (No response.)

17 ACTING PRESIDENT MARCELLINO: The  
18 resolution is adopted.

19 Senator Farley.

20 SENATOR FARLEY: We have another  
21 resolution at the desk by Senator Grisanti, if  
22 you'd read the title.

23 ACTING PRESIDENT MARCELLINO: The  
24 Secretary will read the title only.

25 THE SECRETARY: Legislative

1 resolution by Senator Grisanti, commemorating the  
2 175th Anniversary of the Buffalo and Erie County  
3 Library.

4 ACTING PRESIDENT MARCELLINO:  
5 Senator Grisanti on the resolution.

6 SENATOR GRISANTI: Yeah, thank you,  
7 Mr. President.

8 You know, it's important that for  
9 the last 175 years in Buffalo and Erie County the  
10 public library has provided continuous and  
11 superior library services for the people of  
12 Western New York.

13 It's amazing, since its inception in  
14 1836, it has grown from basically 5500 books  
15 being distributed to more than 8 million borrowed  
16 items and 4 million patron visits. Currently,  
17 its 37 library branches have more than 3.5  
18 million items in circulation, ranging from books,  
19 periodicals, computers and reference materials,  
20 that are actually out there in Erie County right  
21 now in Western New York.

22 That's why it's important and I'm  
23 sure that people are aware that libraries are not  
24 only important to each community, but important  
25 in the sense that people have a place to go, to

1 read, to learn, and that students have an  
2 opportunity and a place to go to utilize computer  
3 labs in the libraries.

4           It's unfortunate that in my district  
5 in Erie County, and in other counties I'm sure,  
6 that library funding is always getting cut, as  
7 well as arts and cultural. That's one of the  
8 reasons why yesterday I voted against that tax  
9 extension, because some of that money should be  
10 used for the libraries that benefit all the  
11 people of Western New York. That money should be  
12 used for arts and cultural for the people that  
13 are too poor or middle-class that can't afford  
14 the higher-end items.

15           Money should be earmarked to protect  
16 libraries at all costs so children have access to  
17 computers that can't afford it. And people  
18 should have the opportunity to go to cultural  
19 issues in their area without having to pay an arm  
20 and a leg.

21           Mr. President, thank you for  
22 allowing me to do the resolution. Thank you.

23           ACTING PRESIDENT MARCELLINO: Any  
24 other Senator wishing to be heard?

25           The motion is on the resolution.

1 All in favor signify by saying aye.

2 (Response of "Aye.")

3 ACTING PRESIDENT MARCELLINO:

4 Opposed, nay.

5 (No response.)

6 ACTING PRESIDENT MARCELLINO: The  
7 resolution is adopted.

8 Senator Farley.

9 SENATOR FARLEY: We have a  
10 privileged resolution by Senator Larkin, if you'd  
11 read the title only.

12 ACTING PRESIDENT MARCELLINO: The  
13 Secretary will read the title only.

14 THE SECRETARY: Legislative  
15 resolution by Senator Larkin, commending the  
16 San Miguel Academy of Newburgh upon the occasion  
17 of the graduation of its second 8th-grade class  
18 on June 9, 2011, and congratulating the  
19 graduates.

20 ACTING PRESIDENT MARCELLINO: The  
21 motion is on the resolution. All in favor  
22 signify by saying aye.

23 (Response of "Aye.")

24 ACTING PRESIDENT MARCELLINO:

25 Opposed, nay.



1 (No response.)

2 ACTING PRESIDENT MARCELLINO: The  
3 resolution is adopted.

4 Senator Farley.

5 SENATOR FARLEY: We have another  
6 privileged resolution by Senator Klein, if you'd  
7 read the title.

8 ACTING PRESIDENT MARCELLINO: The  
9 Secretary will read the title only.

10 THE SECRETARY: Legislative  
11 resolution by Senator Klein, congratulating the  
12 Miano family upon the occasion of the dedication  
13 of a New York State City street in honor of their  
14 loved one, Mr. Rocco "Rocky" Miano.

15 ACTING PRESIDENT MARCELLINO: All  
16 in favor of the resolution signify by saying aye.

17 (Response of "Aye.")

18 ACTING PRESIDENT MARCELLINO:  
19 Opposed, nay.

20 (Response of "Nay.")

21 ACTING PRESIDENT MARCELLINO: The  
22 resolution is adopted.

23 Senator Farley.

24 SENATOR FARLEY: Would you call on  
25 Senator Breslin for some motions.

1                   ACTING PRESIDENT MARCELLINO:

2       Senator Breslin.

3                   SENATOR BRESLIN:     Thank you,  
4       Senator Farley.

5                   Mr. President, on page number 36 I  
6       offer the following amendments to my bill,  
7       Calendar Number 552, Senate Print Number 3665,  
8       and ask that said bill retain its place on the  
9       Third Reading Calendar.

10                  ACTING PRESIDENT MARCELLINO:     The  
11       amendments are received, and the bill will retain  
12       its place on the Third Reading Calendar.

13                  SENATOR BRESLIN:     Thank you,  
14       Mr. President.

15                  On behalf of Senator Kruger, I move  
16       that the following bill be discharged from its  
17       respective committee and be recommitted with  
18       instructions to strike the enacting clause. And  
19       that would be Senate Number 3344.

20                  ACTING PRESIDENT MARCELLINO:     So  
21       ordered.

22                  SENATOR BRESLIN:     Mr. President, on  
23       behalf of Senator Huntley, I move that the  
24       following bill be discharged from its respective  
25       committee and be recommitted with instructions to

1 strike the enacting clause: Senate Number 3818.

2 ACTING PRESIDENT MARCELLINO: So  
3 ordered.

4 SENATOR BRESLIN: Thank you,  
5 Mr. President.

6 ACTING PRESIDENT MARCELLINO: Thank  
7 you, Senator Breslin.

8 Senator Farley.

9 SENATOR FARLEY: Yeah, we have also  
10 some motions.

11 On behalf of Senator DeFrancisco, on  
12 page 30 I offer the following amendments to  
13 Calendar Number 420, Senate Print 3293, and I ask  
14 that said bill retain its place on the Third  
15 Reading Calendar.

16 On behalf of Senator O'Mara, on  
17 page 44 I offer the following amendments to  
18 Calendar Number 674, Senate Print 4267A, and I  
19 ask that that bill retain its place on the Third  
20 Reading Calendar.

21 ACTING PRESIDENT MARCELLINO: The  
22 bills that you just read, the amendments will be  
23 accepted and both bills will retain their places  
24 on the Third Reading Calendar.

25 Senator Farley.

1                   SENATOR FARLEY:    Thank you.

2                   On behalf of Senator Maziarz,  
3   Mr. President, I move that the following bill be  
4   discharged from its respective committee and be  
5   recommitted with instructions to strike the  
6   enacting clause.   That's Senate 217.

7                   ACTING PRESIDENT MARCELLINO:    So  
8   ordered.

9                   SENATOR FARLEY:    On behalf of  
10   Senator Grisanti, Mr. President, I wish to call  
11   up his bill, Print Number 1737A, recalled from  
12   the Assembly, which is now at the desk.

13                  ACTING PRESIDENT MARCELLINO:    The  
14   Secretary will read.

15                  THE SECRETARY:    Calendar Number  
16   234, by Senator Grisanti, Senate Print 1737A, an  
17   act to amend Chapter 616 of the Laws of 1992.

18                  SENATOR FARLEY:    Mr. President, I  
19   now move to reconsider the vote by which this  
20   bill passed.

21                  ACTING PRESIDENT MARCELLINO:    Call  
22   the roll on reconsideration.

23                  (The Secretary called the roll.)

24                  THE SECRETARY:    Ayes, 60.

25                  SENATOR FARLEY:    I now offer the

1 following amendments.

2 ACTING PRESIDENT MARCELLINO: The  
3 amendments are received, Senator.

4 SENATOR FARLEY: Mr. President, I  
5 offer amendments to the following Third Reading  
6 Calendar bills.

7 On behalf of Senator Bonacic, on  
8 page 21, Calendar Number 225, Senate Print  
9 2143B.

10 Also on behalf of Senator Bonacic,  
11 on page 25, Calendar Number 326, Senate Print  
12 3949.

13 On behalf of Senator Golden, on  
14 page 28, Calendar Number 378, Senate Print 4496A.

15 On behalf of Senator Zeldin, on  
16 page 31, Calendar Number 435, Senate Print 4072.

17 On behalf of Senator Ball, on  
18 page 36, Calendar Number 550, Senate Print 4582A.

19 On behalf of Senator Farley, on  
20 page 58, Calendar Number 880, Senate Print 3247.

21 On behalf of Senator Farley, on page  
22 58, Calendar Number 883, Senate Print 3413.

23 Mr. President, I ask that these  
24 amendments be received and that the bills retain  
25 their place on the Third Reading Calendar.

1           ACTING PRESIDENT MARCELLINO:    The  
2   amendments will be received on the aforementioned  
3   bill, and they all will retain their place on the  
4   Third Reading Calendar.

5           Senator Farley.

6           SENATOR FARLEY:    Mr. President, if  
7   we may now go to the noncontroversial reading of  
8   the calendar.

9           ACTING PRESIDENT MARCELLINO:    The  
10   Secretary will read.

11          THE SECRETARY:    Calendar Number 88,  
12   by Senator Seward, Senate Print 2704A, an act to  
13   amend the Insurance Law.

14          ACTING PRESIDENT MARCELLINO:    Read  
15   the last section.

16          THE SECRETARY:    Section 6.   This  
17   act shall take effect on the 90th day.

18          ACTING PRESIDENT MARCELLINO:    Call  
19   the roll.

20          (The Secretary called the roll.)

21          THE SECRETARY:    Ayes, 60.

22          ACTING PRESIDENT MARCELLINO:    The  
23   bill is passed.

24          THE SECRETARY:    Calendar Number  
25   120, by Senator Robach, Senate Print 709,

1 Concurrent Resolution of the Senate and Assembly  
2 proposing amendments to the Constitution.

3 ACTING PRESIDENT MARCELLINO: Call  
4 the roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: In relation to  
7 Calendar Number 120, those recorded in the  
8 negative are Senators Adams, Carlucci, Duane,  
9 Espaillat, Gianaris, Hassell-Thompson, Klein,  
10 Montgomery, Parker, Perkins, Rivera, Savino,  
11 Serrano, Squadron and Stavisky.

12 Ayes, 45. Nays, 15.

13 ACTING PRESIDENT MARCELLINO: The  
14 resolution is adopted.

15 The Secretary will read.

16 THE SECRETARY: Calendar Number  
17 122, by Senator Sampson, Senate Print 1712, an  
18 act to amend the Judiciary Law.

19 ACTING PRESIDENT MARCELLINO: Read  
20 the last section.

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

23 ACTING PRESIDENT MARCELLINO: Call  
24 the roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 60.

2 ACTING PRESIDENT MARCELLINO: The  
3 bill is passed.

4 THE SECRETARY: Calendar Number  
5 124, by Senator Seward, Senate Print 2381,  
6 Concurrent Resolution of the Senate and Assembly  
7 proposing an amendment to Section 8 of Article 4  
8 of the Constitution.

9 ACTING PRESIDENT MARCELLINO: Call  
10 the roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT MARCELLINO: It  
13 would be very helpful if everybody was in their  
14 seats when we're voting so that we can be clear  
15 on who wishes to vote yes and no and get the  
16 counts correct. Thank you.

17 Please raise your hands if you're  
18 voting no on this resolution.

19 THE SECRETARY: In relation to  
20 Calendar Number 124, those recorded in the  
21 negative are Senators Duane, Espaillat, Gianaris,  
22 Huntley, Klein, L. Krueger, Montgomery, Perkins,  
23 Rivera, Savino, Serrano, Squadron, and Stavisky.

24 Ayes, 47. Nays, 13.

25 ACTING PRESIDENT MARCELLINO: The



1 resolution is adopted.

2 THE SECRETARY: Calendar Number  
3 231, by Senator Seward, Senate Print 2557, an act  
4 to amend the Insurance Law.

5 ACTING PRESIDENT MARCELLINO: Read  
6 the last section.

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

9 ACTING PRESIDENT MARCELLINO: Call  
10 the roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: In relation to  
13 Calendar Number 231, those recorded in the  
14 negative are Senators Avella, Duane and Diaz.

15 Ayes, 57. Nays, 3.

16 ACTING PRESIDENT MARCELLINO: The  
17 bill is passed.

18 THE SECRETARY: Calendar Number  
19 232, by Senator Seward, Senate Print 2874, an act  
20 to amend the Insurance Law.

21 ACTING PRESIDENT MARCELLINO: Read  
22 the last section, please.

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

25 ACTING PRESIDENT MARCELLINO: Call

1 the roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Those recorded in  
4 the negative on Calendar Number 232 are Senators  
5 Diaz and Duane.

6 Ayes, 58. Nays, 2.

7 ACTING PRESIDENT MARCELLINO: The  
8 bill is passed.

9 THE SECRETARY: Calendar Number  
10 240, by Senator Seward, Senate Print 2875, an act  
11 to amend the Insurance Law.

12 ACTING PRESIDENT MARCELLINO: Read  
13 the last section.

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

16 ACTING PRESIDENT MARCELLINO: Call  
17 the roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 60.

20 ACTING PRESIDENT MARCELLINO: The  
21 bill is passed.

22 THE SECRETARY: Calendar Number  
23 241, by Senator Seward, Senate Print 4040A, an  
24 act to amend the Insurance Law.

25 ACTING PRESIDENT MARCELLINO: Read

1 the last section, please.

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

4 ACTING PRESIDENT MARCELLINO: Call  
5 the roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 62.

8 ACTING PRESIDENT MARCELLINO: The  
9 bill is passed.

10 THE SECRETARY: Calendar Number  
11 270, by Senator Griffo, Senate Print 2777 --

12 SENATOR LIBOUS: Lay it aside for  
13 the day.

14 ACTING PRESIDENT MARCELLINO: The  
15 bill is laid aside for the day.

16 THE SECRETARY: Calendar Number  
17 271, by Senator Griffo, Senate Print 2870,  
18 Concurrent Resolution of the Senate and Assembly  
19 proposing an amendment to --

20 SENATOR LIBOUS: Lay it aside for  
21 the day, please.

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

24 THE SECRETARY: Calendar Number  
25 274, by Senator Griffo, Senate Print 3657, an act

1 to amend the State Technology Law.

2 ACTING PRESIDENT MARCELLINO: Read  
3 the last section, please.

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

6 ACTING PRESIDENT MARCELLINO: Call  
7 the roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 62.

10 ACTING PRESIDENT MARCELLINO: The  
11 bill is passed.

12 THE SECRETARY: Calendar Number  
13 398, by Senator Griffo, Senate Print 4208, an act  
14 to amend the Election Law.

15 SENATOR BRESLIN: Lay it aside.

16 ACTING PRESIDENT MARCELLINO: The  
17 bill is laid aside.

18 THE SECRETARY: Calendar Number  
19 400, substituted earlier today by Member of the  
20 Assembly Millman, Assembly Print Number 6973A, an  
21 act to amend the Election Law.

22 ACTING PRESIDENT MARCELLINO: Read  
23 the last section, please.

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

1                   ACTING PRESIDENT MARCELLINO:    Call  
2   the roll.

3                   (The Secretary called the roll.)

4                   THE SECRETARY:    Ayes, 62.

5                   ACTING PRESIDENT MARCELLINO:    The  
6   bill is passed.

7                   THE SECRETARY:    Calendar Number  
8   401, by Senator O'Mara, Senate Print 4744A, an  
9   act to amend the Election Law.

10                  ACTING PRESIDENT MARCELLINO:    Read  
11   the last section, please.

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

14                  ACTING PRESIDENT MARCELLINO:    Call  
15   the roll.

16                  (The Secretary called the roll.)

17                  THE SECRETARY:    Ayes, 62.

18                  ACTING PRESIDENT MARCELLINO:    The  
19   bill is passed.

20                  THE SECRETARY:    Calendar Number  
21   402, substituted earlier today by Member of the  
22   Assembly Paulin, Assembly Print Number 263, an  
23   act to amend the Election Law.

24                  ACTING PRESIDENT MARCELLINO:    Read  
25   the last section.

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

3           ACTING PRESIDENT MARCELLINO:    Call  
4   the roll.

5                   (The Secretary called the roll.)

6           ACTING PRESIDENT MARCELLINO:  
7   Senator Stewart-Cousins to explain her vote.

8           SENATOR STEWART-COUSINS:    Thank  
9   you, Mr. President.

10                   I rise to support this bill, but I  
11   must say that it is a lesser version than the  
12   bill that we passed and was signed into law when  
13   we did this last year.

14                   What this bill would do is allow  
15   people who are in a polling place, in the wrong  
16   polling place, be directed by street finders to  
17   the correct polling place.   That's what the  
18   original legislation did.   And there would be a  
19   street finder that if you happen to be out of  
20   your particular jurisdiction, they could direct  
21   you to the correct place.

22                   This reduces it to just being within  
23   the political subdivision.   So if I'm in the town  
24   and I actually should be in another town, I won't  
25   be able to know that because they will not be

1 required to have street finders that actually  
2 tell you, "No, you really need to go across  
3 town."

4 I am sorry because I think that the  
5 more access we can give to people, the more  
6 likely they are to vote in the right place. But  
7 obviously I am interested in making sure everyone  
8 has an opportunity to vote, so I will support  
9 this. But again, I think it's a lesser edition  
10 of what we originally signed into law.

11 ACTING PRESIDENT MARCELLINO:  
12 Senator Stewart-Cousins will be recorded in the  
13 affirmative.

14 Announce the results, please.

15 THE SECRETARY: Ayes, 62.

16 ACTING PRESIDENT MARCELLINO: The  
17 bill is passed.

18 THE SECRETARY: Calendar Number  
19 580, substituted earlier today by Member of the  
20 Assembly Rodriguez, Assembly Print Number 6695,  
21 an act to amend the Alcoholic Beverage Control  
22 Law.

23 ACTING PRESIDENT MARCELLINO: Read  
24 the last section, please.

25 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT MARCELLINO: Call  
3 the roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: In relation to  
6 Calendar Number 580, those recorded in the  
7 negative are Senators Diaz, Fuschillo, Marcellino  
8 and Martins.

9 Ayes, 58. Nays, 4.

10 ACTING PRESIDENT MARCELLINO: The  
11 bill is passed.

12 THE SECRETARY: Calendar Number  
13 669, by Senator Carlucci, Senate Print 4818A, an  
14 act to amend the Executive Law.

15 ACTING PRESIDENT MARCELLINO: Read  
16 the last section.

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

19 ACTING PRESIDENT MARCELLINO: Call  
20 the roll.

21 (The Secretary called the roll.)

22 ACTING PRESIDENT MARCELLINO:  
23 Senator Carlucci to explain his vote.

24 SENATOR CARLUCCI: Thank you,  
25 Mr. President.



1           This bill is an important bill, yet  
2           very simple, to really save the State of New York  
3           money.

4           Right now the Department of State is  
5           mandated to send out a physical copy of the State  
6           Registry to every city, village and town clerk of  
7           the State of New York. What this bill does is  
8           gives those cities, those towns, those villages  
9           the option of simply accessing what is free of  
10          charge right now, this information online.

11          So basically this brings this policy  
12          up-to-date with modern society and the technology  
13          we have available and saves New York's money. So  
14          I'll be voting in the affirmative.

15          Thank you, Mr. President.

16          ACTING PRESIDENT MARCELLINO:  
17          Senator Carlucci will be recorded in the  
18          affirmative.

19          Announce the results, please.

20          THE SECRETARY:    Ayes, 62.

21          ACTING PRESIDENT MARCELLINO:    The  
22          bill is passed.

23          THE SECRETARY:    Calendar Number  
24          755, by Senator Klein, Senate Print 2789, an act  
25          to amend the General Business Law.

1                   ACTING PRESIDENT MARCELLINO:    Read  
2   the last section.

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

5                   ACTING PRESIDENT MARCELLINO:    Call  
6   the roll.

7                   (The Secretary called the roll.)

8                   THE SECRETARY:    Ayes, 61.   Nays,  
9   1.   Senator Squadron recorded in the negative.

10                  ACTING PRESIDENT MARCELLINO:    The  
11   bill is passed.

12                  THE SECRETARY:    Calendar Number  
13   780, substituted earlier today by Member of the  
14   Assembly Schimel, Assembly Print Number 7469, an  
15   act to amend the Town Law.

16                  ACTING PRESIDENT MARCELLINO:    Read  
17   the last section, please.

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

20                  ACTING PRESIDENT MARCELLINO:    Call  
21   the roll.

22                  (The Secretary called the roll.)

23                  THE SECRETARY:    Ayes, 61.   Nays,  
24   1.   Senator Rivera recorded in the negative.

25                  ACTING PRESIDENT MARCELLINO:    The

1 bill is passed.

2 THE SECRETARY: Calendar Number  
3 902, by Senator Smith, Senate Print 3779, an act  
4 to amend the Banking Law.

5 ACTING PRESIDENT MARCELLINO: Read  
6 the last section.

7 THE SECRETARY: Section 3. This  
8 act shall take effect on the first of January.

9 ACTING PRESIDENT MARCELLINO: Call  
10 the roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT MARCELLINO:  
13 Senator Smith to explain his vote.

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

16 Just very briefly, I rise to, one,  
17 thank my colleague as the chair of the Banking  
18 Committee, Senator Griffo.

19 Colleagues, this is again a bill --  
20 as you know, the foreclosure challenge that we  
21 have with our constituents throughout this state  
22 is immeasurable. This bill is another step  
23 towards arresting what has become a very  
24 challenging industry.

25 And I do hope that we will continue

1 to move on pieces such as this, as ground zero is  
2 an area in which I represent in Southeast Queens,  
3 along with Senator Huntley, and these are bills  
4 that will clearly have an impact on the mortgage  
5 industry.

6 I vote yes, Mr. President.

7 ACTING PRESIDENT MARCELLINO:

8 Senator Smith will be recorded in the  
9 affirmative.

10 Announce the results, please.

11 THE SECRETARY: Ayes, 62.

12 ACTING PRESIDENT MARCELLINO: The  
13 bill is passed.

14 THE SECRETARY: Calendar Number  
15 903, by Senator Smith, Senate Print 3781, an act  
16 to amend the Banking Law.

17 ACTING PRESIDENT MARCELLINO: Read  
18 the last section.

19 THE SECRETARY: Section 11. This  
20 act shall take effect on the 30th day.

21 ACTING PRESIDENT MARCELLINO: Call  
22 the roll.

23 (The Secretary called the roll.)

24 ACTING PRESIDENT MARCELLINO:

25 Senator Smith to explain his vote.

1                   SENATOR SMITH:    Yes, thank you very  
2 much, Mr. President and colleagues.

3                   As the last bill deals with  
4 licensing, this one actually deals with fraud and  
5 actually puts a closer relationship between the  
6 Banking Department and the AG's office.

7                   And it is our hope, again, that  
8 these bills will begin to send a message to those  
9 in the mortgage industry that their days are  
10 numbered and that we are watching and that we are  
11 going to make sure that those who pursue the  
12 American dream have the opportunity to have that  
13 dream long-term and not short-term.

14                  Thank you very much, Mr. President.  
15 I'll be voting yes.

16                  ACTING PRESIDENT MARCELLINO:  
17 Senator Smith will be recorded in the  
18 affirmative.

19                  Announce the results, please.

20                  THE SECRETARY:    Ayes, 62.

21                  ACTING PRESIDENT MARCELLINO:    The  
22 bill is passed.

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

25                  I believe we have one bill that was

1     laid aside for the controversial calendar.

2                 SENATOR LIBOUS:     Thank you,  
3     Mr. President.   At this time could we take up the  
4     reading of the controversial calendar.

5                 ACTING PRESIDENT MARCELLINO:     Yes,  
6     we can.

7                 The Secretary will ring the bells,  
8     please.   Can we have all members in their seats  
9     for the debate on this highly controversial bill.

10                The Secretary will read the  
11     controversial calendar, Calendar Number 398,  
12     S4208.

13                THE SECRETARY:     Calendar Number  
14     398, by Senator Griffo, Senate Print 4208, an act  
15     to amend the Election Law.

16                SENATOR BRESLIN:     Explanation.

17                ACTING PRESIDENT MARCELLINO:  
18     Senator Griffo, Senator Breslin has asked for an  
19     explanation.

20                SENATOR GRIFFO:     Thank you,  
21     Mr. President.   Thank you, Senator Breslin.

22                This bill would guarantee -- in its  
23     basic form, this bill guarantees that the  
24     candidate that wins the most votes in all  
25     50 states becomes the President of the United

1 States. It's a bill that I've carried for a  
2 couple of years. And then Senator Parker, I want  
3 to thank him for his efforts in carrying the bill  
4 over the last couple of years.

5 It's an issue from my perspective  
6 that deals with our respect and appreciation for  
7 the importance of each and every vote,  
8 particularly in the 21st century, and also is  
9 about relevancy for the State of New York. So in  
10 essence, this bill would allow for the State of  
11 New York to enter into an interstate compact  
12 which would ensure that the state would award its  
13 electoral votes to the winner of the national  
14 popular vote in all 50 states.

15 And I'd be happy to answer any  
16 questions.

17 ACTING PRESIDENT MARCELLINO:  
18 Senator Gianaris.

19 SENATOR GIANARIS: Mr. President,  
20 would the sponsor yield for a question or two?

21 SENATOR GRIFFO: Most certainly,  
22 Senator Gianaris.

23 ACTING PRESIDENT MARCELLINO: The  
24 Senator yields.

25 SENATOR GIANARIS: This bill is

1 well-intentioned. I certainly understand where  
2 it's coming from. But I'm concerned with the law  
3 of unintended consequences for dealing with an  
4 issue so important to the functioning of our  
5 democracy and the selection of a president.

6 My question to the sponsor is,  
7 currently, each state's electoral votes, how are  
8 they determined? In other words, how is it  
9 determined what number of electoral votes each  
10 state has?

11 ACTING PRESIDENT MARCELLINO:  
12 Senator Griffo.

13 SENATOR GRIFFO: Thank you,  
14 Mr. President. Through you.

15 Senator Gianaris, there are a couple  
16 of instances here. Obviously the vote will be  
17 determined upon the Congressional  
18 representation. And I don't know where we will  
19 stand. I believe we'll be at 29, unfortunately,  
20 in another year.

21 But it also -- so once we have that  
22 number, this would be reflecting Article II of  
23 the U.S. Constitution, which allows each state to  
24 appoint in such manner as the legislature of that  
25 state may direct.



1                   SENATOR GIANARIS:    And if the  
2   sponsor would continue to yield.

3                   ACTING PRESIDENT MARCELLINO:  
4   Senator Griffo, do you continue to yield?

5                   SENATOR GRIFFO:     Yes.

6                   ACTING PRESIDENT MARCELLINO:   He  
7   yields.

8                   SENATOR GIANARIS:    I heard your  
9   answer it's based on Congressional  
10   representation.  That is of course true.  What  
11   I'm trying to get at is, and the members of  
12   Congress apportioned to a state are determined by  
13   what method?  Is it based on the population of a  
14   state?

15                  SENATOR GRIFFO:     It is my  
16   understanding that it is based on the per capita,  
17   correct, Mr. President.

18                  SENATOR GIANARIS:    And if the  
19   sponsor would continue to yield.

20                  ACTING PRESIDENT MARCELLINO:  
21   Senator Griffo, do you continue to yield?

22                  SENATOR GRIFFO:     Yes.

23                  ACTING PRESIDENT MARCELLINO:   He  
24   yields.

25                  SENATOR GIANARIS:    Under this

1 proposal, if enough states were to enter into  
2 this compact, the election of a president would  
3 then be determined by the number of votes -- or  
4 whichever candidate receives the most number of  
5 votes. Is that correct?

6 SENATOR GRIFFO: Yeah.

7 Mr. President, through you. It's my  
8 understanding, Senator Gianaris, that this would  
9 be a compact form. It would really not be able  
10 to take effect until a number of states have come  
11 collectively with enough electoral votes in order  
12 to fulfill the mission, which is to elect the  
13 president by assigning those electoral votes in  
14 the states involved in the compact based upon the  
15 winner of all the popular vote in all 50 states.

16 SENATOR GIANARIS: And if the  
17 sponsor would continue to yield.

18 ACTING PRESIDENT MARCELLINO:  
19 Senator Griffo, do you continue to yield?

20 SENATOR GRIFFO: Yes.

21 SENATOR GIANARIS: What I'm trying  
22 get at is the difference between the current  
23 system and this compact if it were adopted by  
24 enough states.

25 And as I understand it, the

1 difference would be currently a state's relative  
2 influence over the selection of a president is  
3 based on its population. Whereas, if this system  
4 were adopted by enough states, it would be based  
5 simply on whoever receives the most votes at the  
6 polls on Election Day.

7 SENATOR GRIFFO: Mr. President,  
8 through you. Senator Gianaris, that is correct.

9 Basically, though, at this point in  
10 time 47 states allocate a winner-take-all where,  
11 if you win the popular vote in that particular  
12 state, such as in New York, you would receive all  
13 the electoral votes.

14 What this bill is intending to do is  
15 to say that whoever wins the national popular  
16 vote across all 50 states would be awarded the  
17 electoral votes of the State of New York.

18 So it continues the Electoral  
19 College, but it also makes New York State  
20 relevant. Right now, many of the elections are  
21 decided in battleground states and we see not a  
22 lot of activity in the State of New York, for  
23 instance, and other significant states.

24 But it doesn't diminish the smaller  
25 states either, because in order to win the

1 election you're going to have to garner as many  
2 as votes as possible across the entire  
3 50 states. So while you may look -- it's a  
4 strategy perspective, how you will effectuate a  
5 strategy in order to ensure that you win the  
6 required 270 electoral votes to become president.

7 SENATOR GIANARIS: On the bill,  
8 Mr. President.

9 ACTING PRESIDENT MARCELLINO:  
10 Senator Gianaris on the bill.

11 SENATOR GIANARIS: Thank you,  
12 Senator Griffo.

13 I have several concerns with this  
14 bill which I want to address briefly, one of  
15 which is the difference in the relative strength  
16 of states when it comes to the presidential  
17 selection.

18 Currently a state has as much  
19 influence as its electoral votes, which is based  
20 on the population of the state. If we move to a  
21 system where enough states enter into this  
22 compact, a state's relative worth in the  
23 presidential selection process becomes about  
24 people who are registered to vote and voter  
25 turnout.

1                   And what ends up happening is states  
2     like New York that have large immigrant  
3     populations, legal as well as not, that amount of  
4     population is currently given influence through  
5     the electoral vote system, where they are counted  
6     for purposes of determining how many electoral  
7     votes a state has.

8                   Whereas, if we move to the system  
9     that's proposed in this bill, we will have much  
10    more of a determination made about how many  
11    people are registered to vote -- and we know we  
12    have lots of communities that aren't registered  
13    in the numbers they should be; it will be based  
14    on voter turnout, where again we could have a  
15    situation where bad weather in one part of the  
16    country can influence the outcome based on total  
17    voter turnout.

18                  That's a major concern of mine. I  
19    have others, which is if we move to a system  
20    where the major population centers will  
21    undoubtedly get more attention, because that's  
22    where the raw vote is, you have the ability for  
23    those who are extremely wealthy to have  
24    disproportionate influence because they could  
25    saturate the media markets in the large cities

1     that would obviously influence the most raw  
2     number of votes.

3                 And we are also, I believe,  
4     tinkering with some very important principles  
5     that were agreed upon by all the states when this  
6     country was founded. There was a compromise  
7     reached with the small states in this country  
8     where they would have as much influence in the  
9     presidential selection process as their members  
10    of Congress, plus two, for their United States  
11    Senators. And this would again tip that balance  
12    state by state, which I think is not the way to  
13    go forward.

14                Again, I think this is  
15    well-intentioned. I appreciate where the sponsor  
16    and the supporters are coming from. But it is a  
17    major change in one of the most fundamental  
18    aspects of our democracy, and I think any  
19    solution should be dealt with constitutionally at  
20    the federal level and then we can deal with  
21    ratifying the constitutional amendment if it  
22    comes back to us that way.

23                So I would be voting in the  
24    negative. I encourage my colleagues to do the  
25    same.

1                   ACTING PRESIDENT MARCELLINO:

2       Thank you, Senator Gianaris.

3                   Senator Maziarz on the bill.

4                   SENATOR MAZIARZ:    Thank you very  
5       much, Mr. President.

6                   I rise in support of this  
7       legislation. I commend Senator Griffo, the  
8       sponsor.

9                   It's sort of unusual to be in  
10      support of it, because I read the bill and I read  
11      the book that some of the advocates have  
12      published about this. And to be honest with you,  
13      I really think it kind of favors nationally one  
14      political party over the other political party.  
15      And honestly, I don't think it favors the  
16      political party that I happen to be a member of.

17                   If this system had been in place in  
18      2000, God help us all, Al Gore would have been  
19      elected President of the United States.

20                   UNIDENTIFIED SENATOR:   He was.

21                   (Laughter.)

22                   SENATOR MAZIARZ:    However, in 2004,  
23      the election would not have even been close.  
24      George W. Bush would have won the race.

25                   I think the problem is -- and, you

1 know, I would love to stand here and say that no  
2 disrespect meant to my friends in New Hampshire  
3 and Iowa -- except I don't have any friends in  
4 New Hampshire and Iowa.

5 (Laughter.)

6 SENATOR MAZIARZ: But, you know,  
7 New Hampshire, Iowa, small states are choosing  
8 the leader of the free world.

9 Now, I don't have any problem with  
10 that except -- well, I do have a problem with  
11 that. You know, I think that when larger states  
12 are pretty much kept out of the decision-making  
13 process, that's not good for democracy.

14 As I said, personally I think it  
15 kind of favors the Democratic Party over the  
16 Republican Party. But, you know, that's just the  
17 way it is. The majority, the majority who  
18 gets -- the person who gets the majority vote  
19 should be elected.

20 I've thought for a long time that  
21 the whole Electoral College process was something  
22 that may have worked, you know, 200-plus years  
23 ago, but it doesn't work today.

24 So I'm certain, absolutely certain  
25 that if Al Gore were standing here today, he



1 would say he would be in favor of this particular  
2 bill.

3 Thank you, Mr. President.

4 ACTING PRESIDENT MARCELLINO:

5 Senator Gianaris.

6 SENATOR GIANARIS: Would Senator  
7 Maziarz yield for a very quick question.

8 ACTING PRESIDENT MARCELLINO:

9 Senator Maziarz, would you yield for a very quick  
10 question?

11 SENATOR MAZIARZ: Yes, I would,  
12 Mr. President.

13 SENATOR GIANARIS: Just a point of  
14 clarification.

15 Of course the influence of Iowa and  
16 New Hampshire are relative to the nominating  
17 process, which this bill would not change in any  
18 way, shape or form. So in fact their influence  
19 is relative to the parties choosing their  
20 candidates, not to the election in November.  
21 Would you agree with that?

22 SENATOR MAZIARZ: Right. But the  
23 two major-party candidates are selected by some  
24 very small states, a small number of individuals  
25 that choose the two major-party candidates. And

1 usually the Republican wins anyways.

2 Thank you, Mr. President.

3 ACTING PRESIDENT MARCELLINO: Thank  
4 you, Senator Maziarz.

5 Senator Rivera. On the bill?

6 SENATOR RIVERA: Thank you,  
7 Mr. President. On the bill.

8 ACTING PRESIDENT MARCELLINO:  
9 Senator Rivera on the bill.

10 SENATOR RIVERA: I will be very  
11 brief. I will be supportive of this  
12 legislation. Thank you, Senator Griffo, for  
13 bringing it to us.

14 I will be -- and it is not every day  
15 that I disagree with my colleague Senator  
16 Gianaris, but I do in a very strong way. As a  
17 political science professor for the last decade,  
18 I remember very clearly every time that I've  
19 tried to explain the Electoral College to my  
20 students and the quizzical looks that I get back  
21 from them, saying "So you're trying to tell me  
22 that there is the possibility that somebody might  
23 not actually get more people to vote for him or  
24 her but actually become the President of the  
25 United States?" And I've said, "Yes, that's

1 exactly the way the system works now."

2           So I am very supportive of this  
3 effort nationally and here in New York, and I  
4 will be voting in the affirmative on this bill  
5 and I hope that my colleagues do the same.

6           Thank you, Mr. President.

7           ACTING PRESIDENT MARCELLINO:    Thank  
8 you, Senator Rivera.

9           Senator Diaz, why do you rise?

10          SENATOR DIAZ:    On the bill,  
11 Mr. President.

12          ACTING PRESIDENT MARCELLINO:  
13 Senator Diaz on the bill.

14          SENATOR DIAZ:    I just had to agree  
15 with Senator Maziarz when he said that this bill  
16 tends to benefit the Democrat more than the  
17 Republican.

18                 And if that is the case, I have to  
19 praise Senator Griffo for a Republican submitting  
20 a bill that will benefit us Democrats.   And this  
21 is an indication of how this business is done  
22 here.

23                 So, Senator Griffo, thank you very  
24 much for this bill.   And I'm supporting this  
25 bill, and I'm very proud of you for submitting

1 this bill and you, Senator Maziarz, for speaking  
2 on behalf of the bill.

3 Thank you.

4 ACTING PRESIDENT MARCELLINO: Any  
5 other Senator wishing to be heard?

6 Debate is closed. Can we ring the  
7 bells, please.

8 Read the last section, please.

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

11 ACTING PRESIDENT MARCELLINO: Call  
12 the roll.

13 (The Secretary called the roll.)

14 ACTING PRESIDENT MARCELLINO:  
15 Senator Squadron to explain his vote.

16 SENATOR SQUADRON: Thank you,  
17 Mr. President.

18 I thank Senator Gianaris for the  
19 points he raised.

20 Look, we all know the Electoral  
21 College is far from perfect. We all know that if  
22 we were setting up the nation today, it's not the  
23 system we would set up.

24 But there's also no doubt that it  
25 creates protections for this country, it creates

1     protections in terms of how you run for the  
2     highest office in this land, the most powerful  
3     job in the world. You need to run multiple  
4     campaigns. You need to appeal to multiple groups  
5     of people in different ways. You need to be able  
6     to communicate at a retail level and in that  
7     very, very expensive way on the airwaves.

8                     ACTING PRESIDENT MARCELLINO:

9     Senator Squadron, excuse me.

10                    Can we have some quiet, please.

11     (Gaveling.) Thank you very much.

12                    SENATOR SQUADRON: Thank you,

13     Mr. President.

14                    The Electoral College is far from  
15     ideal, but it provides protections today against  
16     a simple run for that 50.1 percent of the vote.  
17     It creates a different dynamic, and it's a  
18     positive dynamic for the entire country. We're  
19     not just a country of 50.1, we're a country of  
20     many groups, many regions, many interests. And  
21     the Electoral College, while imperfect, is the  
22     best we have.

23                    I vote no, Mr. President.

24                    ACTING PRESIDENT MARCELLINO:

25     Senator Squadron will be recorded in the

1 negative.

2 Announce the results.

3 THE SECRETARY: In relation to  
4 Calendar Number 398, those recorded in the  
5 negative are Senators Ball, Gianaris, Johnson,  
6 Lanza, Little, Marcellino, Saland, Seward, and  
7 Squadron. Also Senator Nozzolio.

8 Absent from voting are Senators  
9 Grisanti, C. Kruger and Peralta.

10 Ayes, 49. Nays, 10.

11 ACTING PRESIDENT MARCELLINO: The  
12 bill is passed.

13 Senator Libous, that completes the  
14 reading of the controversial calendar.

15 SENATOR LIBOUS: Mr. President, on  
16 behalf of Senator Maziarz, could we return to  
17 motions, please.

18 ACTING PRESIDENT MARCELLINO:  
19 Senator Libous, we have another adjustment in the  
20 tally on the last bill, please.

21 SENATOR LIBOUS: Proceed with the  
22 adjustment, please, Mr. President.

23 ACTING PRESIDENT MARCELLINO:  
24 Senator Grisanti, how do you vote?

25 Can we reannounce the results,

1 please, on the passed bill.

2 THE SECRETARY: In relation to  
3 Calendar Number 398, those recorded in the  
4 negative are Senators Ball, Gianaris, Johnson,  
5 Lanza, Little, Marcellino, McDonald, Nozzolio,  
6 O'Mara, Saland, Seward and Squadron.

7 Absent from voting: Senators C.  
8 Kruger and Peralta.

9 Ayes, 48. Nays, 12.

10 ACTING PRESIDENT MARCELLINO: The  
11 bill is passed.

12 THE SECRETARY: Also Senator Farley  
13 recorded in the negative.

14 Ayes, 47. Nays, 13.

15 Absent from voting, Senators C.  
16 Kruger and Peralta.

17 ACTING PRESIDENT MARCELLINO: The  
18 bill is still passed.

19 Can we return to motions and  
20 resolutions, please.

21 SENATOR LIBOUS: Mr. President,  
22 could I have some order in the chamber? Because  
23 we have not adjourned yet.

24 ACTING PRESIDENT MARCELLINO: I'd  
25 love to.

1           Senator Libous is requesting order  
2     in the chamber.

3           SENATOR LIBOUS:     Thank you,  
4     Mr. President --

5           ACTING PRESIDENT MARCELLINO:  
6     You're welcome, sir.

7           SENATOR LIBOUS:     -- for cooperating  
8     with me.   I appreciate that.

9           Could we return to motions and  
10    resolutions, please.

11          ACTING PRESIDENT MARCELLINO:    We'd  
12    love to return to motions and resolutions.

13          Senator Libous.

14          SENATOR LIBOUS:     Thank you,  
15    Mr. President.

16          At this time, on behalf of Senator  
17    Maziarz, on page 18 I offer the following  
18    amendments to Calendar Number 132, Senate Print  
19    2913B, and ask that said bill retain its place on  
20    Third Reading Calendar.

21          ACTING PRESIDENT MARCELLINO:    The  
22    amendments are received.   The bill will retain  
23    its place on the Third Reading Calendar.

24          SENATOR LIBOUS:     And,  
25    Mr. President, on behalf of Senator Farley, on



1 page 58 I offer the following amendments to  
2 Calendar Number 882, Senate Print 3412, and ask  
3 that the bill retain its place on the Third  
4 Reading Calendar.

5 ACTING PRESIDENT MARCELLINO: The  
6 amendments are received, and the bill will retain  
7 its place on the Third Reading Calendar.

8 Senator Libous.

9 SENATOR LIBOUS: Mr. President,  
10 we're going to adjourn in a minute. But we just  
11 want to -- because next week is going to be a  
12 full week, I just want to make sure that the  
13 starting time on Monday is correct. I believe  
14 the document in front of me might have been  
15 printed earlier than the time that a decision was  
16 made, so bear with me.

17 (Pause.)

18 SENATOR LIBOUS: Mr. President, I'm  
19 quite impressed with the ability you have to  
20 quiet the chamber.

21 ACTING PRESIDENT MARCELLINO:  
22 Twenty years of teaching can do that.

23 (Laughter.)

24 SENATOR LIBOUS: I just want to  
25 make sure we have the right time for Monday.

1                   ACTING PRESIDENT MARCELLINO:    It's  
2   always good to have the right time.

3                   SENATOR LIBOUS:    All right,  
4   Mr. President.  There being no further business,  
5   the Senate will stand adjourned until Monday,  
6   June 13th, at 2:00 p.m., intervening days to be  
7   legislative days.

8                   ACTING PRESIDENT MARCELLINO:    There  
9   being no further business, the Senate stands  
10  adjourned until Monday, June 13th, at 2:00 p.m.,  
11  intervening days being legislative days.

12                   (Whereupon, at 3:28 p.m., the Senate  
13  adjourned.)

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