NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 14, 2011

12:30 p.m.

REGULAR SESSION

SENATOR CARL L. MARCELLINO, Acting President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT MARCELLINO: The Senate will come to order, please.

Can we all rise and join with me in the Pledge of Allegiance to our Flag.

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

(Whereupon, the New York Army National Guard Color Guard entered the chamber and presented colors, and Staff Sergeant Brooke Leavitt sang "The Star-Spangled Banner.")

(Applause.)

(Whereupon, the Color Guard posted colors, presented arms, and marched to the back of the chamber.)

ACTING PRESIDENT MARCELLINO: Our invocation will be read by Colonel Eric Olsen, chaplain of the New York State Division of Military and Naval Affairs.

CHAPLAIN OLSEN: Let us pray.

Gracious and ever-living God, as citizens of a just and caring nation we know You by different names, worship You in

different fashions, and understand the call to service through personal devotion.

As this body gathers together today in the spirit of service for the good of our state, we ask for Your hand of selfless and wise guidance to help in the decisions made. Let all that is done here reflect the principles and ideals which have long guided our vision to be a good, productive, and peaceful people.

We ask Your divine blessing upon our Governor, our Senators and legislators as they bear the often difficult responsibility of leadership. Bless too all that support and encourage them in their tasks.

Finally, Lord, as we celebrate the anniversary of our nation's Army and celebrate Flag Day, as we honor the men and women who stand and have stood to defend the rights and principles we as a nation hold to be true, let this body remember that there are consequences to all that we do and that leadership requires the highest ideal of conscience and character. May that ideal never diminish from those who have been given

the power to rule.

Please bless our nation, the good she brings throughout the world, and those who serve her. In Your holy name we pray, amen.

ACTING PRESIDENT MARCELLINO: Senator Libous.

SENATOR LIBOUS: Mr. President, could I ask at this time unanimous consent by the body time for Colonel Migaleddi to please address the body at this time.

ACTING PRESIDENT MARCELLINO: With unanimous consent, we invite Colonel Migaleddi to come up and address the house.

COLONEL MIGALEDDI: Majority Leader Skelos, Minority Leader Sampson, Senators, veterans, and other distinguished guests, thank you very much. Again I have an opportunity to talk to you today. It's not a bad dream; I'm back. And to be in such an honored place is an honor.

On June 14, 1775, at the outbreak of the Revolutionary War, the Army was established by a resolution of the Continental Congress and the 13 colonies that would become the United States of America.

The strength of an infant nation was its Army. The strength of our Army was the soldiers and their families who fought to form a more perfect union, the United States of America. Brave militiamen, many from New York, fought to defend the freedoms and defeat injustice for a new nation to beat the oppression. Wives and daughters tended the wounded, the injured, manned cannons for the new Continental Army.

In the next 236 years, soldiers continued to maintain the highest strength and character and resolve. But much has changed since the Army of 1775 when our Army was once untrained farmers, merchants, and tradesmen who used their own rifles. What has not changed, however, is the fighting spirit and the values of the American soldier. From the Battle of Saratoga to the Battle of Kandahar, your Army has carried the warrior spirit with them.

On the occasion of the Army's birthday, on behalf of the soldiers, I thank you for New York's 236 years of support for our Army. You are part of the United States Army. You are part of our nation, the strength of the

nation, the United States Army.

Thank you, and God bless New York State and the United States of America.

(Applause.)

ACTING PRESIDENT MARCELLINO: We thank the commander and all of our honored guests, the veterans who served this state and this nation and have protected our freedoms over the years.

The reading of the Journal, please.

THE SECRETARY: In Senate, Monday, June 13th, the Senate met pursuant to adjournment. The Journal of Sunday, June 12th, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

The Secretary will read.

THE SECRETARY: Senator DeFrancisco moves to discharge, from the Committee on Rules, Assembly Bill Number 7388 and substitute it for the identical Senate Bill Number 3947, Third

Reading Calendar 350.

ACTING PRESIDENT MARCELLINO: Substitution ordered.

THE SECRETARY: On page 40, Senator Martins moves to discharge, from the Committee on Local Government, Assembly Bill Number 6462 and substitute it for the identical Senate Bill Number 5002, Third Reading Calendar 647.

ACTING PRESIDENT MARCELLINO: Substitution ordered.

THE SECRETARY: On page 41, Senator LaValle moves to discharge, from the Committee on Higher Education, Assembly Bill Number 2718 and substitute it for the identical Senate Bill Number 2410, Third Reading Calendar 658.

ACTING PRESIDENT MARCELLINO: Substitution ordered.

THE SECRETARY: On page 41, Senator LaValle moves to discharge, from the Committee On Environmental Conservation, Assembly Bill Number 4786 and substitute it for the identical Senate Bill Number 3421, Third Reading Calendar 685.

ACTING PRESIDENT MARCELLINO: Substitution ordered.

THE SECRETARY: On page 59, Senator

Ball moves to discharge, from the Committee on Veterans, Homeland Security and Military Affairs, Assembly Bill Number 6383 and substitute it for the identical Senate Bill Number 5432, Third Reading Calendar 985.

ACTING PRESIDENT MARCELLINO: Substitution ordered.

THE SECRETARY: On page 62, Senator Grisanti moves to discharge, from the Committee on Rules, Assembly Bill Number 7570 and substitute it for the identical Senate Bill Number 5342, Third Reading Calendar 1010.

ACTING PRESIDENT MARCELLINO: Substitution is ordered.

THE SECRETARY: On page 62, Senator Little moves to discharge, from the Committee on Cultural Affairs, Tourism, and Parks and Recreation, Assembly Bill Number 7279 and substitute it for the identical Senate Bill Number 5372, Third Reading Calendar 1011.

ACTING PRESIDENT MARCELLINO: Substitution is ordered.

THE SECRETARY: On page 62, Senator Libous moves to discharge, from the Committee on Cultural Affairs, Tourism and Parks and

Recreation, Assembly Bill Number 6299A and substitute it for the identical Senate Bill Number 5534, Third Reading Calendar 1012.

ACTING PRESIDENT MARCELLINO: Substitution is ordered.

THE SECRETARY: On page 63, Senator Larkin moves to discharge, from the Committee on Rules, Assembly Bill Number 3152 and substitute it for the identical Senate Bill Number 5437, Third Reading Calendar 1017.

ACTING PRESIDENT MARCELLINO: Substitution is ordered.

THE SECRETARY: On page 64, Senator Gallivan moves to discharge, from the Committee on Elections, Assembly Bill Number 7453A and substitute it for the identical Senate Bill Number 5385, Third Reading Calendar 1031.

ACTING PRESIDENT MARCELLINO: Substitution is ordered.

THE SECRETARY: On page 65, Senator Oppenheimer moves to discharge, from the Committee on Higher Education, Assembly Bill Number 2502A and substitute it for the identical Senate Bill Number 3469A, Third Reading Calendar 1154.

ACTING PRESIDENT MARCELLINO: Substitution is ordered.

THE SECRETARY: On page 66, Senator Golden moves to discharge, from the Committee on Local Government, Assembly Bill Number 6923 and substitute it for the identical Senate Bill Number 4780, Third Reading Calendar 1159.

ACTING PRESIDENT MARCELLINO: Substitution is ordered.

THE SECRETARY: On page 67, Senator Savino moves to discharge, from the Committee on Children and Families, Assembly Bill Number 7520 and substitute it for the identical Senate Bill Number 5582, Third Reading Calendar 1174.

ACTING PRESIDENT MARCELLINO: Substitution is ordered.

THE SECRETARY: On page 37, Senator Fuschillo moves to discharge, from the Committee on Rules, Assembly Bill Number 7751A and substitute it for the identical Senate Bill Number 5234A, Third Reading Calendar 607.

ACTING PRESIDENT MARCELLINO: Substitution is ordered.

THE SECRETARY: On page 67, Senator Saland moves to discharge, from the Committee on

Rules, Assembly Bill Number 7930 and substitute it for the identical Senate Bill Number 5542, Third Reading Calendar 1169.

ACTING PRESIDENT MARCELLINO: Substitution is ordered.

THE SECRETARY: And on page 68, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 7834 and substitute it for the identical Senate Bill Number 5651, Third Reading Calendar 1180.

ACTING PRESIDENT MARCELLINO: Substitution is ordered.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Libous.

SENATOR LIBOUS: Mr. President, thank you.

On behalf of Senator Saland, on page 54 I offer the following amendments to Calendar Number 915, Senate Print 4530, and ask that said bill retain its place on the Third

Reading Calendar.

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

SENATOR LIBOUS: On behalf of Senator Johnson -- he has a number -- I move that the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause: 2632, 2634, 2636 and 2666.

ACTING PRESIDENT MARCELLINO: So ordered.

SENATOR LIBOUS: On behalf of Senator Golden, on page 34 I offer the following amendments to Calendar Number 553, Senate Print 4507A, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR LIBOUS: And, Mr. President, on behalf of Senator Griffo, on page 58 I offer the following amendments to Calendar Number 967, Senate Print 3322A, and ask that said bill retain its place on the Third

Reading Calendar.

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

SENATOR LIBOUS: Mr. President, at this time could we please adopt the Resolution Calendar, with the exception of the following resolutions: 2233, 2277, and 2475.

ACTING PRESIDENT MARCELLINO: Move to adopt the Resolution Calendar with the exception of resolutions 2233, 2277, and 2475. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The ayes have it. The Resolution Calendar is adopted.

Senator.

SENATOR LIBOUS: Mr. President, at this time I believe Resolution 2277 is at the desk. I would ask that the Clerk please read it in its entirety. At the conclusion of reading the resolution, please call on Senator Ball and

then Senator Breslin.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 2277, by Senator Skelos, honoring the distinguished veterans from the State of New York upon the occasion of their induction into the New York State Senate Veterans Hall of Fame, to be celebrated on June 14, 2011.

"WHEREAS, Members of the Armed Services from the State of New York, who have served so valiantly and honorably in wars in which this country's freedom was at stake, as well as in the preservation of peace in peacetime, deserve a special salute from this Legislative Body; and

"WHEREAS, Attendant to such concern, and in full accord with its long-standing traditions, this Legislative Body is justly proud to honor the distinguished veterans from the State of New York upon the occasion of their induction into the New York State Senate Veterans Hall of Fame , to be celebrated on June 14, 2011; and

"WHEREAS, The New York State Senate

Veterans Hall of Fame inductees are members of any branch of the United States Armed Forces, which include Army, Navy, Coast Guard, Air Force, and Marine Corps. These exceptional men and women are chosen for this prestigious honor based on either service in combat or notable work performed after discharge from the service; and

"WHEREAS, The 2011 inductees include: Nicholas A. Verzella, James E. Prevete, Karl R. Rohde, Charles Eustis, Colonel Charlie Johnson, Howard Goldin, Charles Murphy, Pete Leon, Martin Treat, Merlin German, James A. Wilson, William Beatty, George A. Jones, Mark P. O'Brien, George R. Broadhead, Herbert C. Thorpe, Michael Lewandowski, Jackie L. Wilson, John T. Digilio, Jr., Sandra Jablonski Bourque, Eugene Bryant, Jordan Czerniawski, William O. Stratis, Eugene G. Smith, John Czuhanich, Harold G. Cronin, Richard Evers, John S. Davanzo, Margaret Gill, Clarence Dart, John Barwinczok, Philip C. Smith, William Capodanno, Rev. Dr. Glyger G. Beach, Anthony Caminiti, Ronald J. Pilozzi, John M. Canale, Ken Moore, Michael Burke, Corey Pegues, John P. Nowhitney, John F. Barry, Sharon Sweeting-Lindsey, Roberta A. Goldenberg, Albert

Paviglianti, Anthony J. Costanza, and George W. Egan. In addition, special recognition goes to Michael P. Murphy and Douglas J. Glover; and

"WHEREAS, The banner of freedom will always wave over our beloved New York and all of America, the Land of the Free and the Home of the Brave; and

"WHEREAS, The freedoms and security we cherish as Americans come at a very high price for those serving in the military in times of conflict. It is fitting and proper that we who are the beneficiaries of those who risk their lives must never forget the courage with which these men and women served their country; and

"WHEREAS, Our nation's veterans deserve to be recognized, commended and thanked by the people of the State of New York for their service and for their dedication to their communities, their state, and their nation; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to honor the distinguished veterans from the State of New York upon the occasion of their induction into the New York State Senate Veterans Hall of Fame to be

celebrated on June 14, 2011; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the 2011 inductees."

ACTING PRESIDENT MARCELLINO: To be heard on the resolution, Senator Ball.

SENATOR BALL: There's a quote at the United States Air Force Academy, at West Point, Naval Academy, all the military academies. You have to remember, plebe year, your first summer, a book full of information. And there's a quote that always sticks out in my brain by General Norman Schwarzkopf, "Stormin' Norman," who was an amazing leader, and I'd like to share it today.

"A professional soldier understands that war means killing, war means maiming, war means families left without fathers and mothers. All you have to do is hold your first dying soldier in your arms and have that terribly futile feeling that his life is flowing out and you can do nothing about it. Then you understand the horror of war. Any soldier worth his salt should be antiwar. And still, there are things worth fighting for."

We live in the greatest nation that this world has ever known. And to the veterans, to the honorees that are here today and to the veterans throughout this state, I stand before you on behalf of this body -- I know I'm joined by every single one of my colleagues -- thanking you from the absolute bottom of my heart.

And to those who never had the opportunity to serve, it must be pointed out today, we must remember that regardless of whether it was a combat vet or somebody who served in a support role, all veterans are united in one common reality. Our veterans all raised their right hand and were willing, if called upon by this nation -- and many were -- were willing to fight and die in the service of this nation.

We have a responsibility to ensure that the United States of America continues to be strong, not only as Americans but because that American flag that stands in this chamber today and that American flag that is worn by many of the veterans and that American flag that is on the shoulders of the active-duty servicemen and women, to this very day, where 1 percent of our population carries the weight of the rest of our

society -- and it was servicemen that brought about and killed Osama bin Laden. It is servicemen that find maps to subways in New York City in caves and countries that many of us cannot pick out on a map.

That American flag represents the greatest sense of hope and opportunity that this world has ever known. And it's American servicemen and women who represent hope and opportunity to, yes, young children and women in Iraq, to countries that many of us will never visit, to communities that, yes, we cannot pick out on a map. Never is a day to be an apologetic American.

And to all the veterans who are here today, thank you from the bottom of our heart, because we stand on your shoulders. And it is your leadership that cut a pathway for an American democracy and for future generations.

God bless, and thank you all for being here today.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Ball.

On the resolution, Senator Breslin.

SENATOR BRESLIN: Thank you very

much, Mr. President.

As we celebrate this 236th anniversary of the formation of the United States Army, and as we as the Senate body celebrate the achievements of veterans from across this state, I think it's fitting to mention that in this body as we approach the closing date, as we debate ideas, debate points of view, debate specific bills, Republicans and Democrats, battling but not really battling -- and we're allowed to have this open debate, this free and open debate, only because our veterans have preserved that right for us. Without it, we would be like any other country, subject to prejudice against wars, subject to one party dominating in a total undemocratic way.

And we've had the ability in this house earlier today to celebrate the achievements of many veterans from across this state. My veteran, who's up in the crowd, served in Vietnam, a West Point graduate who's accomplished a great, Colonel Charles Johnson. And each and every member of this house has their own story about their veteran.

But we must remember that freedom is

not free. We have that freedom to be here and debate because of our veterans. And I salute each and every one of them for allowing the preservation of what we are able to accomplish on this floor, because it's only because of them we are able to do it.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Breslin.

On the resolution, Senator Fuschillo.

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

Today was a great day. Every single day we read in the papers and we see on TV really what's wrong with this country. But I want to thank my colleague Senator Ball for his leadership today, and Senator Skelos, with the ceremony that we just came from where we honored some distinguished men and women who have really served this country. And today they showed what's great with our state and with our nation.

And I had the pleasure of nominating Brigadier General George A. Jones as my inductee in the Veterans Hall of Fame with great pride and

distinction. He, like all the veterans today, has dedicated his life not only to his community but to our country. And for me to stand up and say thanks, Mr. Jones, thank you for your courage and for your commitment to our country. And I salute you, my friend. God bless you.

Thank you very much, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Senator Huntley.

SENATOR HUNTLEY: Thank you, Mr. President.

I would like to welcome my honoree, Jackie L. Wilson, who is sitting up there. Jackie, please stand up. He is an amazing person. He served 24 years in the United States Army. And every time I spoke to him down through the years, he was getting ready to go to another country. And it seems like, my conversations with him, he was happy to be doing that.

He is a true, true American. Not only the Army, but back home in Laurelton, New York, where he resides with his lovely wife, he has been an amazing person with young people. He's on another career. He's teaching, Junior

High School 231, which is in my district.

And I am just so happy to have him here. And I said to him today when I first saw him -- and if you all look, you will see -- I said, "How handsome you look today." You are a true American, and I love you for what you do.

Thank you.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Senator Farley on the resolution.

SENATOR FARLEY: I just want to rise up and thank Senator Ball and the Majority Leader for having this program. It's one of the first.

When I first came into the Senate, the halls used to be filled with veterans, particularly from the greatest generation, World War II. And they're dying at the rate of several thousand a day now. And it was heartwarming to see so many WWII veterans being honored today, and Korean veterans, and the forgotten war, of which I happen to be a member of, the Korean veterans.

And I want to pay tribute to my awardee, Jim Wilson, who has done so much for the

veterans. And we have in this Capital District a veterans cemetery at Saratoga which is absolutely one of the most beautiful veterans cemeteries in the United States, which he's been a large part of.

But I think it's such a beautiful tradition that we have started here today. And I hope that we can continue this in honoring veterans every single year from now on.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Farley.

On the resolution, Senator McDonald.

SENATOR McDONALD: Thank you, Mr. President.

I have the honor today of recommending a very unique individual, Lieutenant Colonel Clarence Dart, of Saratoga Springs. He was a member, an original member and a leader of the Tuskegee Airmen in the United States Air Force in World War II. This individual flew in 95 missions. He was awarded five Distinguished Flying Crosses. He was shot down twice. Somebody mentioned to me, "Can you imagine getting in an airplane after the first time you

were shot down, going back?"

This, along with overcoming segregation of that era of American history. I imagine he did it for a lot of reasons. But the main reason for us he did it for, because he loved his country above everything, even with its bad points, and he worked to make it better.

What an amazing day it was. And I thank the Senate and all the people involved to allow us to bring all these Americans of all different backgrounds, colors, ethnic groups, religions, but a commonality of being New Yorkers and being Americans and loving this country and doing what words don't accomplish. They actually stepped forward when they needed to and put their life on the line.

It was quite an honor being a part of this, and it's a special honor that Lieutenant Colonel Clarence Dart, who cannot be here today -- he's in a nursing home in Saratoga -- but his daughter Dawn, Dawn Ray, a local schoolteacher, is here to represent her and her wonderful family. And what an amazing New Yorker this man is. I'm very proud to be associated with him, and I'm very proud of what this

Senate's done.

Thank you.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Senator Martins on the resolution.

SENATOR MARTINS: Mr. President, I too rise this afternoon to thank Senator Ball for his initiative and to thank the Majority Leader for bringing this program together this year. I want to congratulate all of the honorees and thank you for your service.

But in particular, in particular I want to congratulate a dear friend of mine, John Davanzo, who is a Normandy survivor.

John was born in Mineola, grew up in Mineola, went off to do his duty and to fight in World War II. After the war, came back to Mineola, where he raised his family. He was a town councilman for the Town of North Hempstead, town clerk for decades, trustee in the Village of Mineola, a national Firefighter of the Year recipient, and a wonderful statesman for our community. Not only did he serve his country, but he came back and continued to serve his community throughout his life and today, at the

ripe almost age of 90, continues to serve his community.

And for that I want to thank you, John, for your lifetime of public service and dedication not only to the country but to our local communities. God bless you.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

On the resolution, Senator Nozzolio.

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

I too rise and thank my colleagues who made this day possible: Senator Ball, Senator Skelos, all members of this house who have collectively taken time to honor veterans and thank them for their service to our nation. It is indeed, as some of my colleagues have said, a great day.

But it is conversations to honorees who have heard them talk, as they were leaving the ceremony, how honored they were to be here and to be part of the New York State 2011 Veterans Hall of Fame. But they had indicated that their participation honors them; frankly, I

believe their participation honors us and honors those of us who are now in this deliberative body because of their sacrifice, who are able to debate legislation because they defended America in time of need. You who are there as members of this class of veterans, we thank you and salute you.

I want to give special thanks to John Barwinczok, who fought in Korea, who was proudly a member of the Korean War Veterans Association and who began the Korean War Veterans Association in the Central New York area, particularly Cayuga County.

That the memorials that we place in honor of our veterans are a reminder to future generations that the price of freedom is one that is not free. It is paid for by the blood and toil of our veterans. And for that, we all thank you, we salute you, and it is you who honor us with your presence here today.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

On the resolution, Senator Larkin.

SENATOR LARKIN: Thank you, Mr. President.

You know, it is a true honor to be here today with all of our veterans. You don't have to be a veteran to appreciate what you stand for. It's a great honor to see you be able to come.

My nominee couldn't make it today. He's a World War II vet, and he spent 17 months in Stalag 17. He's a little incapacitated, he said, at 86.

And I think when we think about veterans of World War II, the Veterans Administration said there are 1100 World War II vets dying every day. We're a breed that won't be here for too long.

But when you think about it, a veteran doesn't come home and wash away. You look at all the veterans, the committees that they do, the work that they do. Meals on Wheels, volunteering in hospitals, volunteering at libraries. Because they know what service is like. And many of us that served didn't have all the service we needed, but we had one mission: We were Americans. And we take second to nobody.

I saw a sweater Sunday in a parade, and I thought it was the best, I went and bought

one. It said: "America is Free because of the Bravest." And that's what it's all about. Every one of you that were honored here today have a story to tell, and memories many of you keep inside. And someday you've got to open them up, because our children and grandchildren, they want to know what grandpa did or grandma did or Aunt Sue, Uncle Jack, because they appreciate it.

Today we honor you for what you've done for us. And in honoring you, we're saying as Americans that how could we be any more proud than we are. You, to say a cold clause, stuck your neck out for the rest of us.

We now see a young breed of troops coming home, men and women, without an arm, without a leg. At West Point a month ago there was a young woman, graduate of Notre Dame, a helicopter pilot. She had new prostheses and was running on the track. Someone said to her, "What would you like to do?" She said, "I want to go back to Afghanistan. I know exactly where I was hit, and I want to get that {coughing} son of a gun."

So don't ever forget it. You're the greatest. We're a nation that are proud. Nobody

likes war. I've never met anyone in my 23 years that said yippee, yippee, we're going to war. People were going to countries they never heard of. As Senator Ball said, we couldn't even pronounce or spell some of the names.

And I want to thank Senator Ball for he and the Majority Leader's efforts to put this together today. You know, we hopefully are winding down this session, but we couldn't have a session end without paying respects to you, and especially when we realize this is the 236th anniversary of the United States Army. Go, Army.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Senator DeFrancisco on the resolution.

SENATOR DeFRANCISCO: It's going to be a long day, so I'll be very brief.

ACTING PRESIDENT MARCELLINO: Thank you.

SENATOR DEFRANCISCO: I just wanted to echo the words of everyone else.

But specifically, my honoree is

Chuck Murphy. Chuck served in Vietnam, Desert Storm, got two Purple Hearts, a Bronze Medal, among other awards. But after all of that, he came to work for me, worked for me for nine years, took an early retirement in November at age 61, passed away in February.

If there was ever anything in this life that has been unfair, this is an example of that, for all of the service that he gave to the state and the country.

So I'm very proud to recognize Chuck Murphy on this very special day.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Senator Zeldin on the resolution.

SENATOR ZELDIN: Thank you, Senator Marcellino.

And I have the honor of representing someone named George Egan. And George is -- I met him a few years back. He was working on a project called Balls for Baghdad. He put together tens of thousands of golf balls and clubs and equipment with local businesses, local veterans service organizations. And I was able to work with him in getting those balls shipped

overseas to our troops.

His service not only during war and peace in uniform but also his service since made him a great person to honor from the Third Senate District. And the fact is we have so many in our own districts that are active in different veterans service organizations. And they don't get paid for it. They do it because they love veterans and they love our country. And George epitomizes that spirit that is throughout our state of those who dedicate so much of their own time.

But sharing the stage with George today is Lieutenant Michael Murphy. Lieutenant Michael Murphy was from Patchogue, New York. Lieutenant Murphy is a Medal of Honor recipient, and it was well-deserved. Lieutenant Murphy was a Navy Seal, and on June 28, 2005, he was part of a four-man Seal unit in Afghanistan. And under heavy fire, his unit bogged down. Having already been gravely shot, Lieutenant Murphy, knowing that death was imminent, left his safe position in order to get a signal because their radios were not operating from their position. Lieutenant Murphy risked his life to get that

signal to save those of his colleagues around him. And unfortunately, his act of heroism cost him his life.

There aren't many Lieutenant Murphys that are out there. I was proud to have served in the military and serve today, but I have to tell you that it's difficult to say that I share the same stage with heroes like Lieutenant Murphy.

Right now, serving overseas in Iraq and Afghanistan and elsewhere, we have brave young men and women literally willing to lay down their life in defense of not only our freedoms, our Constitution, our liberties, but those that are left and right. So for Lieutenant Murphy and his family, they received the Medal of Honor. In the process, they lost Lieutenant Murphy. But also Lieutenant Murphy's actions saved the lives of those around him.

I commend George Egan for everything you do to protect and defend and represent our veterans. And I also thank Lieutenant Murphy's family for raising a true warrior and someone for all of us to be so very proud of.

Thank you.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

On the resolution, Senator Stewart-Cousins.

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

I rise to of course share in the sentiments of my colleagues with regard to thanking our veterans, all of whom have done so much for our country and for our freedom.

I have the honor of having one of my constituents, Colonel Theresa Mercado-Sconzo, here. You know, Senator Ball began by quoting, saying that people get maimed and murdered. We know how horrific war can be. And we know how important it is to make sure that there are skilled people caring for our wounded.

My colonel is a nurse. She came into the Army Reserves in 1987, and then she became a major. In 2009 she served on active duty in Mosul, Iraq. She was part of Operation Iraqi Freedom. What is also important to know about Colonel Mercado-Sconzo is that when in 2005 we were all shocked at the scenes that were coming out of Abu Ghraib -- you know, the

scandalous part where we heard, for the first time, torture -- when that happened, they sent for this colonel to do two things, to liberate the Iraqis and to restore the honor of the United States of America.

She provided healthcare to our soldiers, to the Iraqi prisoners. She helped to restore our honor. And we are so proud that you are here with us today. Thank you so much, Colonel Mercado-Sconzo.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

On the resolution, Senator Johnson.

SENATOR JOHNSON: Thank you. It was a privilege and a pleasure for me to welcome General John Digilio, a constituent of mine, to the ceremony today.

When he was a youngster in 1967, he went to college and joined the ROTC. Before you know it, he was in the Army, he was in Vietnam. And he got out of Vietnam after some period of years and then came back home and joined the New York State Guard, the National Guard, and served in many positions over many years.

I just wrote a few words here. He's

graduated the U.S. Army War College, Command and General Staff College, National Security Management Program, Reserve Component National Security Course of the National Defense University. He's been awarded over 24 decorations, including the Legion of Merit, Bronze Star Medal, Meritorious Unit Citation, Vietnamese Cross of Gallantry with Palm, and New York Army National Guard Conspicuous Service Medal.

So this gentleman certainly deserves the appellation from all people who know that the military is there for us. And this gentleman has a commendable record, and I was very pleased to nominate Brigadier General John T. Digilio. He's up here with his wife, Diane, waiting for me to say some nice words. And I hope I've done enough.

Thank you.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Senator Seward on the resolution.

SENATOR SEWARD: Thank you, Mr. President.

I'm certainly very honored to stand

to also pay tribute to our veterans who are today being inducted into the New York State Senate Veterans Hall of Fame. Certainly our veterans are very deserving of the accolades they are receiving today. It takes a very special person to put their life on the line for their country. So I commend all of the honorees for your dedication, your service, and your sacrifice.

And I was particularly proud earlier today to stand with a veteran from my district, John Nowhitney, who served during World War II in the United States Navy. And John is in the gallery with his family.

John I would describe as being a true American hero. He risked his life to help secure the freedoms and liberties that all enjoy each and every day, but also he protected those that he served with in the Navy. He spent his time on the aircraft carrier U.S.S. Belleau Wood.

And I would just cite two quick examples of what I'm saying about John Nowhitney's record in the Navy. On August 30, 1944, an airplane crashed on the flight deck of

the Belleau Wood, and John rushed to the burning plane and cut the unconscious pilot free, thus saving his life. And another very highly charged event occurred in October of 1944 when a 500-pound bomb fill out of a plane onto the carrier's deck. John unscrewed the detonator from the bomb and threw it over the side of the ship, saving countless numbers of lives of his comrades.

So it is a fact that John Nowhitney's service helped many come back, many of his comrades come back to their families because of his heroic actions.

So to John Nowhitney, I just want to say how proud we are of you and your service, and I am delighted that you are now a member of the New York State Senate Veterans Hall of Fame. Congratulations, John, to you and your entire family.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Seward.

Senator Saland on the resolution.

SENATOR SALAND: Thank you, Mr. President.

We've certainly heard from a number of colleagues who stood before us today and with great pride and sincerity spoke of the contributions and service of any number of distinguished men and women who have served their country so admirably and so notably.

I'd be remiss if I didn't acknowledge what we all take for granted, our friend and colleague Colonel Larkin, who with great passion and such intense dedication has committed himself to veterans issues as far back as I can remember -- and he and I have been colleagues for over 30 years -- and I suspect for at least another 30 more will be as passionate about working on behalf of veterans.

I have the good fortune of being able to recognize and honor a distinguished gentleman from my district, Michael Burke, a man who served in the United States Army during Vietnam, a man who during the course of his service was much decorated, receiving not one but two Purple Hearts as well as a Bronze Star among the many recognitions and citations and commendations that he received, and a man who was severely injured during his service to his nation

and, notwithstanding the seriousness of his injuries, a man who continued to press on, a man who overcame those very serious injuries to contribute considerably not merely to the well-being of his family -- and his wife and one of his five children are here with him today -- but also to his community.

He managed to overcome the many challenges with which he had been presented to have a long and successful career with IBM, and has since devoted himself not merely to the community but particularly to his fellow veterans, working tirelessly on their behalf through the Veterans of Foreign Wars and through a variety of positions that he has held in that quest.

He's a credit not only to his country, but he's a credit to his family and certainly he is a credit to those of us who have had the good fortune of having him serve on our behalf.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Saland.

On the resolution, Senator

Ranzenhofer.

SENATOR RANZENHOFER: Thank you, Mr. President.

I would also like to join my colleagues and congratulate Senator Ball and Senator Skelos for helping put together this year's New York State Veterans Hall of Fame.

One of the things I think that marks all the veterans and the veteran that I recommended, Ron Pilozzi, who's sitting up in the gallery, is when I called him up and mentioned this to him, he was just so humble, like many of the veterans are. And the first thing they say is that there are others that are more deserving, there are others that done more. And I think that's just a distinctive characteristic for the men and women that are here today.

Ron Pilozzi is very well known among the members of the Western New York delegation, very well respected by all the members of the Senate and the Assembly that serve here in Albany. He brings with him a great tradition of service, his grandfather, his father, his uncle, and even his nephew is serving today in Operation Iraqi Freedom in Iraq and in Afghanistan.

Ron, like many of the others, served in Vietnam with distinction, also earned many honors for his service. But when he came home, his service really didn't stop there. He's been a very active member or the community, very active working in the private sector. And one of his most recent accomplishments is establishing the All Heroes Memorial in Tonawanda, which he, with other members of the community, really put together a tremendous memorial to those who have served.

And I just want to read a quote from a member of our community and what he had to say about Ron. This is from Rick Lewis, who has a comment about Ron's induction today into the Hall of Fame. He said, "Ron played a major role in the successful completion of the All Heroes Memorial. His dedication, perseverance and enthusiasm were critically important in the completion of that project. He is a great patriot, dedicated public servant, and wonderful human being."

Ron, like all the others that are here today, I think really exemplifies those characteristics of why they are members of this

class of the 2011 Veterans Hall of Fame. So to Ron and to all the others, I congratulate you.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

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

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: All opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The resolution is carried.

Congratulations to our veterans for protecting our country and our nation and our freedoms. We will forever be in your debt. God bless you one and all, God bless the United States and our troops.

(Standing ovation.)

ACTING PRESIDENT MARCELLINO: Senator Libous.

SENATOR LIBOUS: Mr. President, Senator Skelos would like to open this resolution to cosponsorship by all members.

As is our custom, everyone will be put on the resolution. If you wish not to be a

cosponsor, please let the desk know.

ACTING PRESIDENT MARCELLINO: Resolution 2277 is open for cosponsorship by all members. If you wish not to be on the resolution, please approach the desk.

Senator Libous.

SENATOR LIBOUS: Mr. President, there's a resolution at the desk by Senator DeFrancisco that was previously adopted. At this time he would ask that you read the title and then call on him, please.

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

THE SECRETARY: Legislative Resolution Number 487, by Senator DeFrancisco, congratulating the Skaneateles Boys Soccer Team and Coach Kirk Atwater upon the occasion of winning the New York State Class B Championship.

ACTING PRESIDENT MARCELLINO: Senator DeFrancisco.

SENATOR DEFRANCISCO: Thank you. I'm proud to rise to comment upon this resolution that was previously passed.

I know that the team is hungry. I've been watching the clock, and I've been

watching them watching their own watches. So very briefly, this is the Skaneateles Boys Soccer Team, who won the Class B State Championship. And the last game I think was 1 to 0 over -- Burke Catholic, is that who you beat?

The most important thing, not only did you win this championship, you met and have played with people that are going to be your friends for the rest of your lives. And that athletic competition is going to bode well for you in whatever you do in the future.

So we're very happy that you were here this day when we honored the veterans who have made all of this possible for all of us. And you are going to be the leaders of tomorrow. So enjoy the rest of your day in Albany, and congratulations on your wonderful achievement.

Thank you.

ACTING PRESIDENT MARCELLINO: Congratulations to the gentlemen on the soccer team and your victories.

This resolution was adopted previously, so we will move on.

Senator Libous.

SENATOR LIBOUS: Mr. President,

there is a privileged resolution at the desk by Senator Espaillat. Could we please read it title-only.

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

THE SECRETARY: Legislative resolution by Senator Espaillat, mourning the untimely death of Sergeant Merlin; German and paying tribute to his devoted service as a member of the United States Marines.

ACTING PRESIDENT MARCELLINO: All in favor of this resolution signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, I believe Senator Peralta has Resolution 2233. Could we read its title only and move for its adoption.

ACTING PRESIDENT MARCELLINO: The

Secretary will read the title only.

THE SECRETARY: Legislative Resolution Number 2233, by Senator Peralta, commemorating the 202nd Independence Day in Equador on August 10, 2011.

ACTING PRESIDENT MARCELLINO: Senator Peralta, do you wish to be heard on the resolution?

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

This August 10th will mark the 202th Independence Day of Equador. This celebration is important because commemorating Independence Day summons us to reflect about the unconquerable drive and spirit of patriotic people who made autonomy possible around the world. Similar to what happened here, Equadorians were a small band of patriots who had declared independence from a powerful empire.

The people of Ecuador initially declared independence from Spain in 1809, and that is why we gather here today. Their hunger for liberty, autonomy, and freedom, fueled by their patriotism, enabled Equador to turn the tables on the invading Spanish army as the local

army succeeded in defeating them.

Today the Independence Day of Equador is observed with a series of programs that are coordinated in different parts of the Ecuadorian nation, especially in the capital city of Quito. This patriotic extravaganza includes special events organized throughout the day to commemorate the occasion with cultural exhibitions, parades by military forces, and cannon fire. In Quito the events are mostly organized in the Plaza de la Independencia and the Palacio de Gobierno.

Equador's Independence Day is also celebrated by the people residing in our great State of New York and throughout our nation. Various events are coordinated by immigrant communities to commemorate this special occasion with folkloric exhibitions, cultural performances, parades, music, food, sporting events, and social gatherings. I particularly enjoy the sounds of the music of the Andes.

From politics and economy to arts and culture, Equador and Ecuadorians have augmented our nation and lives. In my district in Queens, Ecuadorians continue to strengthen our

neighborhoods and economy. Through their valuable contributions and customs they help maintain Queens as the most diversity county in New York State as well as the most diverse region in the nation and the world.

So today we celebrate the 202nd commemoration of Ecuador's Independence Day and the contributions made by the Equadorians and Equadorian-Americans in the State of New York and our nation.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Peralta.

All in favor of this resolution signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: All opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The resolution is carried.

Senator Libous.

SENATOR LIBOUS: Mr. President, Senator Peralta has another resolution before us, Number 2475. Title only, and he would like to

speak on it, please.

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

THE SECRETARY: Legislative Resolution Number 2475, by Senator Peralta, commemorating the 201st Anniversary of Columbia's Declaration of Independence on July 20, 2011.

ACTING PRESIDENT GRIFFO: Senator Peralta.

SENATOR PERALTA: Thank you, Mr. President.

This year also marks the 201st year of Columbian independence. Columbia celebrates Independence Day each year on July 20th. The day commemorates the Declaration of Independence made on that date in 1810. Even though it took another nine years to achieve full independence from Spain, Columbians annually celebrate "El Grito de la Independencia," or "The Cry for Independence."

Columbian independence is an occasion of great celebration in my district, which is the home to La Pequeña Columbia, or Little Columbia, and generations of Columbian families, including that of actor and comedian

John Leguizamo, who grew up in Jackson Heights. The festivities in Queens include a celebration in Flushing Meadow Park, where tens of thousands of New Yorkers gather to enjoy Columbian food, song, and dance -- an event, by the way, that is a magnet for many elected officials.

Like us, Columbia has a long tradition of constitutional government. The United States and Columbia are good friends and allies, the relationship forged by a love for democracy, the rule of law and liberty. By way of this resolution, we extend our best wishes to the Columbian-Americans across the state in advance of this important and joyous day.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Peralta.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, I believe there's a privileged resolution by Senator Sampson at the desk. Could we have the title read and move for its immediate adoption.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 2529, by Senator Sampson, commending the Informed Voices Civic Association upon the occasion of its 11th Annual Appreciation Night and Community Awards Ceremony.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, I believe there's a privileged resolution by Senator Stewart-Cousins at the desk. Could we have the title read only and move for its immediate adoption.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative resolution by Senator Stewart-Cousins, commemorating July 1, 2011, as the 68th Anniversary of the creation of the United States Cadet Nurse Corps, and honoring the women who served in the Corps.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, before we move forward, I believe Senator Peralta would like to open up his two resolutions for cosponsorship.

So as the policy goes, if someone does not want to be on the resolutions, please let the desk know.

ACTING PRESIDENT GRIFFO: Senator

Paralta's resolutions are open for cosponsorship. Please notify the desk if you choose not to be a sponsor. Thank you.

Senator Libous.

SENATOR LIBOUS: Mr. President, at this time can we begin the reading of the noncontroversial calendar.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 69, by Senator Grisanti, Senate Print 2601, an act to amend the Public Authorities Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Gianaris to explain his vote.

SENATOR GIANARIS: Thank you, Mr. President.

Very briefly, this legislation seeks to require a trustee of the Power Authority to be

a resident of some of the Western New York counties. And I certainly have no objection to that, as I know it's an important agency for that part of the state.

However, my district also houses some large and important Power Authority infrastructure. I voted against this in committee and will be doing so again, solely because I feel if this protection is afforded to Western New York, it should also be afforded to Queens County, which also bears the burden of housing Power Authority infrastructure.

So I will be in the negative, with no desire to be against the intent of this bill, but simply to make the case that Queens should be entitled to the same protection. Thank you.

ACTING PRESIDENT GRIFFO: Senator Gianaris to be recorded in the negative.

Announce the results.

THE SECRETARY: Ayes, 59. Nays, 2. Senators Gianaris and Stavisky recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number

105, by Senator Gallivan, Senate Print 2385A, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 2. Senators Duane and Perkins recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 125, by Senator DeFrancisco, Senate Print 2906, an act to amend the Real Property Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 209, by Senator Ball, Senate Print 3955, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 210, by Senator Ball, Senate Print 3956, an act to amend the Military Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 265, by Senator Golden, Senate Print 1407A, an act to amend the Penal Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 265, those recorded in the negative are Senators Duane, Montgomery and Perkins. Ayes, 58. Nays, 3.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 266, by Senator Griffo, Senate Print --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number

350, substituted earlier today by Member of the Assembly Cymbrowitz, Assembly Print 7388, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 411, by Senator Fuschillo, Senate Print 595, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill

is passed.

THE SECRETARY: Calendar Number 416, by Senator Bonacic, Senate Print 2135A, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Rivera to explain his vote.

SENATOR RIVERA: Thank you, Mr. President.

I stand today in support of this legislation. I commend Senator Bonacic on bringing this legislation to the floor for the creation of the Autism Task Force in the State of New York.

Many might not know, but my older brother, José Manuel Rivera, Jr. -- we call him Papotin -- is actually autistic. Although if you met him, you'd probably say he was just a little eccentric. He was actually very lucky to have

both my parents and a supportive family. But I know very well in my family life how difficult sometimes it is when there is no support, no knowledge to actually be able to deal with all of the difficulties of having an autistic child in the home.

So now that he is a productive member of society, I hope that with the creation of this task force that more children will grow up to be productive members of society regardless of their disabilities.

So again, I stand in support of this legislation. Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Rivera to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 418, by Senator DeFrancisco, Senate Print 2856A, an act to amend the Public Health Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect on the 120th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator DeFrancisco to explain his vote

SENATOR DEFRANCISCO: Yes. This bill I've had for many, many years, I think through four governors. And quite frankly, I'm not quite sure why this is the first time it passed.

What it does is establish a Governor's Commission on Physical Fitness. The U.S. government had at one time -- and the poster child for it at the time was an actor by the name of Arnold Schwarzenegger. But it raised consciousness about being healthy and fit. And I really believe this is necessary today with the substantial rise in obesity rates.

There is a corresponding bill in the Assembly. And the reason I'm standing up today is shouting out to the Assembly down the hallway asking them to please pass this bill. We don't need taxes on sugared soda, we need more responsibility and more self-control and more

exercise. And this will help establish that type of attitude in the State of New York.

Thank you, Mr. President. I proudly vote aye on this outstanding bill.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco to be recorded in the affirmative.

Senator Rivera to explain his vote.

SENATOR RIVERA: Thank you, Mr. President.

It is not every day that I agree with my good colleague Senator DeFrancisco. In this one, I agree wholeheartedly.

Just this Saturday, down in the Bronx, I kicked off the Bronx CAN health initiative. It stands for Changing Attitudes Now. I actually weighed myself publicly -- I'll have everyone know that I am a very sturdy 299, 299 pounds -- and then committed myself to, between now and October, losing at least 20 pounds. And a couple of dozen constituents actually joined me in the challenge to either quit smoking or drink less sugary soda.

But the bottom line is that the creation of such a panel at the state level will bring attention to this issue. And yes, it has a

lot to do with what we do on an everyday basis. We can make healthy choices every single day to live healthier lives. And so that is why I'm supportive of this legislation. Thank you, Senator DeFrancisco, for bringing it to the floor.

Thank you, Mr. President. I will be in the affirmative.

ACTING PRESIDENT GRIFFO: Senator Rivera to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 532, by Senator Flanagan, Senate Print --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 539, by Senator Gallivan, Senate Print 4133A, an act to amend the General Municipal Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 6. This

act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 1. Senator Rivera recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 560, by Senator DeFrancisco --

SENATOR SQUADRON: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 567, by Senator Ranzenhofer, Senate Print 4486, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill

is passed.

THE SECRETARY: Calendar Number 598, by Senator Hannon, Senate Print 4991B, an act to amend the Public Health Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 601, by Senator Larkin, Senate Print 1506, an act to amend the Highway Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 606, by Senator Johnson, Senate Print 4740C, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 180th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 607, substituted earlier today by Member of the Assembly Schimel, Assembly Print 7751A, an act to amend the Highway Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 30th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Fuschillo to explain his vote.

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

This is a great tribute to a police officer in Nassau County that was tragically killed on February 4th of 2011. And to honor his memory, in respect, we are going to dedicate a bridge in his name where the tragic event took place.

I appreciate the support of my colleagues, and I'll be voting in the affirmative on the legislation.

ACTING PRESIDENT GRIFFO: Senator Fuschillo to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 620, by Senator Ritchie, Senate Print 5168A, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 647, substituted earlier today by Member of the Assembly Weisenberg, Assembly Print 6462, an act to amend the Real Property Tax Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 651, by Senator Robach --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 658, substituted earlier today by Member of the Assembly Canestrari, Assembly Print Number 2718, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 663, by Senator DeFrancisco, Senate Print 2899, an act to amend the New York State Printing and Public Documents Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 683, by Senator LaValle, Senate Print 2641, an act to --

SENATOR LIBOUS: Lay it aside for the day.

ACTING PRESIDENT GRIFFO: Lay it aside for the day.

THE SECRETARY: Calendar Number 685, substituted earlier today by Member of the Assembly Sweeney, Assembly Print 4786, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 1. Senator Perkins recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 729, by Senator Ranzenhofer, Senate Print 4556, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 731, by Senator Saland, Senate Print 4873A, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 26. This act shall take effect July 1, 2012.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.
ACTING PRESIDENT GRIFFO: The bill is passed.
THE SECRETARY: Calendar Number 746, by Senator Libous, Senate Print --
SENATOR BRESLIN: Lay it aside.
ACTING PRESIDENT GRIFFO: Lay it aside.
THE SECRETARY: Calendar Number 747, by Senator Griffo, Senate Print 3642, an act to amend the Education Law.
ACTING PRESIDENT GRIFFO: Read the last section.
THE SECRETARY: Section 3. This act shall take effect on the first of July.
ACTING PRESIDENT GRIFFO: Call the roll.
(The Secretary called the roll.)
THE SECRETARY: Ayes, 61.
ACTING PRESIDENT GRIFFO: The bill is passed.
THE SECRETARY: Calendar Number 768, by Senator Flanagan, Senate Print 4410, an act to amend the --
SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 804, by Senator Griffo, Senate Print --

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

ACTING PRESIDENT GRIFFO: Lay it aside for the day.

THE SECRETARY: Calendar Number 805, by Senator Larkin, Senate Print 4757, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 808, by Senator Young, Senate Print 855, an act to amend the Highway Law.

ACTING PRESIDENT GRIFFO: Read the

last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 809, by Senator Young, Senate Print 864, an act to amend the Highway Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 812, by Senator Marcellino, Senate Print 2914A, an act to amend the Highway Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 814, by Senator Gallivan, Senate Print 3242, an act to amend the Highway Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 816, by Senator Young, Senate Print 4020A, an act

to amend the Highway Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 819, by Senator Young, Senate Print 5060A, an act to amend the Highway Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number

846, by Senator Maziarz, Senate Print 5085, an act directing a study and a report on current trends.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 850, by Senator Saland --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 856, by Senator Lanza, Senate Print 3871, an act to prohibit the --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number

861, by Senator Seward, Senate Print 4869, an act to amend the Insurance Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 6. This act shall take effect October 19, 2011.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar 861: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 868, by Senator Ranzenhofer, Senate Print 5198A, an act to repeal certain provisions.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 34. This act shall take effect on the 60th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill

is passed.

THE SECRETARY: Calendar Number 878, by Senator Martins, Senate Print 5227, an act to repeal certain provisions of the General Municipal Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 97. This act shall take effect on the 60th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 881, by Senator Johnson, Senate Print 3263A, an act to amend the Town Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 905, by Senator Griffo, Senate Print 5463, an act to amend the Banking Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 39. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: On page 53, Senator Griffo moves to discharge, from the Committee on Rules, Assembly Bill Number 8105 and substitute it for the identical Senate Bill Number 5464, Third Reading Calendar 906.

ACTING PRESIDENT GRIFFO: Substitution so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

906, by Member of the Assembly Scarborough, Assembly Print 1805, an act to amend the Banking Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 937, by Senator Ritchie --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 950, by Senator Richie, Senate Print 5166, an act in relation to authorizing the commissioner.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 951, by Senator Ritchie, Senate Print --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 954, by Senator Libous, Senate Print 2467A --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 955, by Senator Libous, Senate Print 3138, an act to amend the Highway Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 956, by Senator Hannon, Senate Print 3200, an act to amend the Public Health Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 180th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 960, by Senator Bonacic, Senate Print 3349, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 960, those recorded in the negative are Senators Montgomery, Parker, Perkins and Espaillat. Ayes, 58. Nays, 4.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 971, by Senator Hannon, Senate Print 4201, an act to amend the Public Health Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 976, by Senator Skelos, Senate Print 1542, an act to amend the Correction Law.

ACTING PRESIDENT GRIFFO: Read the

last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 976, those recorded in the negative are Senators Dilan, Montgomery, Parker, Perkins, and Rivera. Ayes, 57. Nays, 5.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 977, by Senator Skelos, Senate Print 1544, an act to amend the Correction Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 977, those recorded in the negative are Senators Duane, Montgomery, Parker

and Perkins. Ayes, 58. Nays, 4.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 981, by Senator Alesi --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 982, by Senator Lanza, Senate Print 3744, an act to amend the Executive Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 982, those recorded in the negative are Senators Duane, Montgomery, Parker and Perkins. Ayes, 58. Nays, 4.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number

985, substituted earlier today by Member of the Assembly Lupardo, Assembly Print 6383, an act to amend the Executive Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 987, by Senator Larkin, Senate Print 3959, an act to authorize the City of Newburgh.

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

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 988, by Senator Marcellino, Senate Print 4254, an act to authorize the Village of Oyster Bay.

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

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61. Nays, 1. Senator Ball recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 989, by Senator Young, Senate Print 4359, an act to amend the General Municipal Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 990, by Senator Young, Senate Print 4360, an act to amend the General Municipal Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 992, by Senator Larkin, Senate Print 4938A, an act to amend the City of Newburgh Fiscal Recovery Act.

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

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61. Nays, 1. Senator Ball recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 998, by Senator Libous, Senate Print 5507, an act to amend Chapter 445 of the Laws of 2008.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1001, by Senator Flanagan, Senate Print 2593, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 8. This act shall take effect on the 180th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Those voting in the negative please raise your hands.

THE SECRETARY: In relation to Calendar Number 1001, those recorded in the negative are Senators Duane, Montgomery, Parker and Perkins. Ayes, 58. Nays, 4.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1010, substituted earlier today by Member of the Assembly Peoples-Stokes, Assembly Print Number 7570, an act to amend the Parks, Recreation and Historic Preservation Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the

roll.

(The Secretary called the roll.)

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 1011, substituted earlier today by Member of the Assembly Englebright, Assembly Print 7279 --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 1012, substituted earlier today by Member of the Assembly --

ACTING PRESIDENT GRIFFO: Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President. I would request that the lay-aside be taken off on Calendar Number 1010, Senate 5342.

ACTING PRESIDENT GRIFFO: The lay-aside on Senate Bill 5342 is lifted and the the Secretary will read Calendar 1010.

THE SECRETARY: Calendar Number 1010, by Member of the Assembly Peoples-Stokes,

Assembly Print 7570, an act to amend the Parks, Recreation and Historic Preservation Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1012, substituted earlier today by Member of the Assembly Lupardo, Assembly Print 6299A, an act to amend the Parks, Recreation and Historic Preservation Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1017, substituted earlier today by Member of the Assembly Calhoun, Assembly Print 3152, an act to amend the Public Authorities Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1018, by Senator Golden, Senate Print 5512, an act to amend the Public Authorities Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: On page 63, Senator Seward moves to discharge, from the Committee on Rules, Assembly Bill Number 8133 and substitute it for the identical Senate Bill Number 5561, Third Reading Calendar 1025.

ACTING PRESIDENT GRIFFO: The substitution is so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1025, by Member of the Assembly Latimer, Assembly Print 8133, an act to amend the Insurance Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1027, by Senator Gallivan, Senate Print 4827, an act to amend the Election Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61. Nays, 1. Senator Dilan recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1031, substituted earlier today by Member of the Assembly Millman, Assembly Print 7453A, an act to amend the Election Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1147, by Senator Klein, Senate Print 587A, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Klein to explain his vote.

SENATOR KLEIN: Thank you, Mr. President.

This legislation is going to go a long way towards making sure our young people in public schools in New York City are healthy. When you look at the numbers, they're quite startling, that 38 percent of our young people are obese or overweight.

This legislation would require that the City Department of Education submit a report

to the Governor and the State legislature on the availability, location, size and physical condition of outdoor schoolyards. Unfortunately, many of our schoolyards are either covered with temporary classroom units or just aren't repaired properly, and this is the only way our young people get any physical education in our outdoor playgrounds. So this at least I think is going to be a very important first step to make sure that the Department of Education knows the inventory of these public schools and can ensure that our young people have adequate play space.

Thank you. I vote yes, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Klein to be recorded in the affirmative.

Announce the results.

THE SECRETARY: In relation to Calendar 1147, those recorded in the negative are Senators Ball, O'Mara and Senator Saland. Also Senators Gallivan, Larkin and Ranzenhofer.

Ayes, 56. Nays, 6.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number

1149, by Senator Breslin, Senate Print 1164, an act to amend the Town Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1150, by Senator Breslin, Senate Print 1188, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Please keep your hands up if you're voting in the negative.

THE SECRETARY: In relation to Calendar 1150, those recorded in the negative are Senators Dilan, Hassell-Thompson, L. Krueger, Montgomery, Perkins and Rivera.

Ayes, 56. Nays, 6.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1151, by Senator Duane, Senate Print 1303, an act to amend the Elder Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61. Nays, 1. Senator Diaz recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1152, by Senator Klein, Senate Print 2796A, an act authorizing the Commissioner of General Services.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1153, by Senator Huntley, Senate Print 3016A, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1154, substituted earlier today by Member of the

Assembly Canestrari, Assembly Print Number 2502A, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 3. This act shall take effect one year after it shall have become law.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Saland to explain his vote.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, I certainly commend Senator Oppenheimer for her intention here. Her intention certainly is a laudable one, to require that physical therapists have a graduate degree. And she takes pains to grandfather or grandmother in those who are currently in practice who might not have that degree.

There is, however, I believe, one oversight, and I would hope that she would think about this, perhaps by way of a chapter amendment. Those students who are currently

enrolled in these programs now who are anticipating being able to go out and engage in the practice of physical therapy are going to be prevented from doing so because they're not grandfathered or grandmothered.

Much like what occurred to social workers when social work students, when the law changed a few years ago, there was a grandfathering provision. However, there were hundreds if not thousands of students who anticipated being able to go out and engage in the practice of therapy as certified social workers who were unable to do so under the new requirements.

These students, who would have hoped to be able to begin their practice at the conclusion of their undergraduate work or whatever course of study they've taken, will not be able to do so.

So I'm going to vote against this bill for that very reason. But I would hope that you would consider some chapter amendment that takes into account those who are currently in a course of study to become a physical therapist so that they are not in effect prejudiced by this.

And I think it's a relatively easy thing to do.

Thank you.

SENATOR OPPENHEIMER:

Mr. President.

ACTING PRESIDENT GRIFFO: Senator Oppenheimer, one second.

Senator Saland, how do you vote?

SENATOR SALAND: I vote in the negative.

ACTING PRESIDENT GRIFFO: Senator Saland to be recorded in the negative.

Senator Oppenheimer to explain her vote.

SENATOR OPPENHEIMER: That is a -- the Senator has raised a point. And I am always concerned about those people that get caught just as a new law is coming in and they're finishing up their education and what happens to those people -- maybe it's only, you know, 50 of them, but what happens to them when they're caught in the middle.

However, this is an important bill. We are the only state in the United States that does not require a master's degree for our physical therapists, either a master's degree or

a doctorate, so we feel that this is an important thing to be doing. And we also very frequently try and upgrade the professionalism of our various groups that come before us for extension.

So I think this is an important bill and puts us in sync with the rest of the country. I'll be voting yes.

ACTING PRESIDENT GRIFFO: Senator Oppenheimer to be recorded in the affirmative.

Announce the results.

THE SECRETARY: In relation to Calendar 1154, those recorded in the negative are Senators Ball, Gallivan, Grisanti, Huntley, Larkin, Montgomery, Perkins, Ritchie, Robach and Saland.

Ayes, 52. Nays, 10.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1155, by Senator Nozzolio, Senate Print 4469, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 30th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1157, by Senator Ritchie, Senate Print 4718A, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1158, by Senator Kennedy, Senate Print 4726, an act to amend the Penal Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the first of November.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 2. Senators Montgomery and Perkins recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1159, substituted earlier today by Member of the Assembly Farrell, Assembly Print Number 6923, an act to amend the Local Finance Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1160, by Senator Montgomery, Senate Print 4855,

an act to amend the State Finance Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1161, by Senator Valesky, Senate Print 5347, an act to authorize the Tully Central School District.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1164, by Senator Gallivan, Senate Print 5493, an act to amend the Social Services Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1165, by Senator Breslin, Senate Print 5496, an act to authorize Holding Our Own, Inc.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays,

3. Senators Bonacic, Larkin and O'Mara recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1169, substituted earlier today by Member of the Assembly Aubry, Assembly Print 7930, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 7. This act shall take effect September 1, 2011.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1170, by Senator Ball, Senate Print 5558, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 30. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1171, by the Senate Committee on Rules, Senate Print 5564, an act to amend the Public Authorities Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar 1171, those recorded in the negative are Senators Ball, Gallivan, L. Krueger and Rivera.

Ayes, 58. Nays, 4.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1172, by Senator Maziarz, Senate Print 5569, an

act to amend Chapter 738 of the Laws of 2005.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1173, by Senator Oppenheimer, Senate Print 5571, an act to amend Chapter 851 of the Laws of 1949.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61. Nays, 1. Senator Ball recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1174, substituted earlier today by Member of the Assembly O'Donnell, Assembly Print 7520, an act to amend the Domestic Relations Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1175, by Senator Bonacic, Senate Print 5583, an act to amend the Tax Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1177, by Senator Marcellino, Senate Print 5643, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1178, by Senator Flanagan, Senate Print 5647, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Montgomery, do you wish to speak?

SENATOR MONTGOMERY: I would like to explain my vote.

ACTING PRESIDENT GRIFFO: Senator Montgomery to explain her vote.

SENATOR MONTGOMERY: Thank you, Mr. President. I want to explain my vote on this legislation.

I think it's very, very important and I didn't wish that it would pass without us having at least an opportunity to really review how significant this bill is. I want to thank Senator Flanagan for introducing it.

This is to support a major reform measure that is being implemented by the State Department of Education, with the commissioner and the Regents, who have really created a mechanism for us to bring together the university community and the high schools in communities across the state to upgrade the process and the opportunity for educational advancement for high

school students.

I am very, very pleased that we're passing this bill today. And again, I say to Senator Flanagan this is a very good thing and today we can take pride in doing something that in the years to come, going forward, we're going to see a tremendous improvement in our educational system and opportunity for high school students.

Thank you, Mr. President. I vote aye.

ACTING PRESIDENT GRIFFO: Senator Montgomery to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1180, substituted earlier today by Member of the Assembly Abbate --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 1181, by Senator Hannon, Senate Print 5656, an

act to amend the Public Authorities Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1183, by Senator Hannon, Senate Print 5704, an act to amend Chapter 451 of the Laws of 2007.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Hannon, that completes the

noncontroversial reading of the calendar.

SENATOR HANNON: Mr. President, before we go to the controversial calendar, I'd like to recognize two Senators for the purpose of making some comments. The first would be Senator Stewart-Cousins.

ACTING PRESIDENT GRIFFO: Without objection, Senator Stewart-Cousins.

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

Earlier a resolution passed that was read only title, only the title was read, and I thought it was just important to spend a moment or two -- I know that we have a long day -- articulating what this was about.

Today I had the opportunity to honor a colonel that also happened to be a nurse. When I first ran for this office, I ran into a nurse who kept saying, "When is anybody going to recognize the Cadet Nurse Corps that served during World War II?"

Now, the Cadet Nurse Corps was created by Congress. It was the brainchild of Representative Frances Bolton of Ohio. And she introduced the bill, and it was made law on

July 1, 1943. What was happening, because of --

ACTING PRESIDENT GRIFFO: Excuse me, Senator Stewart-Cousins.

SENATOR STEWART-COUSINS: Please.

ACTING PRESIDENT GRIFFO: Can we have some order in the house, please?

Senator Stewart-Cousins.

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

Obviously, World War II was taking its toll, and what was required were nurses to come from hospitals to go serve on the battle front, leaving a vacuum of healthcare in our local hospitals. The Cadet Nurse Program incentivized young nurses who were still in training to come forward and get their training accelerated so that they could backfill, in the hospitals, those nurses who went to the front lines.

So there were 1200 nursing schools that participated in this. There were about 180,000 nurses that participated in this. They filled not only our local hospitals but the veteran hospitals so that more senior nurses were able to go to the front lines.

They have, after 68 years, never been given an official entree into the benefits of veterans in our country, and yet they served our country in order for the servicemen and women to be able to not only face battle but to have great healthcare when they returned wounded.

So it is a pleasure today, because of Anne Kakos and certainly because of the wonderful Colonel Theresa Mercado-Sconzo that we honored today, to stand in this chamber and give thanks and recognition to the Cadet Nurse Program that began July 1, 1943, that will have its 68th anniversary.

So I thank you for the time and, again, thank the nurse cadets.

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

Senator Espaillat.

SENATOR ESPAILLAT: Thank you, Mr. President.

Again, today we had the pleasure of honoring veterans and a resolution was passed by this house recognizing and honoring posthumously Sergeant Merlin German, who faithfully served our country with courage, with devotion, and

excellence.

I am here standing to applaud his legacy. And we have with us today Norma Guerra, who's his "Texas mom," who also is affiliated with an organization called Merlin's Miracle.

Merlin German was a United States Marine sergeant in Iraq who survived a roadside bomb blast in 2005. He became a symbol of recovery throughout the world, soon known as the "Miracle Marine." During the 17 months he spent hospitalized following the blast, Sergeant German eventually regained the ability to walk and set up a charity for child burn victims.

Just over three years after the blast, he passed away following a minor skin graft surgery. But he is surely an example of how many young men and women served this country. Recently the Wounded Warrior Regiment renamed its call-in help center at the Marine Corps base in Quantico after his name.

He is truly an American hero, and we are here with his "Texas mom," who joined us today, flew in from San Antonio to be with us today. And he's a true New Yorker, a true hero to all of us. So I'm happy to stand up in

support of the resolution that passed in this Veterans Day here in the State Senate.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Espaillat.

(To Ms. Guerra) And we welcome you to the chamber.

(Applause.)

ACTING PRESIDENT GRIFFO: Senator Libous, that completes the noncontroversial reading of the calendar and any announcements and recognitions.

SENATOR LIBOUS: Mr. President, could we go back to motions and resolutions.

ACTING PRESIDENT GRIFFO: On motions and resolutions.

SENATOR LIBOUS: On behalf of Senator Seward, on page 63 I offer the following amendments to Calendar Number 1020, Senate Print 2714A, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT GRIFFO: The amendments are received, and the bill will retain its place on third reading.

SENATOR LIBOUS: On page 39, I

offer the following amendments to Calendar Number 641, Senate Print Number 4607A, and ask that said bill retain its place on the Third Reading Calendar. That's on behalf of Senator Zeldin.

ACTING PRESIDENT GRIFFO: The amendments are accepted, and the bill will retain its place on the Third Reading Calendar.

SENATOR LIBOUS: Mr. President, on behalf of Senator Fuschillo, I wish to call up his bill, Senate Print 3154A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 138, by Senator Fuschillo, Senate Print 3451A, an act to amend the Penal Law.

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

ACTING PRESIDENT GRIFFO: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

SENATOR LIBOUS: Mr. President, I offer up the following amendments.

ACTING PRESIDENT GRIFFO: The amendments are accepted.

SENATOR LIBOUS: Mr. President, on behalf of Senator Gallivan, I wish to call up his bill, Senate Print 4050, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 300, by Senator Gallivan, Senate Print 4050, an act to amend the Family Court Act.

SENATOR LIBOUS: I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT GRIFFO: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

SENATOR LIBOUS: Mr. President, I offer up the following amendments.

ACTING PRESIDENT GRIFFO: Amendments accepted.

SENATOR LIBOUS: Mr. President, at this time could we have the reading of the controversial calendar, please.

ACTING PRESIDENT GRIFFO: The Secretary will ring the bell.

ACTING PRESIDENT O'MARA: The Secretary will read.

THE SECRETARY: Calendar Number 266, by Senator Griffo, Senate Print 2488B, an act to amend the Penal Law.

ACTING PRESIDENT O'MARA: Read the last section.

THE SECRETARY: Section 2 --

SENATOR SQUADRON: Explanation.

ACTING PRESIDENT O'MARA: Senator Griffo, an explanation has been requested.

SENATOR GRIFFO: Thank you, Mr. President.

This bill deals with information relative to pistol permits and licensing of pistol permits. Essentially, it would change the way this is done right now. Currently, an online pistol permit registry is available, allows users to sort the permit holders by geographic area.

What I am attempting to do, for the sake of public safety and privacy for those who own pistols that are legally registered right now is to allow that information to only be received

through a direct specific request of the individual or the location, rather than a mass request. And so, in essence, that's what the bill accomplishes.

ACTING PRESIDENT O'MARA: Senator Squadron.

SENATOR SQUADRON: Would the sponsor yield for a question.

SENATOR GRIFFO: Sure.

SENATOR SQUADRON: I know that this bill has been amended and that there are law enforcement agencies that have access to this information. Would the sponsor just take us through the process by which a law enforcement agency would get this information?

SENATOR GRIFFO: Mr. President, through you. Senator Squadron, the law enforcement agencies will continue to have the access and the availability of receiving information as needed.

SENATOR SQUADRON: If the sponsor would continue to yield.

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

SENATOR GRIFFO: I do.

SENATOR SQUADRON: Thank you.

So today there's a public database, law enforcement can access it, the public can access it. Under this scenario, would law enforcement have that same ability to access the information with the click of a mouse or would they need to request the information?

SENATOR GRIFFO: The law enforcement would be able to access --

(Interruption from the gallery.)

SENATOR GRIFFO: Mr. President. Mr. President. Mr. President. Mr. President.

Mr. President, this bill essentially would be able to accomplish what Senator Squadron has asked. So, Senator Squadron, the answer to the question is law enforcement will continue to have that access.

SENATOR SQUADRON: Thank you, Mr. President. If the sponsor would continue to yield.

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

SENATOR SQUADRON: Mr. President, if the sponsor would continue to yield.

SENATOR GRIFFO: Through you,

Mr. President. Senator Squadron, this is not a publicly created database. What has happened in the past is we've had a situation where individuals have published on the Internet names and addresses of individuals who have had pistol permit licenses.

So what this attempts to do is to try to prevent that and to ensure that law enforcement will have that access at any time but an individual would have to ask specifically for a name and a location.

SENATOR SQUADRON: Thank you.

If the sponsor would continue to yield.

SENATOR GRIFFO: I do.

SENATOR SQUADRON: Thank you. My voice is rarely too low.

(Laughter.)

SENATOR SQUADRON: And if a member of the public wanted this information that's currently available, how would they access it if the bill were to become law?

SENATOR GRIFFO: Mr. President, through you. Senator Squadron, the public still could do this, they could not just make a mass,

general inquiry. They would have to make a specific inquiry of an individual.

So they would have the access to the information but not a general, mass, say "give me everyone who has a pistol permit." They would have to identify "Dan Squadron" and the location and then get that information to attest to that.

SENATOR SQUADRON: So if the sponsor would continue to yield.

SENATOR GRIFFO: I do.

SENATOR SQUADRON: So law enforcement would have access at their fingertips, without any request, and the public would have access to this information and it wouldn't be as burdensome or time-consuming as a FOIL is right now, they would be able to do it -- could you just take me very briefly through the process for a member of the public to get, on an individual basis, this information?

SENATOR GRIFFO: Correct. Mr. President, through you. The law enforcement has the access at any time. The public would go through the process we've described.

SENATOR SQUADRON: Thank you.

On the bill. On the bill, I think

that this -- there's a balance here between privacy concerns and -- privacy concerns for those who own firearms legally are just as important as privacy concerns in any number of different contexts.

It's critically important that there's a bill that doesn't undermine the ability of law enforcement to immediately start tracking crimes, start tracking violations. As you know, I believe that we need to be doing more to help law enforcement track crimes, track gun crimes. And so any bill that would undermine that would be a problem. This bill clearly doesn't, and I appreciate sponsor's description.

I also do think that it's important for this public information to be fully available. I appreciate the sponsor's comments on the access of the public. I worry that the process would be a little bit too burdensome. I understand that sort of the broad search that currently exists is not ideal. On the other hand, I think that being able to search on an individual basis in a more timely fashion would be important, and for that reason I'm not going to be able to support the bill.

I do appreciate that certainly as pertains to law enforcement, this bill does not have a negative effect, and I thank the sponsor for his time.

Thank you, Mr. President.

ACTING PRESIDENT O'MARA: Any other Senator wishing to be heard?

The debate is closed.

The Secretary will ring the bell.

SENATOR LIBOUS: Mr. President, I know that we're on the vote, and I just want to make an announcement to all of my colleagues.

In the interest of getting out of here at a reasonable time, I would ask that you stay close to the chambers so that we can roll these votes right along, because I know that, like you and I, we want to be able to have an orderly process. And if we have to wait more than a couple of minutes, I will move forward with the roll call. And if members become absent, maybe that will help us to speed things up.

So from this point forward, I would ask members to pay close attention to when the roll calls are going to be, because I'm not

waiting.

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: Announce the results.

THE SECRETARY: In relation to Calendar Number 266, those recorded in the negative are Senators Avella, Carlucci, Diaz, Duane, Espaillat, Gianaris, Hassell-Thompson, Huntley, Klein, L. Krueger, C. Kruger, Montgomery, Parker, Peralta, Perkins, Rivera, Savino, Serrano, Smith, Squadron, Stavisky, and Stewart-Cousins.

Ayes, 40. Nays, 22.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 532, by Senator Flanagan, Senate Print 2481, an act to amend the Correction Law.

SENATOR LIBOUS: Lay it aside for

the day.

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

THE SECRETARY: Calendar Number 560, by Senator DeFrancisco, Senate Print 4017, an act to amend the Penal 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.)

SENATOR SQUADRON: Mr. President, can we just clarify what calendar number we're on?

ACTING PRESIDENT O'MARA: We are on Calendar Number 560.

SENATOR SQUADRON: Thank you.

ACTING PRESIDENT O'MARA: Announce the results.

THE SECRETARY: In relation to Calendar Number 560, those recorded in the negative are Senators Addabbo, Avella, Duane, Fuschillo, Montgomery, Parker, Peralta, Perkins

and Serrano. Also Senator Martins.

Ayes, 52. Nays, 10.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 651, by Senator Robach, Senate Print 716, an act to amend the State Finance Law.

ACTING PRESIDENT O'MARA: Read the last section.

SENATOR SQUADRON: Explanation.

ACTING PRESIDENT O'MARA: Senator Robach, an explanation has been requested.

SENATOR ROBACH: Yes, Mr. President.

This bill, we are working with the Governor on a property tax cap bill that hopefully we will be passing shortly to give relief to property taxpayers, especially in upstate New York. This I would consider a companion bill to that, to show that we're being willing to control our spending at the state level at the rate of inflation, just like businesses, working families, people on a fixed income.

This bill would do that, taking the

three-year average and controlling our spending at that rate of inflation in an effort to get our fiscal house in order and also lead by example, as we are going to be doing the same thing, hopefully very shortly, working together for local governments.

I believe this is a step in the right direction. And I know -- and there's been polls time and time again -- folks all across the state want us to focus on less spending and less taxes. This measure will directly address that.

ACTING PRESIDENT O'MARA: Read the last section.

SENATOR SQUADRON: Mr. President.

ACTING PRESIDENT O'MARA: Senator Squadron.

SENATOR SQUADRON: Thank you. If the sponsor would yield for a moment.

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

SENATOR ROBACH: I certainly would. And if you want to skip -- keep on asking, I will answer all the questions Senator Squadron would like to ask.

ACTING PRESIDENT O'MARA: Thank you

Senator Robach.

SENATOR SQUADRON: I appreciate that.

So if the sponsor wouldn't mind describing how this bill would apply to the budget this year, where there was not an increase in spending but there was an increase in state spending because of what had happened with the stimulus bill.

SENATOR ROBACH: We would have been well under this year if this bill were to be in effect.

However, let me read this to you, because even the people in this chamber may be shocked to learn that from 2002-2003 to 2007-2008, state operation spending, our spending, went from $52.8 billion to $77 billion, an average of almost 8 percent increase in spending.

That helped get us to the crisis I think that we're in that we all agreed we were in when we had to make these dramatic measures. If this bill had been in place let's say five years ago, not only would we have been under last year, but we probably wouldn't have seen those huge

increases which put us in such a bad economic position to begin with. I guess that's the best way I could answer it.

But last year, or our last budget that we just passed, clearly that decreased spending, so we'd be well under any growth number, whatever it was, based on inflation or anything else.

SENATOR SQUADRON: If the sponsor would yield for one final question.

ACTING PRESIDENT O'MARA: Without objection.

SENATOR SQUADRON: Thank you. And in the 2009-2010 fiscal year, in which there was a significant infusion of federal stimulus dollars and the state spending did not increase but there was the appearance of an increase because there was a massive federal stimulus that went to many states, what would be the effect of this bill have been in that fiscal year?

SENATOR ROBACH: I'm not certain what the exact effect would be. What I could tell you is between increasing taxes and fees and federal money coming in, we've been growing at 8 percent a year prior to this last year almost

consistently. And the result of that has been, in the last two years, $14 billion in new taxes and fees, put on predominantly from that side of the aisle, that people where I live don't like.

This is just one small step, again with property tax, to show the public we're listening and control out-of-rate growth. I suppose this could be amended if we were getting an infusion of capital from the federal government that went to run state operations. But usually, I think, if I follow it right, a lot of it's education money, Medicaid money that's passed through for very specific things, not General Fund spending.

SENATOR SQUADRON: Thank you very much. On the bill, Mr. President.

ACTING PRESIDENT O'MARA: On the bill, Senator Squadron.

SENATOR SQUADRON: A bill that raises concerns about the state's ability to accept large infusions of federal dollars which are so important to keeping the state going in a crisis is a bill that raises some serious concerns.

In the last two quarters we have

had, nationally, an increase in unemployment even as the private sector has created jobs, because it has been matched by more significant reductions in public sector jobs. In fact, there's now concerns of a double-dip recession around that.

The federal stimulus bill was far from a perfect bill, but in that moment for this state when we were beginning to spiral out of control, it was significant. And I think a bill that would prevent New York from getting and using federal dollars is one that I would have a number of concerns about.

Thank you, Mr. President.

ACTING PRESIDENT O'MARA: Any other Senator wishing to be heard?

Senator Krueger.

SENATOR KRUEGER: Thank you, Mr. President. If the sponsor would yield, please.

ACTING PRESIDENT O'MARA: Senator Robach, do you yield?

SENATOR ROBACH: I will.

SENATOR KRUEGER: Thank you. So let's try to take this bill apart a little bit,

if we might.

So under this bill you would have a spending cap but the government could exceed the spending cap if an emergency was declared and the Legislature authorized, by a two-thirds majority, additional spending. Is that correct?

SENATOR ROBACH: That's correct.

SENATOR KRUEGER: And what's the definition of an emergency?

SENATOR ROBACH: I think that would probably have to be a collective decision by the Governor, perhaps even this Legislature, given some financial crisis or extraordinary circumstance.

SENATOR KRUEGER: Mr. President, if through you the sponsor would continue to yield.

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

SENATOR ROBACH: Yes.

SENATOR KRUEGER: I believe technically that the bill requires an emergency to be declared by the Governor. So what's the definition of what the --

SENATOR ROBACH: It says right here, in line 8 of the bill, "'Emergency' shall mean an

extraordinary, unforeseen, or unexpected occurrence or combination of circumstances including but not limited to natural disaster, invasion, terrorist attack or economic calamity." I think it's pretty spelled out.

Again, we're not trying to change existing law, we're trying to control spending. Given the fact, as again, when I was answering Senator Squadron's question, we had several years when inflation was at 2 percent and we were raising our spending at 8 percent, then having people later on say that was the reason why we had to raise taxes and fees on businesses, on everyday people.

This is to try and control that in the future, as we did, working along -- last year on the budget with the Governor to control it last year. If that helps.

SENATOR KRUEGER: Mr. President, if the sponsor would continue to yield.

SENATOR ROBACH: I will.

SENATOR KRUEGER: Thank you.

And the cap would be set at the average of the three previous annual consumer-price-rate years over the previous

year's aggregate SOF spending. Why did you decide on this formula for a base amount?

SENATOR ROBACH: I think the logic with that was if there was a peak or a very depressed year, rather than take one year, as some other states have done, we wanted to take three years to try and give a fair average to get a very accurate picture, again, of the rate of inflation or growth rather than base it on one year.

SENATOR KRUEGER: And have we -- excuse me, Mr. President. If through you the sponsor would continue to yield.

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

SENATOR ROBACH: Absolutely, yes. I will continue to yield for whatever questions Senator Krueger has.

SENATOR KRUEGER: Thank you so much.

So quite a few other states have gone down the road of exploring spending caps or putting spending caps into effect or removing spending caps. And I'm just curious whether you have looked at the research from that and the

findings from those states, particularly Colorado and California.

SENATOR ROBACH: I can honestly say I have not looked at the research from California or Colorado, but I have listened to the people of New York who I believe 84 percent think New York spends too much, taxes too much and does not live within its means.

This is clearly what I believe a very logical, intelligent bill that will address those very, very concerns. And I have to say I'm in that 84 percent, and not only as a legislator but as a citizen that feels we have to be the responsible parent and try and control how much we spend.

I just think the evidence, again, is so compelling when you look at, you know, our last 10 years of budgeting, given what was going on with the economy, and not having any parameter or ceiling on how much we spent, seemed to not put New York in good shape, not for everyday citizens, who are leaving because of taxes, not for businesses, who are crying for less regulation and fees, not more. Clearly that policy without this has led to great, great

growth greater than the rate of inflation.

So I'm not so concerned with Colorado or California, but I really, really am concerned with New York.

SENATOR KRUEGER: Thank you. I'm also very concerned with the State of New York, Senator Robach, which is why I'm asking about the research from other states.

Mr. President, if through you the sponsor would continue to yield.

ACTING PRESIDENT O'MARA: The sponsor continues to yield.

SENATOR ROBACH: I will.

SENATOR KRUEGER: The research from other states actually shows that spending caps have a disproportionate impact on women, the elderly, the disabled, and the poor. How would we try to protect New York State from going down that road if we were to implement a spending cap as proposed by this bill?

SENATOR ROBACH: I don't know how you could possibly quantify in a study that would treat everybody equally. A property tax or a cap on government spending, our operations, would only mean we couldn't grow greater than the rate

of inflation.

I would make the argument in reverse, that it would help everyone regardless of gender, age, whatever, because they would not be, again, likely to have $14 billion of new taxes and fees on registering your car, licensing your car, going to a park. Those fees would not be necessary to be implemented on them, as we've done before.

I'd even go one step further. At a time -- Senator Squadron talked about the economy. Anything we could do to make the ground more fertile for business would also give people of all genders, all parts of the state, a greater opportunity of getting employment, which I think would help them too.

So I don't know -- I've never seen any study. Maybe you could tell me what it is. But I don't know how could you figure that putting a cap on our state spending operations would possibly impact somebody based on any of those demographics. I don't know how that could really be derived.

SENATOR KRUEGER: Thank you, Mr. President. If through you I might answer the

sponsor's question and then continue with my questions. Would that be okay?

ACTING PRESIDENT O'MARA: Yes. On the bill, Senator Krueger?

SENATOR KRUEGER: Well, I wanted to answer the Senator's question.

The way you can find that out, Senator, is to review any number of reports that have come out that look at the impact of spending caps on other states.

I have two reports specifically on Colorado and the impact of the TABOR legislation that was passed there. I have a terrific report that was put out by the Citizens Budget Commission in October 2010 reviewing the experience of other states that passed spending caps, including reviews of Colorado, Washington, Connecticut, New Jersey. I have several national studies looking at the impact of spending caps and proposed spending caps even by the federal government, a study by the National Women's Law Center highlighting the destructive impact specifically on women, children, the elderly, people of color.

Because when you put a spending cap

and an arbitrary spending cap on budgets, you end up having to make specific cuts in state spending. And unfortunately, particularly in bad economic times, the disproportionate cuts to programs are in fact in education and healthcare and services to people with disabilities and senior citizens.

And -- I'm sorry, Mr. President, if we could get a little more quiet. I'm having trouble concentrating.

ACTING PRESIDENT O'MARA: Yes.

Ladies and gentlemen, may we please have some order and some quiet in here for the debate.

SENATOR KRUEGER: Thank you.

So in fact the research does show that the spending caps lead to an unequal distribution of the pain on people within states.

So in follow-up, do you think that there might be a way to have a spending cap but also assure that we are not taking disproportionate hits on those, our most vulnerable citizens?

SENATOR ROBACH: I think that's

pretty hypothetical, anecdotal. I don't know if there's any quantifiable information you've said. Yes, clearly we know that taxes, registering your car, all those fees and taxes you imposed the last two years affect people of every income level, every part of the state.

And, you know, I've listened to you intently over 10 years. I know you're not afraid to raise taxes. You seem to even like them. I don't. I think there's a time and a place for everything. And clearly, even in the low-income part of my district, people said to me, "Senator, really? They want to put a tax on sugar and salt? What next, Kool-Aid?" And I said to them, yeah, some people really don't get it. They want to continue to raise and raise and raise.

So I've listened to people in my district. I don't want to hurt anybody disproportionately. But I think in New York we've got some great programs, ones I helped develop -- but we're at a point now, I'll say it again, just like businesses, just like working families, just like people on a fixed income. Not dramatically, just at the rate of inflation, we need to tighten our belt.

If we don't and you vote against this, I guarantee you, you're right, Liz, we'll be back here to vote for some tax to cover the bill and a continued rate of growth greater than the rate of inflation. This to me is a no-brainer. You can try and cloud it with all these things. But either we're going to try to live a little bit more within our means and send a message to business or taxpayers, or we're not. We're going to continue to grow, grow, grow.

And again, you know, the great John F. Kennedy quote, the situation and crisis at hand should dictate the right government action. The time now, just a little, just logically, rein in spending a little bit at the rate of inflation. I don't think that will put anybody in too dramatic harm's way.

SENATOR KRUEGER: Mr. President, on the bill.

ACTING PRESIDENT O'MARA: Senator Krueger on the bill.

SENATOR KRUEGER: Thank you.

The evidence is not anecdotal. There has been an enormous amount of economic

research from the states that have implemented spending caps. There has been an enormous amount of analysis of the impact on states that have created spending caps and even gone further and trapped themselves in a situation where they can't raise revenues or get themselves out of the situation if they require a two-thirds majority vote to do so.

And in fact Senator Robach's bill combines these two approaches, both of which there is substantive economic and quantitative data showing have caused enormous problems for other states.

And interestingly, I find that Republican governors and Republican legislatures in other states who have gone down this road have needed to figure out how to reverse themselves.

Now, the good news about this bill, as opposed to some bills that we saw earlier in the year that were variations on this theme, those bills would have been constitutional amendments. And if we were to change our Constitution, requiring a spending cap or a supermajority to resolve problems or raise revenues in emergency situations, then we truly

would be in a situation where we might not be able to go back. So the good news is this is not an attempt to change the Constitution of New York State. But nonetheless, it's the same bad proposal for the State of New York.

Senator Robach, in his description, argued that our taxes are too high. He says I like taxes. I don't think I like taxes. I like to ensure fair taxation. And I believe that government needs to provide quality public services to the people of New York State. And unless I could somehow magically ensure that the State of New York could win the lottery to the tune of $129 billion, $130 billion every year, I'm left with the reality that we need to collect our revenue in some way.

So I do think fair, equitable, progressive taxation is the best option short of the lottery to provide money to make sure that we have roads and bridges, that we have police and fire, that we have a public school system throughout the State of New York that ensures that our young people have an opportunity to get a quality education and to compete in the world and the economy that they are in fact inheriting

from us and need to do better with.

So yes, I believe in fair taxation. I believe in justifiable state budgets. And I don't disagree with Senator Robach that there are reasonable questions to be raised about how we've made the decisions to raise money and spend money. For the record, I have been here about nine years now, and I watched this budget grow and our taxes grow years before I was in the majority, years when I was in the majority, and now again when I'm in the minority. So I actually don't think it's a particularly healthy partisan blame game who raised taxes when, because both sides of the aisle did it. And records would show more of it happened under Republican control than Democratic control.

But that's not really the point. The point is how are we going to have a 21st-century economy and a modern justifiable budget.

I would argue that this proposal, combining a spending cap with a requirement for a supermajority vote to get us out of something that we may have passed ourselves into, is absolutely the wrong way to go.

And again, I could read -- I probably have several hundred pages of reports and quantitative analysis of what went wrong in the states that went down the road. But I'll just highlight, for a moment, Colorado.

Colorado, having put itself into a TABOR situation, found that the only way it could run government at the state and local level was to create a massive number of new public authorities, new municipal and local governments, new district governments, each of which had their own fees and taxes. So they had to get around the laws they had passed by creating literally a monster of government infrastructure.

There is no evidence from the research that they've saved the taxpayers of Colorado any money. They have created a much more expensive infrastructure of government at the state, local, municipal, county level. They have trapped themselves into a situation they admit they don't really know how to get out of. They have, in the course of that situation, found themselves lowering their rate of quality of education in comparison to other states, reducing the services that they provide, becoming less

competitive as a state government. And they are, I think, a poster-child state for what we don't want to do.

Connecticut has been in a less extreme situation, California in a more extreme situation recently, where their ability to solve their budgetary problems are infamous.

A study done recently by the Citizens Budget Commission here in New York State lays out the questions New York State needs to address if it would imagine going forward with this model.

First, what growth benchmarks should determine the cap? No other state uses an inflation-only rate to calculate a cap. The five states that used inflation-based caps all adjusted for population growth to account for increases in demand for existing services. I don't think you're going to see me personally voting for a spending cap with a supermajority vote. But you've got to adjust for inflation when you factor any of this in.

A growth factor set at the rate of inflation would likely require the state to reduce the services it provides. Costs for some

services, like education and healthcare, historically grow at rates that exceed inflation and even plus, even inflation plus population.

Limiting overall state spending growth to inflation would likely cause spending cuts in some areas as portions of the budget with faster growth rates consume a larger share of the resources and squeeze out other services. Again, why we need to think carefully about the impact on specific sectors of the state budget if we were to create a cap.

An alternative and more prevalent benchmark is personal income growth, which is the basis for caps in 15 states. This typically provides for more generous limits. Based on past trends in New York, a cap based on personal income growth would allow growth at nearly twice the rate of inflation in a typical year.

So again, I personally, Liz Krueger, am not in love with spending caps. But I would be much more open for a discussion of how we look at our budget in the context of personal income growth, not simply inflation, even adjusted over one two or three years.

Second, again reading from the

Citizens Budget Commission report, New York would need to avoid the ratchet-down effect experienced by Colorado. As I've already discussed, the impact on Colorado has been devastating and they've been trying to figure out how to get out of the problems that were created when their first bill went into effect. And they also used a three-year-inflation average, by the way, with their original model.

Third, you have to ask the questions about unintended consequences for local governments of a state spending cap. Because in fact, with a state spending cap what you do is shift the responsibility or the necessity for local government to raise more taxes at the local level as they see that their costs go up but they can't turn to the state for reasonable growth in money.

In fact, that's the sidebar to discussion about property taxes in this state right now. If the state does pass into law a property tax cap, it literally means the one tax that localities now do not need to come to the State Legislature for will have caps and controls on them. Some localities are coming and saying

they want us to do that. I think it's an interesting tax policy dilemma, but there are localities that say, Yes, stop us from increasing our taxes, cap us.

Well, the problem is, nobody's asking us to cap their spending. So if you're not capping local spending but you're capping local taxes, something has to give somewhere. And that's what this would do at the state level.

If you're capping state spending but you still have real costs for the actual delivery of services -- and we know the vast majority of those services happen at the local level -- you are shifting a burden into either existing or soon-to-be-created fees and tax structures at the local and county level. And I think you have to ask the hard questions about whether you're capping spending or transferring responsibility for taxing and spending to a different level of government.

I also think we as elected officials are responsible, we should be responsible for making sound budgetary choices, tough budgetary choices. And leaving ourselves in a position

where we decide to arbitrarily pick some numbers, throw them into a math formula and say that's where we're going to be, isn't really the responsible answer for legislators. We should be doing the hard work each year -- although I actually think we should have a two-year budget, so we should be doing the hard work in two-year cycles to figure out what are the priorities for our economy, for our needs for our state, what are the circumstances that have occurred, and how are we going to get the money to spend on those priorities.

I find it fascinating that even on a day where we're talking about approving a spending cap, there are also bills on this agenda that take money out of the state budget but don't explain how we're going to replace it, that create new programs that will cost the state money but we don't explain how we're going to pay for them.

I find it inconsistent for this body to be moving bills to spend new state money outside the context of the budget, to move revenues that have already been allocated for specific items in the General Fund for other new

purposes, and yet to be saying we need to have our own hands tied because apparently we can't be trusted to pass a budget and keep to it, so we need these spending-cap rules.

I don't believe this is the definition of responsible, participatory democracy, and I really do urge my colleagues to spend a little time studying the research and the findings from other states around the country of how this was not a panacea, it was not a magic bullet, it just allowed new fees, new levels of government, new dilemmas for states, and it also translated into disproportionate cuts in programs that many of us would independently say should be the highest priorities for our state.

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

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

Any other Senator wishing to be heard?

Seeing none, debate is closed.

The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 3. This

act shall take effect on the 30th day.

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

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

SENATOR RANZENHOFER: Thank you.

Just very briefly, I would just like to commend Senator Robach for introducing this spending-cap bill. I think earlier this year we passed a constitutional amendment.

Senator Robach, I think you get it. You understand what's happening in upstate New York and actually all across this state. It's not a blame game, but over the last 30 years spending has gone up 5 to 6 percent a year, well above the rate of inflation. And I think the anecdotal evidence is the job loss, the population loss in this state. So I commend you for bringing this legislation to the floor and getting it passed today.

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

Senator Robach to explain your vote.

SENATOR ROBACH: Yes, just to

explain my vote very briefly.

You know, I listened very intently to the debate. And a lot of this might make more sense to me if we didn't already have those progressive taxes and fees. We are number one in taxation and combined taxes. That's the problem. Anybody with any logic can see there's a correlation between spending and taxes.

And I'm not asking for anything draconian. We don't want to hurt anybody. We're just saying let's try and live in the rate of inflation just like we have to do in our own homes, in our own businesses. Wouldn't it be nice, instead of being one in total taxes, perhaps to be number one in people coming to the state instead of so many people leaving. Wouldn't it be nice to change the policy to be one in job growth rather than in job losses we've seen, especially in upstate New York.

So I think this is a very straightforward bill, very common sense. I'll be voting yes and I hope others will too.

Thank you, Mr. President.

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

Senator Rivera to explain your vote.

SENATOR RIVERA: Thank you, Mr. President.

I rise today to vote in the negative on this bill. I agree with most of if not all of the points that Senator Krueger brought up.

As far as the points that Senator Robach brought up, as far as taxation is concerned, sales taxes and some of the taxes that we approved here in the last couple of weeks, those are -- as I've said before, a flat tax is very regressive as opposed to progressive. Certainly as opposed to the personal income surcharge which we have debated many times on this floor, and I will continue to debate, because I agree that we need revenue to be able to run the programs that the state needs to run.

This is unfortunately a gimmick that will not resolve issues and will actually put a straitjacket on the state and its ability to deal with the budget problems in here and in the future. So I will be voting in the negative on this piece of legislation.

Thank you, Mr. President.

ACTING PRESIDENT O'MARA: Thank

you, Senator Rivera.

Senator DeFrancisco to explain your vote.

SENATOR DEFRANCISCO: Yes. By this legislation we're responsibly doing what we're really asking local governments to do when we pass a tax cap. And that bill's going to be live before the end of the week. I would imagine that most people are going to vote with the Governor and the legislative leaders who negotiated that tax cap.

We're asking them to operate more efficiently. We're asking them to spend within their means. We're asking them to provide relief to their property taxpayers. It's only right for we who are telling them to do that, for us to do the same thing.

And it's an excellent bill that Senator Robach has proposed. It's showing that we are going to do exactly what we're asking local governments and school districts to do, constrain spending, operate more efficiently. I vote aye.

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

Senator Martins to explain your vote.

SENATOR MARTINS: Thank you, Mr. President. I also rise to support this bill and to congratulate my colleague Senator Robach for introducing this bill.

You know, I've heard a lot this afternoon about how this bill will disproportionately affect women, minorities, the elderly -- when it's just the opposite. This state leads the country in one way where we do not want to lead the country, and that's in taxes. And if there's one thing that we should be concentrating on, it's limiting the growth of taxes, because taxes are the scourge of everyone in this state. Every member of our communities, regardless of where you live in New York State, whether you live in urban areas, suburban areas or rural areas, taxes are the number-one issue affecting our constituents, all of us.

And all we're asking the state to do is to provide the same fiscal discipline that we've asked from local governments and that we ask from ourselves, from our businesses, from our local communities, from our schools. I'll be

voting in the affirmative because it's the right thing to do for all residents and taxpayers in New York State, and it will disproportionately benefit everyone.

Thank you, Mr. President.

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

Announce the results.

THE SECRETARY: In relation to Calendar Number 651, those recorded in the negative are Senators Adams, Dilan, Duane, Espaillat, Gianaris, Hassell-Thompson, Huntley, L. Krueger, C. Kruger, Montgomery, Parker, Perkins, Rivera, Serrano, Smith, Squadron, Stavisky, and also Senator Peralta.

Ayes, 44. Nays, 18.

ACTING PRESIDENT O'MARA: The bill is passed.

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT O'MARA: Senator Libous.

SENATOR LIBOUS: Before we continue, could we go back to the reports of standing committees, please.

I believe there's a report of the

Rules Committee at the desk. Could we have it read?

ACTING PRESIDENT O'MARA: Reports of standing committees.

The Secretary will read.

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

Senate Print 511A, by Senator Maziarz, an act directing the New York State Energy Research and Development Authority.

Senate Print 755, by Senator Young, an act to amend the Private Housing Finance Law.

Senate Print 854, by Senator Young, an act to amend the Highway Law.

Senate Print 958C, by Senator Maziarz, an act to amend the Parks, Recreation and Historic Preservation Law.

Senate Print 1462A, by Senator LaValle, an act to amend the Real Property Tax Law.

Senate Print 1966A, by Senator Marcellino, an act to amend the Executive Law.

Senate Print 2409C, by Senator Grisanti, an act to amend the Agriculture and

Markets Law.

Senate Print 2466A, by Senator Libous, an act to amend the Highway Law.

Senate Print 2544, by Senator Bonacic, an act to amend the Real Property Tax Law.

Senate Print 2596A, by Senator Flanagan, an act to amend the Penal Law.

Senate Print 2737, by Senator Saland, an act to amend the Penal Law.

Senate Print 2918, by Senator Golden, an act to amend the Vehicle and Traffic Law.

Senate Print 2936, by Senator Lanza, an act to amend the Penal Law.

Senate Print 2952B, by Senator Libous, an act to legalize, validate, ratify and confirm.

Senate Print 3036, by Senator LaValle, an act to amend the Town Law.

Senate Print 3057, by Senator Seward, an act to amend the Insurance Law.

Senate Print 3101, by Senator LaValle, an act to amend the Town Law.

Senate Print 3201, by Senator

Hannon, an act to amend the Real Property Tax Law.

Senate Print 3335, by Senator Lanza, an act to amend the Executive Law.

Senate Print 3649A, by Senator Gallivan, an act to amend the Tax Law.

Senate Print 3778B, by Senator Martins, an act to amend the Public Authorities Law.

Senate Print 3872B, by Senator Maziarz, an act to amend the Public Authorities Law.

Senate Print 4036, by Senator Golden, an act to amend the Vehicle and Traffic Law.

Senate Print 4073B, by Senator Zeldin, an act to amend the Election Law.

Senate Print 4123, by Senator Ranzenhofer, an act to amend the Education Law.

Senate Print 4143A, by Senator Young, an act to amend the Alcoholic Beverage Control Law.

Senate Print 4223, by Senator Larkin, an act to amend the General Municipal Law.

Senate Print 4240, by Senator Larkin, an act to amend the General Municipal Law.

Senate Print 4270B, by Senator Golden, an act to amend the Civil Service Law.

Senate Print 4333, by Senator Carlucci, an act to authorize.

Senate Print 4392, by Senator Flanagan, an act to authorize.

Senate Print 4435A, by Senator Robach, an act to amend the General Business Law.

Senate Print 4503, by Senator Nozzolio, an act to amend the Village Law.

Senate Print 4514, by Senator Libous, an act to amend the Real Property Tax Law.

Senate Print 4560, by Senator Robach, an act to amend the Correction Law.

Senate Print 4637, by Senator Lanza, an act to amend the Public Authorities Law.

Senate Print 4677, by Senator Larkin, an act to amend the Executive Law.

Senate Print 4741A, by Senator Johnson, an act to amend the Education Law.

Senate Print 4762, by Senator

McDonald, an act to amend the Environmental Conservation Law.

Senate Print 4844, by Senator Maziarz, an act to direct the New York State Office of Parks, Recreation and Historic Preservation.

Senate Print 4851A, by Senator Saland, an act related to authorizing.

Senate Print 4899, by Senator LaValle, an act to amend the Local Finance Law.

Senate Print 4901, by Senator LaValle, an act to amend the Village Law.

Senate Print 4943, by Senator Young, an act to amend the Tax Law.

Senate Print 5092, by Senator Seward, an act to amend the Insurance Law.

Senate Print 5161, by Senator Ritchie, an act to amend the Environmental Conservation Law.

Senate Print 5184B, by Senator Young, an act to amend the Education Law.

Senate Print 5260B, by Senator Hannon, an act to amend the Penal Law.

Senate Print 5288, by Senator Lanza, an act to amend the Correction Law.

Senate Print 5309, by Senator Larkin, an act to amend the Criminal Procedure Law.

Senate Print 5323A, by Senator Robach, an act to amend the Environmental Conservation Law.

Senate Print 5325, by Senator Larkin, an act to amend the Criminal Procedure Law.

Senate Print 5459, by Senator Seward, an act to authorize the Village of Herkimer.

Senate Print 5504A, by Senator Saland, an act to amend Chapter 672 of the Laws of 1993.

Senate Print 5523, by Senator Farley, an act to authorize.

Senate Print 5524, by Senator Flanagan, an act to amend the Education Law.

Senate Print 5529A, by Senator Valesky, an act to authorize the extension of time.

Senate Print 5537, by Senator Carlucci, an act making an appropriation.

Senate Print 5573, by Senator Lanza,

an act to amend the Not-for-Profit Corporation Law.

Senate Print 5593, by Senator Flanagan, an act to amend Chapter 140 of the Laws of 1985.

Senate Print 5594, by Senator Grisanti, an act to amend the New York State Urban Development Corporation Act.

Senate Print 5595, by Senator Marcellino, an act to amend the Village Law.

Senate Print 5601, by Senator Bonacic, an act to amend the Environmental Conservation Law.

Senate Print 5608, by Senator Ranzenhofer, an act to authorize the Town of Amherst.

Senate Print 5610, by Senator Young, an act to amend the Highway Law.

Senate Print 5631, by Senator Golden, an act to amend the Executive Law.

Senate Print 5657, by Senator Seward, an act to authorize the Village of Ilion.

And Senate Print 5675, by Senator Golden, an act to amend the Education Law.

All bills ordered direct to third

reading.

ACTING PRESIDENT O'MARA: Senator Libous.

SENATOR LIBOUS: Mr. President, could I move to accept the report of the Rules Committee.

ACTING PRESIDENT O'MARA: There's a motion to accept the report of the Rules Committee. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT O'MARA: Opposed, nay.

(No response.)

ACTING PRESIDENT O'MARA: The report of the Rules Committee is accepted.

SENATOR LIBOUS: Thank you, Mr. President.

Could we now go back to the -- follow the order of the controversial calendar, please.

ACTING PRESIDENT O'MARA: Back to the controversial reading of the calendar.

The Secretary will read.

THE SECRETARY: Calendar Number 746, by Senator Libous, Senate Print 3059, an act

to amend the Education Law.

SENATOR BRESLIN: Explanation.

ACTING PRESIDENT O'MARA: Senator Libous, an explanation has been requested.

SENATOR LIBOUS: Thank you, Mr. President.

This bill basically deals with oral surgery. And presently dentists are not oral surgeons, but there are a number of oral surgeons that are also dentists. And this allows them to perform, if you're an oral surgeon, procedures of oral surgery on the face.

ACTING PRESIDENT O'MARA: Senator Krueger.

SENATOR KRUEGER: Thank you. If the sponsor would please yield.

ACTING PRESIDENT O'MARA: Senator Libous, will you yield to Senator Krueger?

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

SENATOR KRUEGER: So dentists take the position in this bill that their doctoral training as well as their postdoctoral residency training is equivalent to that for which a physician obtains a board certification,

including plastic surgery, dermatology, ooh, otolaryng -- jolly -- I can't even say it, excuse me. Okay, O-T-O-L-A-R-Y-N-G-O-L-O-G-I-S-T -- or orthopedic surgery.

Is this true, that that is the position of dentists on your bill?

SENATOR LIBOUS: No, no. Mr. President, it's not dentists, it's oral surgeons. Let me go back to what I said earlier. There are dentists that are oral surgeons, but there are dentists that are not oral -- I mean, you have to be an oral surgeon, not a dentist.

So, Mr. President, if you were to go to your dentist to have a tooth drilled, he would not qualify under this. But if you were to go to an oral surgeon, only oral surgeons qualify under this bill. Not a dentist, an oral surgeon.

SENATOR KRUEGER: Mr. President, if through you the sponsor would continue to yield.

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

SENATOR LIBOUS: Yes, sure.

SENATOR KRUEGER: Thank you.

So for me to reiterate, so your

definition is that oral surgeons are people who have doctoral training or postdoctoral training, but that is not as a physician but rather is oral surgeons within dentistry; is that correct?

SENATOR LIBOUS: Mr. President, Senator Krueger, it's not my position. But right now an OMS has to go through four years of undergraduate education, four year of dental school, two to four years of medical and surgical rotations, a two-year residency of maxillofacial-concentrated surgery.

So these are not my -- these are under the State Education Department. These are not my requirements, these are under the State Education Department. A regular dentist does not have to go through that.

SENATOR KRUEGER: Mr. President, if through you the sponsor would continue to yield.

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

SENATOR LIBOUS: Of course I would, Mr. President.

SENATOR KRUEGER: Thank you.

So now we've clarified we're talking about oral surgeons as defined by the State of

New York SED in the context of dental oral surgeons as opposed to M.D. physicians with training.

My understanding is that the first two years of medical and dental school are comparable but the last two years are different. The third and fourth years of medical school consist of clinical rotations through surgery, medicine, psychiatry, pediatrics, obstetrics, gynecology, et cetera. The third and fourth year of dental school is spent primarily in labs where there is dental training, but not with physician care in a hospital setting, nor are they participating in, again, hospital-based training and exposure. And that physicians practicing specifically in a surgical discipline obtain the bachelor's or master's degree, four to six years, a Doctor of Medicine degree, four years, and complete a five-year residency training as a surgeon.

So would the sponsor agree with me that the training for an M.D. surgeon and the training for a dental oral surgeon are substantively different?

SENATOR LIBOUS: Mr. President, I

would not agree. I would only state what is specifically in the legislation that's on the floor.

And when it comes to an OMS, you know, they meet guidelines that are set by SED and have been granted -- they're only those oral surgeons that have been granted hospital privileges for those specific surgical procedures. And they may practice them in a hospital or in an office-based setting.

So I'm not sure as to what Senator Krueger was reading from. And certainly, Senator, I respect the fact that you had a bunch of information there, but I'm only debating specifically to the bill that is before us and what I know that's in the bill that we've drafted.

SENATOR KRUEGER: Through you, Mr. President, if the sponsor would --

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

SENATOR LIBOUS: Of course.

SENATOR KRUEGER: Thank you.

I'm reading definitions of what the training requirements are for a physician who

completes medical school residency and a surgical residency versus my understanding of the training requirements for an oral surgeon who goes through dental training, just for the record.

So in a follow-through question, does the sponsor believe that postdoctoral residency training currently received by dentists is in fact equivalent to that completed by physicians?

SENATOR LIBOUS: Their training, Senator, is extremely similar to plastic surgeons.

SENATOR KRUEGER: Mr. President, if through you the sponsor would continue to yield.

SENATOR LIBOUS: I will.

SENATOR KRUEGER: Thank you.

In other states that have enacted similar law, what has been the patient care experience?

SENATOR LIBOUS: I can answer that for you, Mr. President, if you just give me a second here. I believe there have been no issues or problems in other states with oral surgeons. I have that -- actually, the staff anticipated this question. But there appears to be no issues

at this time in other states.

And, Mr. President, if I may add that these oral surgeons can do this work now. If, Mr. President, God forbid somebody is in a car accident and they are called to the hospital, they do this sort of work now. They do reconstructive surgery right now if there was an accident or a trauma situation.

SENATOR KRUEGER: Mr. President, if through you the sponsor would continue to yield.

SENATOR LIBOUS: I will, Mr. President.

SENATOR KRUEGER: Thank you.

If they do this work now, why do we need this law?

SENATOR LIBOUS: This will allow them to do it in a an office-based setting, Mr. President.

SENATOR KRUEGER: On the bill, Mr. President.

ACTING PRESIDENT O'MARA: Senator Krueger on the bill.

SENATOR KRUEGER: I don't support this bill. But I have to say that the sponsor's last answer to me is perhaps the most strong

argument for my continuing to not support the bill.

To go through, the training to be a physician is specific and extensive and most relevant for comparisons for this bill. We are talking about physicians who have completed residencies and surgical residencies before they are doing plastic surgery or surgery, primarily known by ear, nose and throat specialists.

Dentists go through very specific training, training I respect. Oral surgeons in the context of dentistry go through additional training. They do not have medical degrees, nor do they have residencies in surgery.

The Commission on Dental Accreditation, an arm of the American Dental Association, has established certain standards for accredited oral and maxillofacial surgery residency programs. These standards require instruction in basic science, physical diagnosis, anesthesia, surgical head and neck anatomy and clinical physiology, as well as a minimum of 30 months of oral and maxillofacial surgery, to be included in clinical services within their four-year residency program.

They must provide 75 surgical cases in their final year, including at least 10 in trauma, pathology, orthognathic and reconstructive and aesthetic surgery. They only have to do 10 cases in reconstructive and aesthetic surgery.

The Accreditation Council of Graduate Medical Education evaluates and accredits medical residency programs in the United States. In comparison to the standards for the Commission on Dental Accreditation, the standards of accreditation of the Council of Graduate Medical Education are considerably more stringent and are comparable across surgical specialties, whether we are referring to plastic surgery, otolaryn -- you know, it's that word that I just can't say: O-T-O-L-A-R-Y-N-G-O-L-O-G-Y -- ear, nose and throat. Thank you so much, Senator DeFrancisco -- or orthopedic surgery. Thank you, everyone.

Each must demonstrate cases in a variety of subspecialties in each particular specialty. For example, the American Board of Ear, Nose and Throat Specialties requires a mix of cases demonstrating proficiency in facial

plastic surgery, pediatric OTO, head and neck surgery, general OTO, and endoscopy. The average resident in a medical program sitting for board examination, whether an OTO resident or a plastic surgery resident, will have completed 2,000 surgical procedures over their four-year residency program. Again, versus 10 for the dental residents.

Moreover, those residents who complete residency and participate in fellowship training in the subspecialty of facial plastic and reconstructive surgery participate as either surgeon or first assistant surgeon on an additional 800 cases, with a total surgical volume of approximately 200 rhinoplasties, one of the most complex cosmetic medical procedures. There is a difference in the training.

And again, I am particularly concerned that this bill would allow this kind of surgery to be performed by dental oral surgeons in their offices rather than a hospital setting. When things go wrong in surgery, what is critical is that you are surrounded by people with the training and specialties to respond to the emergencies. And if this was a bill that allowed

continued roles within a hospital setting, I would be much more open to this bill.

But the concept that this allows people who are not surgeons with a physician M.D. training as board-certified surgeons to be able to do equivalent surgery in their office settings I believe is not in the best interests of New Yorkers. It's not in the best interest of patient care. And I urge us not to pass this bill today.

Thank you, Mr. President.

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

Is there any other Senator wishing to be heard?

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

I encourage all Senators to return promptly to the chamber so we can get on with this next vote.

Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 180th day.

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

SENATOR LIBOUS: Mr. President, can I be called on for a minute?

ACTING PRESIDENT O'MARA: Senator Libous.

SENATOR LIBOUS: I know we're on the roll and we're waiting one more second for a colleague. And I'm so pleased that everyone listened to my message about an hour ago when I said please stay close to the chamber.

We have another calendar to do today. We have quite a bit of work yet in front of us. And we're going to go through this calendar controversial because there are members who have questions, and certainly that's part of the process here. We want everybody to get their questions out and have members able to answer those questions.

But we're going to move ahead, because I am not waiting. I said that once before; I was kidding. I'm serious now. So we're being patient because we told one Senator that we would wait. But after this moment, I'm not waiting. So for whatever reason, if you're not here you will be marked absent. Because nice

guys finish last.

(Laughter.)

SENATOR LIBOUS: Read the roll, please.

ACTING PRESIDENT O'MARA: Announce the results.

THE SECRETARY: In relation to Calendar Number 746, those recorded in the negative are Senators Alesi, DeFrancisco, Duane, Gallivan, Hassell-Thompson, L. Krueger, C. Kruger, Montgomery, Oppenheimer, Parker, Perkins, Ranzenhofer, Rivera, Saland, and Serrano.

Absent from voting: Senator Huntley.

Ayes, 46. Nays, 15.

ACTING PRESIDENT O'MARA: The bill is passed.

Senator Libous.

SENATOR LIBOUS: Mr. President, before we proceed, in the spirit of being a nice guy, I believe Senator Hassell-Thompson has a group here that she would like to recognize. So if I could have unanimous consent from the body to call on Senator Hassell-Thompson.

ACTING PRESIDENT O'MARA: Without objection. Senator?

SENATOR HASSELL-THOMPSON: Thank you, Mr. President. And thank you, Senator Libous, for allowing me just a moment to recognize some students from the Bronx.

You know that I have had students here all year this year. And today we have students from PS 21, PS 68, PS 111, MS 142, Bronx Charter School for Better Learning, Truman High School, PS 41, PS 112, the Forward School, Young Scholars Academy, School of Diplomacy, all led by Johnnie Garth and other teachers and parents, who have come to watch government.

And this is our student government from many of our different schools representing 4th through high school. Please welcome my students from the Bronx.

Thank you, Mr. President.

(Applause.)

ACTING PRESIDENT O'MARA: Welcome to the chamber. Thank you for being with us today. We offer you the cordialities of the house. And please enjoy yourselves today.

The Secretary will read.

THE SECRETARY: Calendar Number 768, by Senator Flanagan, Senate Print 4410 --

SENATOR LIBOUS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 850, by Senator Saland, Senate Print 1432, an act to amend the Education Law.

SENATOR BRESLIN: Explanation.

ACTING PRESIDENT O'MARA: Senator Saland, an explanation has been requested.

SENATOR SALAND: This bill is a relatively simple bill, a bill which this house has passed unanimously a couple of years ago. It comes out of a situation back in December of 2006 in which the Regents imposed a requirement upon all school districts to provide calculators for certain math and science courses.

The end result was a $100 million unfunded mandate that those districts could not have anticipated. There were districts, including districts within my Senate district -- and when I say "district," I'm referring to school districts -- that paid in excess of

$100,000 to provide these calculators.

This merely says that if you're going to impose a mandate -- and I would certainly hope that that would not be the case. But if the choice of the Regents or the Ed Department is to impose such a mandate, you cannot impose it after a budget has been adopted for a school year, you have to wait for the following school year in order for it to be effective.

And if in fact we look to what almost happened this year when the Regents decided that they were going to require school districts to pay for the Regents exams, and we were able to provide some amount of funding to avoid that happening, and some of the exams were in fact canceled or dropped, that would have been an example of another unfunded mandate imposed through either the Regents or the Ed Department that would have caught school districts totally unaware, with no plans, having already in many instances dipped into their reserve funds or fund balances and having had to endure the cuts in education that they had to endure.

So I can find no reason why this

bill shouldn't pass unanimously, nor do I comprehend why the Assembly has ever failed to take up this bill.

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

Any Senator wishing to be heard?

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

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: Announce the results.

THE SECRETARY: In relation to Calendar Number 850, recorded in the negative: Senator Duane.

Absent from voting are Senators C. Kruger, L. Krueger, Huntley, Montgomery, Perkins, Hassell-Thompson, Espaillat, Peralta, Parker, Adams, and McDonald.

Ayes, 50. Nays, 1.

ACTING PRESIDENT O'MARA: The bill

is passed.

THE SECRETARY: Calendar Number 856, by Senator Lanza, Senate Print 3871, an act to prohibit the expenditure of state and local funds.

SENATOR BRESLIN: Explanation.

ACTING PRESIDENT O'MARA: Senator Lanza.

SENATOR LANZA: Thank you, Mr. President.

This legislation would prohibit state and local governments from providing funding in support of civil trials being afforded to enemy combatants' terrorist trials here in New York. And to be clear with respect to the intent of the legislation, it is my intent to do everything possible to thwart enemy combatants of America to be afforded civil trials here in New York, which is the desire and intent of the Obama administration.

And I feel strongly about that because I believe that mass-murdering foreign enemies of America should not be afforded the same rights and privileges as American citizens are under the United States Constitution. And

even more than that, they should not be provided preferential treatment over and above the treatment that would be afforded to our soldiers.

We spent the morning honoring veterans. And by affording enemy combatants of America civil trials, they would have greater rights than an American soldier. If an American soldier blows up a building or shoots someone, they would go before a military tribunal, not a civil trial. I think if it's good enough for a soldier, it's certainly more than good for a determined enemy, a foreign combatant who wishes to destroy our very way of life.

ACTING PRESIDENT O'MARA: Senator Breslin.

SENATOR BRESLIN: Mr. President, would the sponsor yield for a couple of questions.

ACTING PRESIDENT O'MARA: Senator Lanza, would you yield for a question?

SENATOR LANZA: Glad to, Mr. President.

SENATOR BRESLIN: Through you, Mr. President, the bill states that "No money of

the state shall be expended relating to any civilian criminal trial of any combatants for acts of terrorism in any federal court."

In reference to "any money," what would that include?

SENATOR LANZA: It is my intent that it includes any money which would support in any way a civil trial for a terrorist, an enemy combatant of America. So any money that would allow that to happen, I would hope and it is my intent that this legislation would prohibit that.

SENATOR BRESLIN: Again, through you, Mr. President, would the sponsor continue to yield.

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

SENATOR LANZA: Yes.

SENATOR BRESLIN: Understanding your objective, do you know if there's been any precedents in the past for the elimination of any state involvement relative to monies expended in any federal trials in the past?

SENATOR LANZA: Yeah, there -- through you, Mr. President, it's my understanding that monies were provided in support of the civil

trial provided for the terrorists who committed the act of terror during the first World Trade Center bombing.

And I think since then there are many, including former President Clinton, who has said that had we known then what we know now, that civil trials should not have been afforded.

SENATOR BRESLIN: Through you, Mr. President, would the sponsor continue to yield?

SENATOR LANZA: Yes, Mr. President.

SENATOR BRESLIN: In a situation if the federal government decided to implement their procedures, right or wrongly, in the City of New York, and if we adopted this law, wouldn't that place the City of New York in a more precarious position than otherwise?

SENATOR LANZA: Mr. President, through you.

It is my intent to make it impossible for President Obama or anyone -- Attorney General Holder -- to afford a civil trial to an enemy combatant. So it is the intent of this legislation that it would become so untenable, so ridiculous, as I think my colleague

is alleging to, that that decision would not be made.

In the event, in the event that the Obama Administration or the Attorney General decided that they didn't care that that would put the city in a precarious position with respect to not being able to expend monies in support of a trial -- and by the way, by the way, let's talk about the cost. Aside from what I believe to be the cost to our national security, Mayor Michael Bloomberg has said that it would cost the City of New York $1 billion if civil trials for terrorists were held in Manhattan. So it would be my intent that this would persuade anyone who was thinking of affording a civil trial to terrorists in New York to change their mind.

In the event that they were to try to force that through, what would then obviously be required is that the full bill be footed by those who seek to have those trials there; specifically, the federal government. And at least it would take the burden, a $1 billion burden, off of the taxpayers of New York City and the State of New York.

SENATOR BRESLIN: Again through

you, Mr. President, would the sponsor continue to yield?

SENATOR LANZA: Yes, Mr. President.

SENATOR BRESLIN: Given the fact that state legislation to preclude is kind of a last resort type of legislation, were there any attempts made to sit down and discuss this situation with representatives of the federal government?

SENATOR LANZA: Thank you, Mr. President.

Yes. I wrote the President, the administration a few years back. I wrote the Attorney General. I wrote Hillary Clinton with respect -- I have those letters. I could hand them out to my colleagues here with respect to my strong opposition to providing civil trials for enemy combatants. I have not received a response.

The only response that I know of is that the President, the Attorney General still feel very strongly that the terrorists should be afforded a civil trial in Manhattan, in New York State. And I think that would be a grave mistake. I think it would weaken our country.

Some have proposed that we're strong enough to do this. I don't think anything that weakens you, that exposes you, is something that makes you stronger. And so I think it really would be a grave mistake.

We should learn from our mistakes during the trial of those who waged the attack in the first World Trade Center bombing. We learned that they used our civil discovery proceedings to learn about our intelligence system. They learned how to do it better.

And in fact they were more successful only a few years later, and it has become public knowledge that because they had a civil trial there and were able to exploit our civil system, a system that was devised to protect American citizens and no one else, that because we were foolish enough to allow that trial during the first World Trade Center bombing, they were able to come back with horrific and devastating results during September 11th.

SENATOR BRESLIN: Thank you to the sponsor, Senator Lanza. And thank you, Mr. President. No further questions.

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

Senator Squadron.

SENATOR SQUADRON: Will the sponsor yield?

SENATOR LANZA: Yes.

SENATOR SQUADRON: Thank you.

The sponsor said something about the City of New York and Mayor Bloomberg and Police Commissioner Kelly. Has the City of New York weighed in on this bill?

SENATOR LANZA: I'll say this. I believe Mayor Bloomberg has stated very publicly that he believes that those civil trials should not be afforded to the terrorists who attacked the World Trade Center, killing 3,000 Americans and attacking our nation for the very beliefs that we hold dear. And so I would -- not wanting to speak for my good friend Mayor Bloomberg, I would imagine that any effort to ensure that those trials are not afforded in downtown Manhattan would be something that he would support.

And as I've said already, the intent of this legislation is to make sure that we do

not afford enemy combatants the same rights as American citizens and greater rights than the soldiers who put their lives on the line every single day to protect our freedoms.

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

SENATOR LANZA: Yes, Mr. President.

SENATOR SQUADRON: I think the sponsor knows there is no memo of support from the City of New York. The City of New York hasn't weighed in.

The World Trade Center site is in my district in Lower Manhattan. When there was discussion of the trial of Khalid Sheikh Mohammed in a civil trial, it was going to be in heart of my district in the federal courthouse in Lower Manhattan. I have had meetings that would chill the blood about some of the existing sites and targets in my district and some of the costs that my constituents need to bear every day in order to protect against those and the cost in dollars to protect against those.

And I have to tell you, my recollection from when that was on the table was

that it was a billion dollars. Let me tell you, the cost in Lower Manhattan -- not just in dollars, but also quality of life -- would have been unbearable. I know that for some this is a big national political issue and it's going to beat the drum one way or the other. For us, this is a local issue and a fundamental issue to our homes.

And at the time -- my question is, at the time my recollection is that the mayor and police commissioner were very clear: This is going to be a billion dollars, and if we have to do it, we'll do it. The first priority is to keep everyone safe. In fact, I remember a briefing that I had about exactly what that would look like, and that was the message.

Does the sponsor remember a different message out of the City of New York at that time?

SENATOR LANZA: Mr. President, no. Through you, no, I heard that message. The mayor said if he had to do it, he would do it.

I'm just trying to make sure he doesn't have to do it, because I know he doesn't want to do it. And I don't want to do it. And I

don't think any of us should want to do it. I think it would be a disgrace to allow these people, who continue to want to destroy us, to be afforded more rights than the people in the armed services who put their lives on the line every day to protect the very freedoms which we enjoy.

So I'm trying to help Mayor Bloomberg avoid doing what he does not want to do, and that is expend one billion dollars of taxpayer dollars to provide rights for people who in my opinion, and I'll be very blunt, deserve no rights.

SENATOR SQUADRON: If the sponsor would continue to yield.

SENATOR LANZA: Yes.

SENATOR SQUADRON: Thank you.

I think one of the key questions is do the people of the City of New York deserve the right to be protected whatever comes and the right to allow our police commissioner, who has done such an extraordinary job over the past decade in protecting us against further attacks, to have every tool available both from city and state government.

But as I'm sure the sponsor knows,

there have been a number of terrorism trials. The Khalid Sheikh Mohammed trial has not moved forward in Lower Manhattan. It would be untenable in Lower Manhattan, we agree on that. But there have been a number of terrorism trials that have moved forward in the courthouse, including, as the sponsor talked about, from the '93 World Trade Center bombing, also from a number of plots, including plots in the New York City subways, on tunnels.

And let me ask, can we be certain that the New York City Police Department would be free to protect the citizens of New York on those trials if this bill were to pass?

SENATOR LANZA: Mr. President, that would require an acrobatic leap in logic for me to even entertain the notion that somehow this legislation would prevent the New York City Police Department, the best in the world, from protecting the citizens of New York City.

What this would say is that the State of New York, the City of New York would not provide supports by way of a billion dollars in taxpayer dollars so that we can afford greater rights to the enemy combatants of America than we

do the men and women of the armed services or even provide the same rights and privileges as the citizens of this great state are afforded by the United States Constitution.

And he mentioned the fact that there's a trial that's not happening there. So you might ask, well, given the recent decision that at least one trial is not going to occur in civil court but rather in a military tribunal, you might be asking, in anticipating the next question -- because I'm good at that, as well as I know my colleague -- why would we need to do this since the President has backed away?

Well, the President has not backed away. And there is a threat that these trials will be held in civil court.

And I read from a statement from our Attorney General, Eric Holder, when he made the announcement that at least these initial trials, as were just referenced by my colleague Senator Squadron, would not be held in Manhattan. And it's not because they decided that it would be too much for the people of Manhattan to handle, it's not because they decided that it would cost the people of the City of New York or the State

of New York too much money. It's because at this point they have no choice.

And the statement that was issued by the Attorney General, Eric Holder, which I have in regard to this subject, wherein he states that it is the desire of the Attorney General's office and the President to provide civil trials for the enemy combatants. He says and goes on to say: "Unfortunately, since I have made that decision, members of Congress have intervened and imposed restrictions blocking the administration from bringing any Guantanamo detainees to trial in the United States, regardless of the venue." He says "unfortunately."

He goes on to say: "We will continue to seek to repeal those restrictions." He says: "Our national security demands that we continue to prosecute terrorists in federal court, and we will do so." This is the Attorney General of the United States of America.

And I think I understand why he and I have such a grave disagreement on the subject, because he finishes by saying that "innocent Americans and citizens of foreign countries alike were murdered by ruthless terrorists. This case

has always been about delivering justice for those victims and for their surviving loved ones and nothing else."

Well, this is about that. But what he and I disagree with on this is that it's about a lot more. It is about the very future and stability and strength and survival of our nation. He believes it's only about those victims. I believe it is about the national security of our country.

And you mentioned those other trials that were held, to say, "Well, you see, we did it and everything was okay." Well, everything wasn't okay. Because by providing those trials in that way in a civil court through civil discovery, our enemies went to school on how to beat us, and they came back with a vengeance, and they're more effective.

I don't want to give them another chance. I don't want to take them to school again. I don't want them to come back and be more effective in destroying us than they were on September 11th. And that's why I understand the concerns with this legislation. But your very concerns are the very reason I advanced this

legislation, because I want to make it impossible for those trials to be held in New York in a civil forum.

SENATOR SQUADRON: If the sponsor would yield for a final question.

SENATOR LANZA: Yes, Mr. President.

SENATOR SQUADRON: Thank you very much.

Is "enemy combatant" defined in this legislation?

SENATOR LANZA: Enemy combatant. Let's see what it says here. It says "Notwithstanding any provision of the law to the contrary, no monies of the state, any political subdivision thereof, or public authority shall be expended related to any civilian criminal trial of enemy combatants for acts of terrorism in any federal court in the State of New York."

So it would seem that anyone who is an enemy combatant who commits an act of terrorism would be covered under this legislation.

SENATOR SQUADRON: I thank the sponsor. On the bill.

"Enemy combatant" is not defined in

this legislation. And I appreciate the sponsor's production of where my line of questioning was going, but just to be very clear, my concern isn't why do we need this legislation, these trials aren't going to happen. My concern is this legislation puts my community at risk, because it's possible these trials will happen. In fact, as defined in the bill, these trials have been happening.

In the Southern District of the State of New York, the United States Justice Department has had a better record of convicting those who are accused of terrorism, those who have committed terrorism, those who have killed American citizens than any other office in the nation. And many of those cases, there was never a consideration are they an enemy combatant, are they not. They were folks who committed acts of terrorism. I consider them enemies of our nation. Certainly in some cases they created situations like combat.

There's no definition here. We're not relying on some federal definition of enemy combatant. We are risking preventing Ray Kelly and the New York Police Department, the best

police department in the world, we are risking preventing the Southern District of the State of New York from being able to protect the citizens of the City of New York and prosecute terrorists to the fullest extent of the law.

That's the problem with this legislation, that if we had this legislation in place, my community could not be protected, my community would not be able to enjoy the resources of the greatest police department in the world, would not be able to enjoy the resources of this State Legislature and this state government in protecting them when there are cases that come before the Southern District.

Or, alternatively, the Southern District would be prevented from prosecuting cases, and it would be more likely the terrorists, terrorists, would go free, because they would end up being prosecuted in some other jurisdiction that doesn't have the expertise, doesn't have the experience, doesn't have the seasoned prosecutors that we have in the Southern District.

The problem with this legislation --

right here I have a list in front of me in the last six years of six major convictions that the Southern District got in the federal courthouse in Lower Manhattan by trying terrorists. That will no longer be an option. Or, more concerning, if it is an option, the people of my community will not be able to be protected.

I understand on this issue, and it's happened on the floor before, the temptation to make this issue something larger, make this issue about the George Bush tribunals or make this issue about some other sort of simple waving of the flag.

But I've got to tell you, this issue is about my constituents. It's about hundreds of thousands of people who live within a few blocks of the courthouse in the Southern District where trials are going on right now against those convicted of terrorism, where the New York City Police Department right now is protecting their homes and their children, and it is about preventing the police department, preventing our state government from protecting those families and preventing the Southern District from doing the job that they do better than anyone else.

That's the reason I can't support this legislation and the reason that I really urge all of my colleagues, whether this legislation has a same-as in the Assembly or not, to please stand with me for my community, for the New York City Police Department, and please help me protect my community.

Thank you, Mr. President.

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

Senator Gianaris.

SENATOR GIANARIS: Thank you, Mr. President. Would the sponsor yield for a question?

ACTING PRESIDENT O'MARA: Will you yield, Senator Lanza?

SENATOR LANZA: Yes, Mr. President.

SENATOR GIANARIS: I've heard the answers to my colleague's questions, and I'm just trying to get at the heart of -- assuming a worst-case scenario, because I understand what the bill is trying to do -- but assuming that a trial, a terrorism trial is coming to New York anyway at the federal level, if this were enacted into law, what would this allow the NYPD and

others to do to protect our citizens while that trial was taking place?

SENATOR LANZA: Through you, Mr. President. So let's just analyze the options here if this legislation becomes law. First, I believe that it would prevent those trials from coming to Manhattan. And that is the intent of this legislation. I've been clear about that and honest about that.

But assuming President Obama or Attorney General Holder say to heck with the will of the people in New York, to heck with the fact that they're not going to provide resources by way of taxpayer dollars, a billion dollars, we're still going to do it, we're going to shove it down their throats, we're going to have those trials there, well, then I would imagine what would happen is that the federal government -- not the taxpayers of New York City, not the taxpayers of New York State -- the federal government would then be required to foot the bill.

SENATOR GIANARIS: Would the sponsor continue to yield.

I understand that that's what he

imagines would happen, that's what he would like to happen. But let's project forward into the future. Let's project beyond this administration. Let's assume the country elects some right-wing lunatic for president who's a fiscal conservative and doesn't want to spend a dime protecting these trials because it's a local responsibility. These are things out of our control, what the federal government will do. Passing this bill or not is in our control as to what the state or our localities will or will be allowed to do.

So again, assuming the worst-case scenario, which is the federal trial comes anyway and the federal government decides not to expend any resources because it is a local responsibility, what does this legislation do or what would it allow our local law enforcement to do to protect our citizens?

SENATOR LANZA: Through you, Mr. President. So I suppose the only way this scenario plays itself out in your hypothetical is if some left-wing lunatic person lives in the White House or some --

SENATOR GIANARIS: Right-wing.

SENATOR LANZA: Well, I'm telling you how it would happen. It would only happen by virtue of a left-wing lunatic in the White House shoving this down the throats of the people of New York. It would only happen if a left-wing lunatic Attorney General of the United States would shove it down the throats of the people of the State of New York and would decide that they didn't care about your concerns about the cost.

And not only would they shove it down the throats of the people of New York and say, Hey, we believe we should aid and abet, provide comfort and convenience for terrorists who want to destroy us, once they've made that decision, what you're saying is then they would do that and say that they weren't going to foot the bill? I have more faith even in left-wing lunatic presidents, that if they were to make that decision, they would pay the bill.

SENATOR GIANARIS: If the sponsor would continue to yield.

SENATOR LANZA: Yes.

SENATOR MARCELLINO: Mr. President. Mr. President.

ACTING PRESIDENT O'MARA: Senator.

SENATOR MARCELLINO: Not for anything, but we've had a right-wing shot and we had a left-wing shot. Can we keep the shots down and just keep the debate on a more elevated tone? Thank you.

SENATOR GIANARIS: I'll be happy to do so, Mr. President. I just want to point out the debate up until now has been very focused on partisan attack on a federal administration.

But be that as it may, moving aside from that, the issue is whether you have a lunatic of any side in there, we don't control what's going to come out of the federal government. And so there is the possibility that there's a contingency that the federal government chooses to have a trial here and yet decides not to provide the resources or not adequately provide the resources.

Let's say they'll provide some safety but not to the degree we think it's necessary. This bill would prohibit our local law enforcement from doing what is necessary to protect its citizens, is that not true?

SENATOR LANZA: No, that is not true, Mr. President. Not at all.

SENATOR GIANARIS: Well, please explain how it's not true.

SENATOR LANZA: Well, you know, I listened to Senator Squadron talk about the fact that this bill would prevent the police department from protecting the citizens of the City of New York. That's not true. That's absolutely not true. The Police Department of the City of New York protects the people of the city every single day, and they do it, I think, better than anyone anywhere in the country, if not the world.

He said that somehow this would force the trial to go to a place that didn't have the expertise to do it, somehow the federal court in New York is the only place where the expertise exists to do that. That's ridiculous. That's ridiculous. What you're saying is a military tribunal does not have the experience, does not have the competence, does not have the ability to do justice?

If you feel that strongly about that, then why is it that you don't cry out, cry out to ensure that the American men and women who serve our nation in the armed forces, why do you

not cry out and say they should have a civil trial? If you think they don't have the expertise and they can't get it done and they can't do justice, where is the shock, where is the outrage when every single day soldiers who protect our freedoms are tried at military tribunals?

You're wrong. They have the expertise. And you're wrong, we would be safe. We would be safe because by virtue of this legislation there would be no civil trial for enemy combatants in New York City.

SENATOR GIANARIS: If the sponsor would continue to yield.

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

SENATOR LANZA: Yes, Mr. President.

SENATOR GIANARIS: With due respect, that last answer had nothing to do with my question, which is what does this bill prohibit our local law enforcement from doing if in fact the trial is held in New York and if in fact the federal government decides to provide less-than-adequate protection for that trial.

SENATOR LANZA: Mr. President, it

doesn't speak to that. It says that the taxpayers of the City of New York, the State of New York would not have to spend a billion dollars providing rights to enemy combatants which I believe they do not deserve.

And so you can draw whatever conclusion you want, but the point of this is clear. I'm not ducking behind a piece of legislation to say that I'm trying to do something that I'm not. I am saying very clearly what it is I'm trying to do. I'm trying to make sure that those who want to destroy us are not provided more rights than the people who are trying to protect us.

And with respect to the fact that no harm will come from these trials, look at the history. You're wrong. Senator Squadron said that this was local and this was an issue that affects his district. It affects all of us. I had many personal friends, people whom I loved, grew up with and knew, who were killed that day.

And in part -- and I never try to take blame away from where it belongs. The blame is with those people who want to destroy us. But they were helped, they were helped out in their

mission to carry out those murders and that attack because of the fact that a prior colleague of theirs was afforded a civil trial. And during that civil trial, for those of you who aren't attorneys, in a civil trial there is civil discovery. And through civil discovery they were able to go to school to learn about our weaknesses so that they can come back stronger, and they did. And more people died because of it.

And so to say that somehow having a civil trial is something that should happen or saying that somehow people won't be protected by virtue of doing it is wrong. People in this country were exposed because of the fact that a civil trial was afforded to an enemy combatant.

SENATOR GIANARIS: If the sponsor would continue to yield.

SENATOR LANZA: Yes.

SENATOR GIANARIS: I'm going to try one more time here.

SENATOR LANZA: Sure.

SENATOR GIANARIS: And the sponsor is very good at explaining why he put this bill in. He's very good at continuing to debate

Senator Squadron's points or others' points. But I would ask if I can get an answer to my question, and I'll try to ask it a different way.

If a federal trial is held on terrorism in New York, under this legislation would we be able to have a single member of the NYPD protecting us during that trial?

SENATOR LANZA: So let me answer it this way. So if you go to the car dealership and you want to buy a new car and they tell you the car cost $40,000 and you say you don't have the money, you don't get the car.

The idea here is we don't pay for it, we're not going to get it. So your concerns should be addressed that way. We're not going to get the trial if we pass this legislation. And if we do get the trial because the president decides that he doesn't care, he's going to do it anyway, then the federal government would pay for it.

SENATOR GIANARIS: And I'll ask one final question as I try to get this answer from the sponsor, if he would continue to yield.

SENATOR LANZA: Mr. President, I'm

answering the questions very directly, and I'll continue to answer questions as long as you have questions.

SENATOR GIANARIS: Okay. I appreciate that, Senator Lanza.

I'm going to ask this as a yes-or-no question. If there's a federal trial in New York and the mayor of New York City and the police commissioner determine that the federal protection that is being provided to New Yorkers during that trial is inadequate, would this bill permit them to lend a single member of the NYPD to the protection to make sure that its citizens are protected beyond what the federal government is doing, yes or no?

SENATOR LANZA: So through you, Mr. President. Senator Gianaris, you can ask the questions the way you want. I'm going to answer them the way I want.

And the answer to the question is that if the federal government decided to ignore the reality of this law, if it becomes law -- and I hope it does -- if they decide to ignore the will of the people, then they would pay for the -- they'd foot the bill, not the taxpayers.

But again, I'm being very clear. I do not believe -- in fact, I know -- that if there's no money to support a trial, there will be no trial.

SENATOR GIANARIS: And if I can ask one follow-up, if the Senator would continue to yield.

SENATOR LANZA: Yes, Mr. President.

SENATOR GIANARIS: What if the federal government agrees, under your scenario, to provide the protection, to pay for the protection, but we don't think they're doing enough? Would this bill not prohibit the City of New York from providing additional protection beyond what the federal government is doing?

SENATOR LANZA: Mr. President, we can play the hypothetical game all day long with what the federal government will do, what they won't do, they're going to pay for half of it, they're going to pay for all of it, they'll continue to decide that they want to have a civil trial -- I mean, we can do this all -- this is really simple. It really is.

If you agree with me that enemy combatants of the United States of America who are determined to destroy this nation do not

deserve to have a civil trial, then you should support this legislation because it says that we will not support a civil trial financially in New York State. That's all it does. And by not supporting something financially, typically you end up not having it. And that clearly is the legislative intent with this legislation.

If someone has a better idea -- because we're talking about the what-ifs and the hypotheticals, and I'd really like to talk about if the objection is the belief that there should be a civil trial, which I know some people truly believe, like the President, like the Attorney General, like some people here -- and I can respect that opinion; I disagree with it -- we should talk about that instead of going around the way here and act as though the problem with this bill from your point of view is that somehow the people of the City of New York are not going to be protected by the Police Department of the City of New York. Let's not play that game. That's disingenuous.

The people of the City of New York have always been protected by the police officers in New York City, they will always be protected

the police officers in New York City. They are the greatest police department on earth. That will not change by virtue of this legislation. Everyone knows that. Everyone sees that. So let's talk about what this is really about, a difference of opinion with respect to whether or not enemy combatants should be afforded civil trials. I believe they should not.

SENATOR GIANARIS: Thank you, Senator Lanza.

On the bill, Mr. President.

The sponsor is correct, this bill is simple. The problem is the bill is also very dangerous. I want to -- since he's so intent on talking about the bigger issue that this bill actually doesn't address directly, I'll be happy to answer his question for him. I do not support civil trials for enemy combatants. We are in agreement on that issue.

The difference lies in a bill that is trying to get at something that we don't have any jurisdiction over, and does so in a way that puts New Yorkers at risk. A vote in favor of this bill is a vote to put people of New York at risk of danger of terrorist attacks, of local law

enforcement not providing the protection that they would like to because we would strip them of the ability to fund those efforts.

If the sponsor and those who support this bill are interested in dealing with this issue appropriately, they should write a letter to their federal authorities, they should run for Congress if they want to run for Congress and deal with this where the decision's actually made.

The fact is, whether or not federal civil trials are held in New York is not a decision for the New York State government, it is a decision for the federal government to make. And they're going to make it no matter what we say here. The only thing this is doing is putting a gun to our own heads and saying "Do what we want or I'm going to shoot."

That is not an intelligent way to govern, my colleagues. We run a dangerous risk of exposing people to terrorism exactly when what we're trying to do is prevent additional acts by preventing civil trials, which I agree with you on.

This bill is clearly not the way to

do it. Denying law enforcement the ability to do their job at a most sensitive time and during a most sensitive trial is insane. I will be voting no, and I encourage my colleagues to join me.

ACTING PRESIDENT O'MARA: Senator Squadron.

SENATOR SQUADRON: Mr. President, I thank my colleague.

And just to clarify a point Senator Lanza mentioned in his debate with Senator Gianaris, just to be very, very clear. When you're talking about civilian criminal trials, which exist today, they are currently happening in my district in Lower Manhattan today. The Southern District has multiple convictions on civilian criminal trials in the last ten years on people who were never considered with this enemy combatant question one way or the other. The Southern District every day has these trials, and they are great at it.

Under this legislation, the police department may no longer be able to protect my community. This has nothing to do with military tribunals. My view that within the civilian context of the Southern District is the best in

the nation is shared broadly. Let me be clear. Within the civilian context, the Southern District is the best in the nation. Military tribunals aside. Perhaps they're better, perhaps they're worse. It's irrelevant to this bill.

What is relevant to this bill is we have the best civilian prosecutors in the nation in Lower Manhattan. We have hundreds of thousands of families, of residents and families in Lower Manhattan. And if we have this bill, we will have the New York City Police Department unable to protect them. It's that simple.

Please do not be distracted by the larger question about President Bush and President Obama. This is about 35,000 new residents, 10,000 schoolchildren, over a hundred thousand families in Lower Manhattan being protected while the best prosecutors in the nation go about their work.

Thank you, Mr. President.

ACTING PRESIDENT O'MARA: Any other Senator wishing to be heard?

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President.

I rise to just object to the fact that we have devolved into referring to the president of our United States -- meaning that we are in my opinion, insulting the presidency. That is extremely important to every American. My colleague Senator Lanza referred to the president as a left-wing nut and --

SENATOR LANZA: Mr. President.

ACTING PRESIDENT O'MARA: Senator Lanza, why do you rise?

SENATOR LANZA: Point of privilege.

Senator Montgomery, that's not what I did. I was responding to what Senator Gianaris did after what Senator Squadron did. He talked about this being about some George-Bush-administration tribunal thing. I don't know where he got it; you can ask him about that. Senator Gianaris then followed up and said that what if we had some right-wing president, lunatic president, quite clearly after Senator Squadron was talking about President Bush.

I did not mention President Obama's name in that dialogue. I said, "Well, it would only happen if we had a left-wing lunatic

president, I suppose."

I don't believe it would happen, and I've made that very clear. I believe President Obama would honor the reality of the laws of the State of New York. If the law says we were not providing support by way of funding, I believe that President Obama would honor that and either not have those trials or pay the bill. I've said that repeatedly. So in effect, what I'm saying is I believe the president would never go through with trials in the face of this legislation.

SENATOR MONTGOMERY: Mr. President, I stand corrected. He referred to him as a left-wing lunatic and Holder as a left-wing lunatic. And furthermore, it's in his memo, he refers to the president by name and Holder by name.

So my point is I don't think this is the level that we want to devolve to, to be in, as it relates to the way that we refer to the president of the United States. That's the point that I wanted to make, Mr. President. Thank you.

ACTING PRESIDENT O'MARA: Thank you, Senator.

Any other Senator wishing to be

heard?

Debate is closed. The Secretary will ring the bell.

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 Perkins, do you wish to be heard?

SENATOR PERKINS: I just want to take a moment to explain my vote, because apparently during the last debate President Obama was called, admittedly, a left-wing lunatic.

ACTING PRESIDENT O'MARA: Senator Perkins, we're -- we were admonished by Senator Marcellino before to clean up the decision on this.

SENATOR PERKINS: Yeah, just to explain my vote.

ACTING PRESIDENT O'MARA: And we really don't need to further this and escalate it where we've been already.

SENATOR PERKINS: I appreciate

that. But it has been escalated because upon clarification it was reestablished exactly, facetiously, what was said.

And I'm personally offended by it. I would not want him to say that any more than I would want anyone to call him a cracker or any other similar kind of derogatory, disrespectful language for someone that's elected and represents people.

So I just want to, for the record, hope that we don't have to go down that road ever again. While I'm here, anyway.

Thank you. I vote in the negative.

SENATOR LANZA: Mr. President, point of personal privilege. Mr. President, point of personal privilege.

ACTING PRESIDENT O'MARA: Senator -- Senator Lanza --

SENATOR LIBOUS: Mr. President, are we on a roll call right now?

ACTING PRESIDENT O'MARA: We're on a roll call right now.

Senator Perkins, how do you vote?

SENATOR PERKINS: I vote in the negative.

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

SENATOR LANZA: Mr. President, to explain my vote.

ACTING PRESIDENT O'MARA: Senator Fuschillo is ahead of you, Senator Lanza, to explain your vote.

SENATOR LANZA: Point of personal privilege. Mr. President --

SENATOR FUSCHILLO: Thank you, Mr. President.

SENATOR LANZA: -- personal privilege.

ACTING PRESIDENT O'MARA: That's not available on a roll call, I've been informed.

Senator Fuschillo.

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

I think the words "unconscionable" and "appalling" come to me when I think of this issue. And I want to thank my colleague Senator Lanza for bringing this issue to the floor.

What a disgrace and an insult to the families and the individuals that were killed on 9/11, and especially the families that are

fighting right now for respect of their memory, to think that the trials of the individuals that killed them could have potentially been here in New York.

Senator Lanza, this is more of an issue of patriotism to me, an issue of respect for the families, and I'll be voting in the affirmative.

Thank you, Mr. President.

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

Senator Lanza to explain your vote.

SENATOR LANZA: Thank you, Mr. President.

First on the point of personal privilege. To Senator Perkins and Senator Montgomery, I could stand here and make up something that you would say and then be offended by it. I'm glad we have a transcript of this proceeding. You should read it later.

I'll say it again, I did not call President Obama a left-wing lunatic. I did not. So read the statement. I said, in response to Senator Gianaris, who said and talked about a right-wing lunatic president, I said if we had

one. If we had one. That's pretty clear.

So if you feel the need to get up and gratuitously suggest that somehow I said something I didn't, shame on you.

On the bill, or my explanation.

ACTING PRESIDENT O'MARA: To explain your vote.

SENATOR LANZA: This is a very simple piece of legislation. I believe that enemy combatants of the United States of America do not deserve to have a civil trial. I think, more than that, to do so would endanger this country. We saw that during the first trial, where enemy combatants went to school, through civil discovery, came back and they got the job done better by attacking us with greater impact and greater carnage.

I believe they shouldn't have more rights than people who put on the uniform and protect our liberties every day. I believe they shouldn't have the same rights as a civilian who is protected, a citizen, under the United States Constitution. And I believe that if you're a foreign enemy combatant and you attack this country, that the place for you to receive

justice is a military tribunal, the same place that a member of the armed service, a member of -- a man and woman who protects us in the armed services receives that justice.

And that's why I support this legislation. Because as I said, I do believe that the president would honor the law, this president or any president would honor our laws and this reality and there would not be a civil trial here in New York. And that precisely is the intent of this legislation.

Thank you, Mr. President.

ACTING PRESIDENT O'MARA: Thank you, Senator Lanza. You will be recorded in the affirmative.

Senator Liz Krueger to explain your vote.

SENATOR KRUEGER: Thank you.

This debate was fascinating. Someone just argued why they were voting for the bill, because of the memory of the victims of 9/11 and from a sense of patriotism. And in fact it is from that memory of the victims of 9/11 in my Borough of Manhattan and my sense of patriotism that I must vote no.

I have the utmost respect for our Constitution. And our Constitution is what protects our freedoms, our rights, and assures that our laws will be upheld. And so I believe in a judicial system, a fair trial process for any and all people who break our laws.

I have equal concerns with many people today who vote yes on this bill about what the costs would have been if this specific trial was in a specific courthouse in Manhattan. But I dread the thought, as my colleague Senator Squadron said, of suppose the federal government decides they are going to do specific cases in a specific location in New York State and we didn't have the money to do the kind of security-guarantee work that was needed.

I think it's a terrible mistake to vote for this bill today and to limit our own ability to both protect our citizens and the importance of our Constitution. So it's a patriotic act to vote no on this bill.

Thank you, Mr. President.

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

Senator Parker to explain your vote.

SENATOR PARKER: Mr. President, to explain my vote.

One, let me thank Senator Lanza for bringing his bill to the floor. And I understand his intentions, and I don't disagree with them from an intention perspective, although I don't think that this bill actually gets us where we need to be.

When you talk about terrorists, terrorists by definition aren't military combatants. Military combatants refer to military, which means they're associated with a nation. If you are fighting soldier against soldier, then you're at war with a nation and that combat is governed under the Geneva Conventions. Terrorism is not governed under the Geneva Conventions and by definition falls out of the context of a military tribunal. So by definition, terrorist acts are in fact attacks on civilians and are dealt with in civilian trials.

I also find myself at odds, unfortunately, with my good friend Senator Fuschillo in this notion that it's patriotic and respects the memory of those who were killed on 9/11 to in fact do the trial in New York. I

think just the opposite. I have lost many people at 9/11. It was a horrible day for all of us.

But in fact I think in the same way that this nation is built on a judicial system, Mr. President, that says that you can face your accuser, that in fact having a trial in the place in which the crime happened is actually totally consistent with the laws, the procedures and the culture of our society and our government.

And so I'm going to be voting no on this and hope and suggest that my colleagues vote no on this bill as well.

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

Senator Robach to explain your vote.

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

This may come as a surprise to everybody, I'm going to completely disagree with my colleague Senator Parker.

This should be based on these people getting a fair venue somewhere to declare guilt or innocence. Now the question becomes -- and I think there is a place for the people in this room -- where is that best place. I don't know

if there's a definition. But clearly, by these own people's admission, this was an attack on this country where those citizens of our state beared the burden in their death in those towers going on and those attacks at the Pentagon and Pennsylvania.

To this American person, this New Yorker, that's clearly an act of terrorism, to me no different than if they parachuted in in uniform and started shooting people on the street who had nothing to do with military.

Given that determination, I feel very much that they should be treated as enemies of this country if they are guilty. And they will get a fair trial in a military tribunal and I do think, as Senator Lanza's pointed out, a much fairer venue similar to what our own troops would get if there was a violation.

And then lastly, to some of the points that it's the role of Congress, not this body, I couldn't disagree more. You are going to bear potential attack again in billions of dollars. We just got done debating a bill on taxes where people were concerned if we capped spending who might get hurt. Well, where's the

billion dollars going to come from from New Yorkers who have already been devastated to cover that cost?

This to me makes all the sense in the world. I'm very happy to vote in the affirmative.

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

Announce the results.

THE SECRETARY: In relation to Calendar Number 856, those recorded in the negative are Senators Adams, Avella, Breslin, Espaillat, Gianaris, Hassell-Thompson, Huntley, L. Krueger, Montgomery, Parker, Peralta, Perkins, Rivera, Serrano, Squadron, Stavisky, and Stewart-Cousins. Also Senator Sampson.

Ayes, 44. Nays, 18.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 937, by Senator Ritchie, Senate Print 5160, an act to amend the Agriculture and Markets 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, 62.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 951, by Senator Ritchie, Senate Print 5262, an act to amend the Vehicle and Traffic Law.

SENATOR BRESLIN: Explanation.

ACTING PRESIDENT O'MARA: Senator Ritchie, an explanation has been requested.

SENATOR RITCHIE: This bill amends the Vehicle and Traffic Law to eliminate the additional attachment that is currently required to maintain along with the registration for farm-plated vehicles.

When you go in to register a farm vehicle now, you have to fill out a form that designates all the roads that the farmer will travel on within a 25-mile radius. It's a mandate on the DMV staff and more paperwork that's required for the farmer.

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, 61. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 954, by Senator Libous, Senate Print 2467A, an act to amend the Tax Law.

SENATOR BRESLIN: Explanation.

ACTING PRESIDENT O'MARA: Senator Libous, an explanation has been requested.

SENATOR LIBOUS: Did someone request an explanation, Mr. President? I would be happy to give one at this time.

ACTING PRESIDENT O'MARA: Yes, Senator Libous.

SENATOR LIBOUS: What this bill does, Mr. President and my colleagues, it takes a penny from the gasoline tax and puts it into the Dedicated Highway Trust Fund. Right now that

penny goes to the General Fund.

As you know, I have been an advocate for the past five years to clean up the Dedicated Highway Trust Fund. Right now we raid the fund for about a billion dollars and use it for General Fund expenses. That's wrong, because the fund is for road and bridge repair. That's why we established it a number of years ago.

This takes a penny from the motor fuel tax, the 8 percent tax that's on gasoline. It will take a penny this year and put it in into the Highway Trust Fund, take an additional penny each of the next five years, so that that money doesn't go into the General Fund to pay for general government, but it goes for roads and bridges like the Dedicated Highway Trust Fund was established by this body to do.

ACTING PRESIDENT O'MARA: Senator Liz Krueger.

SENATOR KRUEGER: People are getting a little ahead of themselves. Thank you. Will the sponsor please yield, Mr. President.

ACTING PRESIDENT O'MARA: Senator Libous, will you yield for a question?

SENATOR LIBOUS: Mr. President, if Senator Krueger didn't ask me a question I'd be disappointed.

SENATOR KRUEGER: I don't want to disappoint the sponsor, Mr. President.

So I've read the bill and I've spoken to our finance staff, and as the Senator just explained, it moves up a penny per year. And over a five-year period we're showing it will cost the State of New York $966.3 million to the General Fund. Would the sponsor agree or disagree with that estimate of loss to the General Fund?

SENATOR LIBOUS: Mr. President, it doesn't -- if I may answer this question, it doesn't cost the State of New York anything. It's a matter of setting priorities as to where the State of New York spends its money.

And the value of spending the money here will go into road and bridge repair. Which will put labor back to work, Mr. President, because DOT has had no money to do road and bridge repair, will put New Yorkers back to work, contractors working again.

There is not a matter of where you

get the money from. The money is already in the budget. We have a $136 billion budget. It's a matter of priorities as to how you spend the money. So to me, Mr. President, spending the money on public works, plus we have -- a report came out from the Department of Transportation most recently that talked about the deterioration of our roads and bridges, and particularly our bridges. And certainly if Senator Little was here, she would talk about the bridge in her district that had a catastrophic incident a number of years ago.

So, Mr. President, we all have our different priorities, we all have different places that we think the State of New York should spend money. I, for one, happen to think that the money should come from the General Fund and this penny should go to put the hardworking men and women, many of our friends in the labor unions that are out of work, and the contractors, back to work.

SENATOR KRUEGER: Mr. President, if through you the sponsor would continue to yield.

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

SENATOR LIBOUS: I will, Mr. President.

SENATOR KRUEGER: Thank you.

It was a great speech but I think misunderstood my question. I'm not disagreeing that this money, if it was in the Dedicated Highway and Bridge Fund, could be used for any number of items as he just told us, including putting people to work.

I asked him what the impact would be on the General Fund if we were to take $966.3 million out of the General Fund and what would we not pay for or whose jobs would we not continue to have if we, quote, prioritize by moving to Dedicated Highway and Bridge and out of the General Fund. Particularly in light of, I believe, Senator Libous's vote for a spending cap earlier today and the new limits that would apply for our ability to have money for the General Fund, what would we be laying people off from or ceasing to fund because we wouldn't have the $966.3 million in the General Fund?

SENATOR LIBOUS: Mr. President, I think Senator Krueger is confused. Let me go back to my answer from before.

Senator Krueger, I don't intend to lay off anybody. This is money that's going to put people to work. This is money that's going to go into road and bridge construction. This is money that's going to come out of the General Fund.

And yes, it's a $136 billion budget. I think we would do what we have always done in the past, is negotiated here as to what the priorities are. Certainly the Governor handed up earlier this year a priority budget. He cut general government 10 percent. If we can't find a list of priorities that we can agree on -- I think the difference here is priorities. Senator Krueger's priorities are different than mine.

I would rather take the money out of the General Fund, repair our roads and bridges, and put people to work. And yes, there would be some sacrifices, maybe in the Medicaid system or maybe some other areas. But at the same time, we need jobs in this state. We need to put people back to work. And there's nothing better than doing construction jobs so that our contractors, our laborers, our unions can go back to work.

And that's what this will do.

It's a matter of priority, Senator Krueger. Your priorities and my priorities are different.

SENATOR KRUEGER: Mr. President, on the bill.

ACTING PRESIDENT O'MARA: On the bill, Senator Krueger.

SENATOR KRUEGER: I think we're either having a semantic argument or a disagreement about the term "fungibility" in economics. And fungibility basically means you can spend a dollar here or spend a dollar here, but you either have the dollar or you don't have the dollar.

So yes, the Senator is saying he wants to pass a bill today that would apply, proactively over the next five years, of taking revenue out of the General Fund and putting it in the Dedicated Highway and Bridge Fund. He says that he prioritizes those jobs over other jobs that that money is being used to pay for through the budget today.

We may agree or disagree that the new highway jobs he wants to hire people for are

of higher value or higher priority than the teachers we would lay off if we took the dollars out of the General Fund which may be used for educational aid to our localities today and put it into the Dedicated Highway Fund. I don't even know that I want to have the argument about whether a construction job on a highway is worth more or less than a nurse's job in a hospital or a teacher's job in our school system today. I would actually argue that's why we pass a budget every year. That's why we passed a budget in this house a few months ago. It was a priority document. It was a document that said we have this much revenue and we're going to spend it in that way.

What particularly disturbs me about this bill, no disrespect to prioritizing the importance of our Dedicated Highway and Bridge Fund needs, is that we are attempting to do a significant budget bill outside the context of the budget. People are not being asked to vote in this document, in this bill today, that yes, I raised my hand to vote to lay off X number of teachers and use the money instead for roads and highways. We're simply being asked vote to take

dollars from the General Fund and commit them to this other purpose.

But the end of the sentence is being left off. If we were to do this, and to do this separate from an actual full budget document or full budget debate, we would be knowingly or unknowingly voting to cut funding from the General Fund, which is used for teachers, for nurses, I believe even for construction projects in a variety of ways.

So what I don't like is this is not how we're supposed to do budgeting. We're supposed to deal with budget issues within a document or documents called budget documents. We're supposed to -- I completely agree with Senator Libous -- prioritize how we collect our revenue and how we spend our revenue through a budget process, and we recently completed one.

This is a freestanding bill that will be tying our hands to the tune of $966.3 million that we will not have in the General Fund and not be able to continue to fund programs we currently operate or actually, knowingly, have to cut another $966.3 million out of these programs we're currently funding,

because if we pass this into law we will have no choice.

And again, I bring it back to the spending cap debate of earlier today. If we were to pass a spending cap and then we were continuing the pattern of outside the context of any budget debate, budget document, continue to willy-nilly approve new programs or remove funding from the General Fund for other programs we care about the most --

SENATOR LIBOUS: Mr. President, will Senator Krueger yield for a question?

SENATOR KRUEGER: I would be happy to yield for a question, Mr. President.

ACTING PRESIDENT O'MARA: Proceed, Senator Libous.

SENATOR LIBOUS: Senator Krueger, do you know that presently the Dedicated Highway Trust Fund is raided every year?

SENATOR KRUEGER: Yes, Mr. President, I do.

SENATOR LIBOUS: If she would continue to yield.

SENATOR KRUEGER: Yes.

SENATOR LIBOUS: Senator Krueger,

do you know how much the Dedicated Highway Trust Fund is raided every year?

SENATOR KRUEGER: No, I do not specifically. But I bet Senator Libous does.

SENATOR LIBOUS: About a billion dollars comes out of the dedicated trust fund and goes into the General Fund.

And, Mr. President, does Senator Krueger know where that money goes?

SENATOR KRUEGER: I will happily hear the answer, Mr. President.

SENATOR LIBOUS: Thank you, Mr. President and Senator Krueger.

About $250 million of that goes into running the Department of Motor Vehicles, which should come from the General Fund. And the remainder of that goes to snow and ice removal, which used to come from the General Fund but, because of budget shortages years ago, the fund was raided.

Now, what I want to do is put the money back in the dedicated trust fund in a reasonable manner over a period of time. So, Senator, we are already raiding the fund to the tune of a billion dollars and using it for

regular operations. So again, I go back to my point that this is just a matter of priorities. And if I may, Senator, I don't ever believe I said I wanted to lay off teachers. To go back to my colleague Senator Lanza, I would say go back to the transcript. I was just saying that in a $136 billion budget there are various priorities that one would choose.

You are saying that I would lay off teachers and other workers to put construction workers to work. That is certainly not my intent.

SENATOR KRUEGER: Mr. President, if through you the sponsor would yield.

ACTING PRESIDENT O'MARA: Senator Libous, will you yield for a question?

SENATOR LIBOUS: I will, thank you.

SENATOR KRUEGER: Thank you.

SENATOR LIBOUS: Thank you, Senator.

SENATOR KRUEGER: When did we start raiding this fund to the tune of a billion dollars a year?

SENATOR LIBOUS: My guess is it would have been in the late '90s. I think in the

late '90s.

SENATOR KRUEGER: Through you, Mr. President, will the sponsor continue to yield?

SENATOR LIBOUS: I will. But I know what the next question is going to be.

(Laughter.)

SENATOR KRUEGER: And did we make the decision to raid these funds through a budget document any number of years since the late '90s?

SENATOR LIBOUS: Mr. President, Senator Krueger, it was a horrible mistake that the Legislature made at that time. And now what I would like to do and I have been trying to do, Senator and Mr. President, for the last five years is to correct that mistake. Because Lord knows none of us in this room are perfect. And not every piece of legislation we pass or vote for or vote against is perfect legislation.

And in this case the Legislature -- Senator Krueger, you're correct, I stand with you and make your statement correct, that at that time the Legislature made a change. I have been trying to correct that change for over five years

now.

SENATOR KRUEGER: Mr. President, if I may continue on the bill.

ACTING PRESIDENT O'MARA: Continue on the bill, Senator Krueger.

SENATOR LIBOUS: Thank you.

SENATOR KRUEGER: Thank you. I appreciate the sponsor's answers to my questions, and I believe he is confirming the position I am taking. He's arguing a mistake was made since the '90s in the budget process to take a billion dollars out of the Dedicated Highway and Bridge Trust Fund.

I will point out for the record in the vast majority of those years since these raids started, my colleague on the other side of the aisle was in the controlling seats to make these decisions vis-a-vis the budget of the State of New York. And I respect that he said terrible mistakes were made.

Mistakes can be rectified and I would even argue should be rectified within the context of an overall budget debate and budget document. Mistakes need to be redressed, priorities need to be debated and made in the

context of a full budget discussion: What are we going to raise money for, what are we going to use it for?

He explained right now it's used, instead of for bridges and highways, that this money is used to pay for snow removal on bridges and I think highways. If we don't have that money for snow removal, we have to ask ourselves the question: What will that impact be? How many people won't have jobs doing snow removal? What is the impact if our bridges and our highways are not cleaned of snow?

He pointed out that right now that money is raided for other purposes in the DMV. We have to ask ourselves the question, as we should as a Legislature through the budget process, do we care if we don't have a functioning DMV? Or will we choose to increase fees and taxes in the context of our cars and our trucks and our driver's licenses and our auto registrations?

Maybe, maybe we will all think that is a better priority way to fund DMV in the absence of not having the money in there for snow removal or for the other functions of the

Department of Motor Vehicles. A reasonable, healthy debate, one that should be done in the context of the budget, not as a freestanding bill that removes money from the General Fund without actually having the complete discussion about what happens and what do we lose instead.

Which is why I do believe we should vote no on this bill, and I shall do so. Thank you, Mr. President.

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

Senator Savino.

SENATOR SAVINO: Thank you, Mr. President. On about the bill.

I'm going to rise in support of this piece of legislation. A functioning transportation system is critically important to the economic vitality of the State of New York. We know that in the City of New York no one would ever question whether or not we should preserve or strengthen the New York State transit system. For the upstate region and for the suburban areas, the bridges, roads and highways are the equivalent of our MTA.

When I first got here to the

Legislature a few years ago there was a lot of debate about the idea of whether or not we should give people a gas tax holiday. Similar to now, a tank of gas was at an all-time high, it was about $4 a gallon. And we all know that New York City has a very high sales tax on each gallon of gas. And it was at that time that I found out, Senator Libous, that one of the things we do with that gas sales tax that we collect here in the State of New York, it's supposed to go to the Dedicated Bridge and Highway Trust Fund, but in fact we had been raiding it for years, as has already been discussed here, to pay for other things that should be paid for out of the General Fund.

Well, I voted for that gas tax the first time when in fact it turned out to be nothing more than a gimmick. I didn't vote for it when it came up a few weeks ago because I did not believe, after having spent a few years here, that, one, it was going to provide any relief to the people who were paying high gas prices at the pump, and, two, it presented another danger to the Dedicated Bridge and Highway Trust Fund.

Two years ago former Governor Paterson, when he put forward his budget, one of

the things he did is he raided the Dedicated Bridge and Highway Trust Fund. And we saw contractors all around the State of New York and projects all around the State of New York that were critically important stopped in their tracks. In fact, right outside here in Albany, right by the tollbooth, there was a tremendous project that literally came to a halt and the contractors couldn't meet their payroll, jeopardizing the livelihood of hundreds of construction workers.

This should not be about a choice between teachers or caseworkers or construction workers. In reality, what we should be doing is funding the Dedicated Bridge and Highway Trust Fund, as the gas tax is supposed to, because it creates good-paying jobs. Yes, union jobs. And Lord knows they're near and dear to my heart. But those jobs also are high-paying jobs and those contractors generate income that comes back to the General Fund. They lease equipment. They meet payrolls. They pay their employees. They pay sales tax on products and goods and services all related to those projects.

So it all comes back to the General

Fund. But if we continue to raid the Dedicated Bridge and Highway Trust Fund to pay for things that we're supposed to pay for anyway, we're not going to have that revenue. We cannot become an economy that is only that of public employees. We must also do everything we can to generate other forms of employment. And this fund specifically does just that.

So I'm going to vote for this bill because I believe that we need to do everything possible to maintain our bridges, our highways, our roads and we must do everything possible to generate more income so that we can continue to pay for those things that we all believe are important, like teachers and ice and snow removal and Department of Motor Vehicles and everything else that government is supposed to do.

Thank you, Mr. President.

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

Any other Senator wishing to be heard?

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

Read the last section.

THE SECRETARY: Section 8. This act shall take effect April 1, 2012.

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

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

SENATOR OPPENHEIMER: I'm voting yes. And I'm voting yes on behalf of all the people whose cars' axles have been broken on Route 17 because there isn't enough money to repair the enormous, enormous potholes on that road. I'm voting yes for the two bridges that we have closed, local bridges, because they do not any longer meet the necessary standards.

It is a very serious situation that I think may not be appreciated everywhere in the state, but it is very serious for those of us who have this kind of devastation within our Senate districts and within our own communities. So I definitely am voting yes for this bill.

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

Announce the results.

THE SECRETARY: In relation to

Calendar Number 954, those recorded in the negative are Senators Adams, Espaillat, Huntley, L. Krueger, Parker, Perkins, Rivera and Serrano.

Ayes, 54. Nays, 8.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 981, by Senator Alesi, Senate Print 1931, an act to amend the Correction Law.

SENATOR BRESLIN: Explanation.

ACTING PRESIDENT O'MARA: Senator Alesi, an explanation has been requested.

SENATOR ALESI: Thank you, Mr. President.

This bill, very simply, would mandate that work-release programs for inmates will not be allowed to operate in areas that are zoned exclusively residential. Thank you.

ACTING PRESIDENT O'MARA: Senator Rivera.

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

ACTING PRESIDENT O'MARA: Senator Alesi, will you yield for a question?

SENATOR ALESI: Yes, Mr. President.

SENATOR RIVERA: Thank you, Senator Alesi. Through you, Mr. President.

Senator Alesi, could you expand a little bit on that explanation? It is very clear on the face of it that it is meant to make sure that this can't happen. What is the reasoning behind the bill?

SENATOR ALESI: Very simple. Work-release programs by their nature help people who are coming out of the system, help them get valuable opportunity to work outside of the prison. And in many instances we have found that they can pose a threat to people who are living in the residential areas.

And so this does not end the work-release program. It simply says that if you're in a purely, specifically zoned residential area that you cannot participate in a work-release program in a residential area.

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

SENATOR ALESI: Yes.

SENATOR RIVERA: Thank you,

Mr. President.

Does this mean, Senator Alesi, that if there is a work-release program currently established that is in an area that is zoned strictly as residential, these programs would no longer be -- they would be illegal, therefore they would have to be ended?

SENATOR ALESI: That's exactly the point. Through you, Mr. President. Anybody that's in the system is a potential threat, especially when they're in a residential area, a zoned specifically residential area.

And this not only works for the protection of the people that are in those residential areas, it also helps the people that are in the work-release program. Because it takes away any possible temptation for them to either burglarize or do some other things while they're trying to be rehabilitated and trying to get work experience outside the system.

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

ACTING PRESIDENT O'MARA: On the bill.

SENATOR RIVERA: Thank you, Senator

Alesi.

I stand today to strongly, very strongly oppose this piece of legislation. The purpose of work-release programs, as Senator Alesi stated, is to allow for individuals who are incarcerated, when they are coming out of an institution, to be able to become productive members of society again.

There are many factors that aid in making sure that someone can make that transition -- certainly family, certainly somewhere to live. But employment is certainly one of the most important if not the most important part of this process. To have someone, to have someone be able to provide for themselves financially means that they will be able to become productive members of society again.

I will then add to that that the bulk of the incarcerated prisoner population in the state comes from downstate, certainly from districts like the one I represent in the northwest Bronx. Just thinking about the place where I reside, physically in the place where I reside, only four blocks away it is zoned as mixed-use. So there can be some residential, but

certainly some commercial. Only four blocks away it is strictly residential.

The building that I live in is a six-story building with about six apartments per floor and between two and three people per apartment. I'm certainly not good at math, but you can start multiplying. The building behind me is a 12-story building that has hundreds if not thousands of people living in it.

The reason I point this out is to say that the rest of the city and certainly most of the districts where these individuals would come become to are in situations that are very similar to this. These individuals came from our communities, and they're coming back to our communities. We certainly want them to become productive members of society again.

If we are to say that there are programs that are currently working, that are currently serving the purpose of being able to integrate them back into society and now they would not be able to be in a place that is strictly residential, in a place like New York City it becomes almost impossible for them to exist. And certainly the ones that might be

existing now would not be able to just up and move even if it's four blocks away from where they are.

I believe that the purpose of this has -- I can certainly understand the purpose of it. But I believe that ultimately it would have a very negative effect. And since we are looking to have these individuals come back to our communities and become productive members of it, to try to put something in front of their tracks to trip them up, if you will, by not allowing some of these programs that are already operating to continue to operate is a very big problem.

I strongly oppose this bill. I opposed it in committee. I brought the same concerns there. I oppose it here on the floor. I would ask that my colleagues consider doing the same. I will be in the negative on this bill.

Thank you, Mr. President.

ACTING PRESIDENT O'MARA: Thank you, Senator.

Any other Senator wishing to be heard?

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

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: Announce the results.

THE SECRETARY: In relation to Calendar Number 981, those recorded in the negative are Senators Adams, Avella, Diaz, Duane, Espaillat, Gallivan, Gianaris, Hassell-Thompson, Huntley, L. Krueger, C. Kruger, Montgomery, Oppenheimer, Parker, Perkins, Rivera, Sampson, Serrano, Stavisky, and Stewart-Cousins.

Ayes, 41. Nays, 20.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 1011, by Member of the Assembly Englebright, Assembly Print 7279, an act to amend Chapter 138 of the Laws of 1998.

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 1011, those recorded in the negative are Senators Avella, Hassell-Thompson and L. Krueger.

Ayes, 58. Nays, 3.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 1180, by Member of the Assembly Abbate, Assembly Print 7834, an act to amend the Retirement and Social Security 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 1180: Ayes, 61. Nays, 1. Senator L. Krueger recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

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

SENATOR LIBOUS: Mr. President, can we go to motions, please.

ACTING PRESIDENT O'MARA: Motions and resolutions.

SENATOR LIBOUS: Mr. President, on behalf of Senator Young, I wish to call up Bill Number 863A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT O'MARA: The Secretary will read.

THE SECRETARY: Calendar Number 77, by Senator Young, Senate Print 863A, an act to amend the Real Property Tax Law.

SENATOR LIBOUS: 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, 62.

SENATOR LIBOUS: Mr. President, I

now offer up the following amendments.

ACTING PRESIDENT O'MARA: The amendments are received.

SENATOR LIBOUS: On behalf of Senator LaValle, I wish to call up Senate Print Number 2628, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT O'MARA: The Secretary will read.

SENATOR LIBOUS: Mr. President, can you hear me read out these motions?

ACTING PRESIDENT O'MARA: I can barely hear you, Senator Libous.

Can we please keep the conversations down.

SENATOR LIBOUS: Thank you, Mr. President.

I move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT O'MARA: The Secretary will read first.

THE SECRETARY: Calendar Number 73, by Senator LaValle, Senate Print 2628, an act to amend the Education Law.

ACTING PRESIDENT O'MARA: Call the

roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

SENATOR LIBOUS: I now offer up the following amendments.

ACTING PRESIDENT O'MARA: The amendments are received.

SENATOR LIBOUS: Mr. President, on behalf of Senator Golden, on page 8 of Supplemental Calendar 52A, I offer up the following amendments on Calendar Number 1267, Senate Print 5675, 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 LIBOUS: And on behalf of Senator Seward, on page 17, I offer the following amendments to Calendar Number 89, Senate Print 2705, and I 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 LIBOUS: On page 58, I

offer the following amendments to Calendar Number 966, Senate Print 5411, and ask that said bill retain its place on the Third Reading Calendar. That's on behalf of Senator Fuschillo.

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

SENATOR LIBOUS: On behalf of Senator Hannon, on page 39 I offer the following amendments to Calendar Number 629, Senate Print 3503, 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 LIBOUS: And, Mr. President, on behalf of Senator Jimmy Griffo, on page 66 I offer the following amendments to Calendar Number 1060, Senate Print 5215A, 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 Libous.

SENATOR LIBOUS: Thank you, Mr. President. At this time the Senate is going to go into a recess until 6:00 o'clock sharp.

And at this time would you please call on Senator Hassell-Thompson, please.

ACTING PRESIDENT O'MARA: Senator Hassell-Thompson.

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

There will be an immediate meeting of the Democratic conference in the Democratic Conference Room.

SENATOR LIBOUS: Mr. President, before we go into recess and before the Democrats go into conference, when we come back, just so that everybody knows what we're doing, we will be taking up Supplemental Calendar Number 52A.

I would ask that everybody be here at 6:00 o'clock sharp, please.

ACTING PRESIDENT O'MARA: Thank you, Senator.

There will be an immediate conference of the Democratic conference, and we will stand at ease until 6:00 p.m.

(Whereupon, the Senate stood at ease

at 5:40 p.m.)

(Whereupon, the Senate reconvened at 6:20 p.m.)

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT VALESKY: The Senate will come to order.

Senator Libous.

SENATOR LIBOUS: Mr. President, at this time could we have the noncontroversial reading of Supplemental Calendar 52A, please.

ACTING PRESIDENT VALESKY: The Secretary will proceed with the noncontroversial reading of Senate Supplemental Calendar 52A.

THE SECRETARY: Calendar Number 1199, by Senator Maziarz, Senate Print 511A, an act directing the New York State Energy Research and Development Authority.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1200, by Senator Young, Senate Print 755, an act to amend the Private Housing Finance Law.

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: Calendar Number 1201, by Senator Young, Senate Print 854, an act to amend the Highway Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1202, by Senator Maziarz, Senate Print --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT VALESKY: The bill

is laid aside.

THE SECRETARY: Calendar Number 1203, by Senator LaValle, Senate Print 1462A, an act to amend the Real Property Tax Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1204, by Senator Marcellino, Senate Print 1966A, an act to amend the Executive Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.
ACTING PRESIDENT VALESKY: The bill is passed.
THE SECRETARY: Calendar Number 1205, by Senator Grisanti, Senate Print 2409C, an act to amend the Agriculture and Markets Law.
ACTING PRESIDENT VALESKY: Read the last section.
THE SECRETARY: Section 2. This act shall take effect July 1, 2013.
ACTING PRESIDENT VALESKY: Call the roll.
(The Secretary called the roll.)
THE SECRETARY: Ayes, 62.
ACTING PRESIDENT VALESKY: The bill is passed.
THE SECRETARY: Calendar Number 1206, by Senator Libous, Senate Print --
SENATOR BRESLIN: Lay it aside.
ACTING PRESIDENT VALESKY: The bill is laid aside.
THE SECRETARY: Calendar Number 1207, by Senator Bonacic, Senate Print 2544 --
SENATOR BRESLIN: Lay it aside.
ACTING PRESIDENT VALESKY: The bill

is laid aside.

THE SECRETARY: Calendar Number 1208, by Senator Flanagan, Senate Print 2596A, an act to amend the Penal Law.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first of November.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 1208: Ayes, 61. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1209, by Senator Saland, Senate Print 2737, an act to amend the --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: Calendar Number 1210, by Senator Golden, Senate Print 2918, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1211, by Senator Lanza, Senate Print 2936, an act to amend the Penal Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1212, by Senator Libous, Senate Print 2952B, an

act to --

SENATOR LIBOUS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 1213, by Senator LaValle, Senate Print 3036, an act to amend the Town Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1214, by Senator Seward, Senate Print 3057 --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: Calendar Number 1215, by Senator LaValle, Senate Print 3101, an

act to amend the Town Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1216, by Senator Hannon, Senate Print --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: Senator Lanza moves to discharge, from the Committee on Finance, Assembly Bill Number 3320 and substitute it for the identical Senate Bill Number 3335, Third Reading Calendar 1217.

ACTING PRESIDENT VALESKY: Substitution ordered.

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT VALESKY: The bill

is laid aside.

THE SECRETARY: Calendar Number 1218, by Senator Gallivan, Senate Print --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: Calendar Number 1219, by Senator Martins, Senate Print 3778B, an act to amend the Public Authorities Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1220, by Senator Maziarz, Senate Print 3872B, an act to amend the Public Authorities Law.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect immediately.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1221, by Senator Golden, Senate Print 4036, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first of November.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 2. Senators Duane and Montgomery recorded in the negative.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1222, by Senator Zeldin, Senate Print 4073B, an act to amend the Election Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1223, by Senator Ranzenhofer, Senate Print 4123, an act to amend the Education Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1224, by Senator Young, Senate Print 4143A, an

act --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

Senator Hassell-Thompson.

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

In relationship to Calendar Number 1221, Bill Number 4036, there should have been three no votes. As opposed to Senator Zeldin's bill.

ACTING PRESIDENT VALESKY: The Secretary will re-announce the results on Calendar Number 1221.

THE SECRETARY: In relation to Calendar 1221, those recorded in the negative are Senators Duane, Hassell-Thompson, Montgomery and Perkins. Ayes, 58. Nays, 4.

ACTING PRESIDENT VALESKY: The bill is passed.

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

THE SECRETARY: Calendar Number 1226, by Senator Larkin, Senate Print 4240, an act to amend the General Municipal Law.

ACTING PRESIDENT VALESKY: The Secretary will read Calendar 1225.

THE SECRETARY: Calendar Number 1225, by Senator Larkin, Senate Print 4223, an act to amend the General Municipal Law.

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

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: Calendar Number 1226, by Senator Larkin, Senate Print 4240, an act to amend the General Municipal Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number

1227, by Senator Golden, Senate Print 4270B, an act to amend the Civil Service Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61. Nays, 1. Senator L. Krueger recorded in the negative.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1228, by Senator Carlucci, Senate Print 4333, an act to authorize.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 2. Senators Larkin and O'Mara recorded in the

negative.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1229, by Senator Flanagan, Senate Print 4392, an act to authorize.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 2. Senators Larkin and O'Mara recorded in the negative.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1230, by Senator Robach, Senate Print --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: Senator Nozzolio moves to discharge, from the Committee on Local

Government, Assembly Bill Number 3672, and substitute it for the identical Senate Bill Number 4503, Third Reading Calendar 1231.

ACTING PRESIDENT VALESKY: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1231, by Member of the Assembly Finch, Assembly Print 3672, an act to amend the Village Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1232, by Senator Libous, Senate Print 4514, an act to amend the Real Property Tax Law.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1233, by Senator Robach, Senate Print 4560 --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: Calendar Number 1234, by Senator Lanza, Senate Print 4637 --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: Calendar Number 1235, by Senator Larkin, Senate Print 4677, an act to amend the Executive Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1236, by Senator Johnson, Senate Print --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: Calendar Number 1237, by Senator McDonald, Senate Print 4762, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1238, by Senator Maziarz, Senate Print 4844, an

act to direct the New York State Office of Parks, Recreation and Historic Preservation.

ACTING PRESIDENT VALESKY: Read the last section.

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: Calendar Number 1239, by Senator Saland, Senate Print 4851A --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: Calendar Number 1240, by Senator LaValle, Senate Print 4899, an act to amend the Local Finance Law.

SENATOR BRESLIN: Lay it aside.

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

The bill is laid aside.

THE SECRETARY: Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 7303 and substitute it for the identical Senate Bill Number 4901, Third Reading Calendar 1241.

ACTING PRESIDENT VALESKY:

Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1241, by Member of the Assembly Magee, Assembly Print Number 7303, an act to amend the Village Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1242, by Senator Young, Senate Print 4943 --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: Calendar Number 1243, by Senator Seward, Senate Print 5092, an act to amend the Insurance Law.

ACTING PRESIDENT VALESKY: Read the

last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1244, by Senator Ritchie, Senate Print 5161 --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: Calendar Number 1245, by Senator Young, Senate Print 5184B --

SENATOR LIBOUS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 1247, by Senator Hannon, Senate Print 5260B, an act to amend the Penal Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1248, by Senator Lanza, Senate Print 5288, an act to amend the Correction Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1249, by Senator Larkin, Senate Print 5309, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT VALESKY: Read the

last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1250, by Senator Robach, Senate Print --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: Senator Larkin moves to discharge, from the Committee on Codes, Assembly Bill Number 2877 and substitute it for the identical Senate Bill Number 5325, Third Reading Calendar 1251.

ACTING PRESIDENT VALESKY: Substitution ordered.

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: Calendar Number

1252, by Senator Seward, Senate Print 5459, an act to authorize the Village of Herkimer.

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

Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61. Nays, 1. Senator Ball recorded in the negative.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1253, by Senator Saland, Senate Print 5504A, an act to amend Chapter 672 of the Laws of 1993.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1254, by Senator Farley, Senate Print 5523, an act to authorize Schenectady Hindu Temple.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 1254, those recorded in the negative are Senators Bonacic, Larkin and O'Mara. Ayes, 59. Nays, 3.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1255, by Senator Flanagan, Senate Print 5524, an act to amend the Education Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1256, by Senator Valesky, Senate Print 5529A, an act to authorize.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1257, by Senator Carlucci, Senate Print 5537, an act making an appropriation.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1258, by Senator Lanza, Senate Print 5573, an act to amend the Not-For-Profit Corporation Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

SENATOR LIBOUS: Lay it aside for the day.

ACTING PRESIDENT VALESKY: The roll call is withdrawn, and the bill is laid aside for the day.

THE SECRETARY: Calendar Number 1259, by Senator Flanagan, Senate Print 5593, an act to amend Chapter 140 of the Laws of 1985.

SENATOR LIBOUS: Lay this aside temporarily and we'll come back to it.

ACTING PRESIDENT VALESKY: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 1260, by Senator Grisanti, Senate Print 5594, an act to amend the New York State Urban Development Corporation Act.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1261, by Senator Maziarz, Senate Print 5595, an act to amend the Village Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 1261: Ayes, 61. Nays, 1. Senator Martins recorded in the negative.

ACTING PRESIDENT VALESKY: The bill is passed.

SENATOR LIBOUS: Mr. President, can we bring up Calendar 1259 again, please.

ACTING PRESIDENT VALESKY: The Secretary will return to Calendar Number 1259.

THE SECRETARY: Calendar Number 1259, by Senator Flanagan, Senate Print 5593, an act to amend Chapter 140 of the Laws of 1985.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section 9. This act shall take effect on July 1, 2011.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT VALESKY: Senator Young to explain her vote.

SENATOR YOUNG: Mr. President, I

would like to abstain from this vote, please.

ACTING PRESIDENT VALESKY: Without objection, Senator Young will be recorded as abstaining on Calendar 1259.

Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1262, by Senator Bonacic, Senate Print 5601 --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: Calendar Number 1263, by Senator Ranzenhofer, Senate Print 5608, an act to authorize the Town of Amherst.

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

Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1264, by Senator Young, Senate Print 5610, an act to amend the Highway Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1265, by Senator Golden, Senate Print --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: Calendar Number 1266, by Senator Seward, Senate Print 5657, an act to authorize the Village of Ilion.

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

Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

Senator Libous, that completes the noncontroversial reading of Senate Supplemental Calendar 52A.

SENATOR LIBOUS: Mr. President, can we go back to motions and resolutions, please.

ACTING PRESIDENT VALESKY: The Secretary will return to motions and resolutions.

Senator Libous.

SENATOR LIBOUS: Mr. President, I have a couple of motions here.

On behalf of Senator Zeldin, on page 39, I offer the following amendments to Calendar Number 640, Senate Print 4601A, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT VALESKY: So

ordered.

SENATOR LIBOUS: And on behalf of behalf of Senator Gallivan, on page 55 I offer the following amendments to Calendar Number 925, Senate Print 5494, and I ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT VALESKY: So ordered.

Senator Libous.

SENATOR LIBOUS: Mr. President, at this time all the bills that were laid aside will be laid aside for the day. They will be taken up tomorrow morning on a controversial calendar.

And at this point in time in the evening the Senate will adjourn until tomorrow, June 15th, at 11:00 a.m.

ACTING PRESIDENT VALESKY: There being no further business at the desk, on motion, the Senate stands adjourned until Wednesday, June 15th, at 11:00 a.m.

SENATOR LIBOUS: And, Mr. President, there will be a 10:00 o'clock Republican conference tomorrow.

ACTING PRESIDENT VALESKY: There will be a 10:00 o'clock Republican conference

tomorrow morning.

The Senate stands adjourned until Wednesday at 11:00 a.m.

(Whereupon, at 6:42 p.m., the Senate adjourned.)