NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 16, 2011

11:29 a.m.

REGULAR SESSION

SENATOR JOSEPH E. ROBACH, Acting President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT ROBACH: The Senate will come to order.

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

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

ACTING PRESIDENT ROBACH: In the absence of clergy, may we now all bow our heads in a moment of silence.

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

ACTING PRESIDENT ROBACH: The reading of the Journal.

THE SECRETARY: In Senate, Wednesday, June 15th, the Senate met pursuant to adjournment. The Journal of Tuesday, June 14th, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

The Secretary will read.

THE SECRETARY: On page 8, Senator Zeldin moves to discharge, from the Committee on Cultural Affairs and Tourism, Assembly Bill Number 7697 and substitute it for the identical Senate Bill Number 3901A, Third Reading Calendar 206.

ACTING PRESIDENT ROBACH: Substitution ordered.

THE SECRETARY: On page 8, Senator Bonacic moves to discharge, from the Committee on Rules, Assembly Bill Number 409D and substitute it for the identical Senate Bill Number 2143D, Third Reading Calendar 225.

ACTING PRESIDENT ROBACH: Substitution ordered.

THE SECRETARY: On page 10, Senator Oppenheimer moves to discharge, from the Committee on Rules, Assembly Bill Number 777A and substitute it for the identical Senate Bill Number 3842A, Third Reading Calendar 254.

ACTING PRESIDENT ROBACH: Substitution ordered.

THE SECRETARY: On page 16, Senator DeFrancisco moves to discharge, from the Committee on Rules, Assembly Bill Number 676B and substitute it for the identical Senate Bill Number 3293B, Third Reading Calendar 420.

ACTING PRESIDENT ROBACH: Substitution ordered.

THE SECRETARY: On page 17, Senator Bonacic moves to discharge, from the Committee on Judiciary, Assembly Bill Number 6836 and substitute it for the identical Senate Bill Number 4594, Third Reading Calendar 448.

ACTING PRESIDENT ROBACH: Substitution ordered.

THE SECRETARY: On page 18, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 1410A and substitute it for the identical Senate Bill Number 1457A, Third Reading Calendar 521.

ACTING PRESIDENT ROBACH: Substitution ordered.

THE SECRETARY: On page 22, Senator Maziarz moves to discharge, from the Committee on Rules, Assembly Bill Number 7738 and substitute it for the identical Senate Bill Number 4845,

Third Reading Calendar 623.

ACTING PRESIDENT ROBACH:

Substitution ordered.

THE SECRETARY: On page 24, Senator Flanagan moves to discharge, from the Committee on Rules, Assembly Bill Number 7302 and substitute it for the identical Senate Bill Number 4900, Third Reading Calendar 645.

ACTING PRESIDENT ROBACH:

Substitution ordered.

THE SECRETARY: On page 29, Senator Klein moves to discharge from the Committee on Mental Health and Developmental Disabilities, Assembly Bill Number 6815 and substitute it for the identical Senate Bill Number 4846, Third Reading Calendar 797.

ACTING PRESIDENT ROBACH:

Substitution ordered.

THE SECRETARY: On page 30, Senator Hannon moves to discharge, from the Committee on Transportation, Assembly Bill Number 475 and substitute it for the identical Senate Bill Number 4999, Third Reading Calendar 818.

ACTING PRESIDENT ROBACH:

Substitution ordered.

THE SECRETARY: On page 30, Senator Johnson moves to discharge, from the Committee on Rules, Assembly Bill Number 4163A and substitute it for the identical Senate Bill Number 2635A, Third Reading Calendar 832.

ACTING PRESIDENT ROBACH: Substitution ordered.

THE SECRETARY: On page 32, Senator Hannon moves to discharge, from the Committee on Local Government, Assembly Bill Number 5255A and substitute it for the identical Senate Bill Number 1921, Third Reading Calendar 879.

ACTING PRESIDENT ROBACH: Substitution ordered.

THE SECRETARY: On page 32, Senator Farley moves to discharge, from the Committee on Rules, Assembly Bill Number 5195A and substitute it for the identical Senate Bill Number 3247A, Third Reading Calendar 880.

ACTING PRESIDENT ROBACH: Substitution ordered.

If we could just have a little bit of order in the chamber, please, as we continue through the messages from the Assembly.

THE SECRETARY: On page 33, Senator

Bonacic moves to discharge, from the Committee on Local Government, Assembly Bill Number 5791 and substitute it for the identical Senate Bill Number 4078, Third Reading Calendar 884.

ACTING PRESIDENT ROBACH: Substitution ordered.

THE SECRETARY: On page 34, Senator Savino moves to discharge, from the Committee on Rules, Assembly Bill Number 7794A and substitute it for the identical Senate Bill Number 4901B, Third Reading Calendar 913.

ACTING PRESIDENT ROBACH: Substitution ordered.

THE SECRETARY: On page 34, Senator Bonacic moves to discharge, from the Committee on Rules, Assembly Bill Number 7465A and substitute it for the identical Senate Bill Number 4586A, Third Reading Calendar 916.

ACTING PRESIDENT ROBACH: Substitution ordered.

THE SECRETARY: On page 45, Senator DeFrancisco moves to discharge, from the Committee on Rules, Assembly Bill Number 8007 and substitute it for the identical Senate Bill Number 5449, Third Reading Calendar 1082.

ACTING PRESIDENT ROBACH:

Substitution ordered.

THE SECRETARY: On page 45, Senator Bonacic moves to discharge, from the Committee on Rules, Assembly Bill Number 7729 and substitute it for the identical Senate Bill Number 5519, Third Reading Calendar 1084.

ACTING PRESIDENT ROBACH:

Substitution ordered.

THE SECRETARY: On page 46, Senator Nozzolio moves to discharge, from the Committee on Rules, Assembly Bill Number 8091 and substitute it for the identical Senate Bill Number 4084, Third Reading Calendar 1102.

ACTING PRESIDENT ROBACH:

Substitution ordered.

THE SECRETARY: On page 46, Senator Little moves to discharge, from the Committee on Rules, Assembly Bill Number 8303 and substitute it for the identical Senate Bill Number 4165A, Third Reading Calendar 1103.

ACTING PRESIDENT ROBACH:

Substitution ordered.

THE SECRETARY: On page 51, Senator Griffo moves to discharge, from the Committee on

Codes, Assembly Bill Number 7698 and substitute it for the identical Senate Bill Number 5605, Third Reading Calendar 1176.

ACTING PRESIDENT ROBACH: Substitution 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: Thank you, Mr. President.

On behalf of Senator Hannon, on page 33 I offer the following amendments to Calendar Number 888, Senate Print 4510A, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT ROBACH: The amendments are received and adopted, and the bill will hold its place on the Third Reading Calendar.

SENATOR LIBOUS: Mr. President, my good friend Senator McDonald would like to place

a sponsor star on 811.

ACTING PRESIDENT ROBACH: So ordered.

SENATOR LIBOUS: Mr. President, at this time we would like to take up where we left off early this morning. And I believe it's Calendar 53, a controversial reading. And if we could -- I believe we are at Senate 508A.

ACTING PRESIDENT ROBACH: Returning to the controversial calendar, the Secretary will read Calendar Number 526.

THE SECRETARY: Calendar Number 526, by Senator Maziarz, Senate Print 508A --

SENATOR LIBOUS: Lay that aside for the day.

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

THE SECRETARY: Calendar Number 533, by Senator Nozzolio, Senate Print 3747, an act to amend the Correction Law.

SENATOR BRESLIN: Explanation.

ACTING PRESIDENT ROBACH: An explanation has been requested.

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President

and my colleagues, this eliminates the costly, wasteful, inappropriate expenditure of the New York State prison conjugal visit program.

ACTING PRESIDENT ROBACH: Is there any Senator wishing to be heard?

Oh, I'm sorry. Senator Rivera.

SENATOR RIVERA: Thank you, Mr. President. I'm only the bald Puerto Rican.

ACTING PRESIDENT ROBACH: You're hard to miss.

(Laughter.)

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

ACTING PRESIDENT ROBACH: Will you yield, Senator Nozzolio?

SENATOR NOZZOLIO: Yes, Mr. President.

SENATOR RIVERA: Thank you, Mr. President.

Senator Nozzolio, how much -- we've actually -- this is obviously not the first time we talked about this bill. We've debated this bill in the committee. But I wanted to ask you a few questions. How much actual money goes into

this program each year?

SENATOR NOZZOLIO: We understand, Mr. President, the expenditure directly and indirectly approaches $5 million.

SENATOR RIVERA: Thank you.

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

ACTING PRESIDENT ROBACH: Senator Nozzolio, do you yield?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT ROBACH: Continue.

SENATOR RIVERA: Thank you, Mr. President.

Now, do you have any evidence to suggest that this program is being abused or that it -- well, first of all, let's establish that. Do you have any evidence that this program is being abused? Through you, Mr. President.

SENATOR NOZZOLIO: Mr. President, in response to my colleague and friend Senator Rivera's statement are there abuses in the program, it's my view, very sincerely, that the conjugal visit program is in fact a total abuse

to the taxpayers of this state.

That it represents, I believe, an upside-down situation where even those individuals who have been convicted of very serious crimes -- murder, rape, armed robbery -- are eligible for this program, a program that's funded by taxpayers dollars at a time when our taxpayers can least afford it.

That I believe the monies that are now being deployed to this program could very well be deployed at better places in our state government.

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

ACTING PRESIDENT ROBACH: Senator Nozzolio?

SENATOR NOZZOLIO: Yes, Mr. President.

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

What is the stated purpose of the program, Senator Nozzolio?

SENATOR NOZZOLIO: Mr. President, I do not know what the mission statement is. It

just seems upside down. It seems upside down that an individual who is incarcerated for a violent crime would be allowed to have this type of privilege at considerable expense to the taxpayers.

Also, it makes no sense to me, Mr. President, that we have this program for the maximum-security inmates when in fact those who are minimum-security inmates and medium-security inmates, those who have not committed as violent crimes as those incarcerated in our maximum-security jails, in fact don't have this program.

So I have no idea what the mindset is of those who began this program. I only know that it's time to end it.

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

ACTING PRESIDENT ROBACH: Do you continue to yield, Senator Nozzolio?

SENATOR NOZZOLIO: Yes, Mr. President.

SENATOR RIVERA: Thank you, Mr. President.

One last question. Who actually administers the program? And the agency that administers it, are they in favor of this program or do they want its elimination?

SENATOR NOZZOLIO: It's a profound question, Mr. President. I'll try to answer it as best as possible.

That this is administered -- the easy part of the question is it's administered totally by the Department of Corrections. The correction officers, other clerical correctional personal are required to do the bookkeeping and the management of this program.

I can tell you that many correction officers believe that it is a total waste of money. It's frankly an insult to them when they are being laid off. In this hard economic time, correction officers are losing their jobs, prisons are closing. That this is time when the Corrections Department could save money by ending this program and maybe save a few correction officers' jobs.

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

ACTING PRESIDENT ROBACH: Senator Nozzolio, do you continue to yield?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT ROBACH: Continue.

SENATOR RIVERA: My apologies, Senator Nozzolio. I just wanted to make sure that I clarified the question that I was asking.

So the agency -- as opposed to the corrections officers -- the agency, as part of the Executive that administers this program, the Department of Corrections, DOCS, are they as an agency asking for this program to cease to exist?

SENATOR NOZZOLIO: Mr. President, that this legislation was proffered by me because I believe the program should be scrapped. I have had no communication from the Department of Corrections one way or the other on this issue.

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

ACTING PRESIDENT ROBACH: On the bill, Senator Rivera.

SENATOR RIVERA: First of all, thank you, Senator Nozzolio. We will, I figure,

continue jousting over this session and over the rest of the coming years in the committee that we share.

The program, the family reunion program as it's currently structured is run by the Department of Corrections. And the reason I asked that question specifically was because the Department of Corrections does not want this program to be phased out.

The reason they do not want this program to be phased out is because what the program does is it makes sure that incarcerated individuals who are legally married can actually spend time with family members.

Now, when these individuals -- and they're certainly not only the most violent who will never leave jails or prisons. But a good number of these individuals who, yes, have been convicted of some violent crimes but have been -- their sentences have been established and they're going to serve out their sentences, they're going to be returning home. Most of these individuals actually come from downstate, certainly from districts like the one that I represent in the northwest Bronx.

The family reunification program, what it tries to do is it tries to make sure that these individuals that are incarcerated actually maintain connections with their families. We've already had discussions on this floor about what are the things that should be done by us as a state to make sure that some of the individuals that will be leaving these institutions can actually come back to the communities that they're originally from and can be productive members of society when they return.

We talked about employment. Yesterday we voted and I voted in the affirmative for what I believe is a very good bill by Senator Young that would actually create certain types of activities that work-release programs could -- that incarcerated individuals in work-release programs could actually participate in. Again, so that they can become part of the communities that they come from again.

In this case, this is a program that I believe does exactly that. And I don't only believe it, I think that there's plenty of evidence to point to that being the case. There is research done by the Urban Institute that

studies this type of program both in Illinois and Maryland. And these studies, which I will not go into in depth, what it points to is something very simple. When you have incarcerated individuals who maintain connections with their families, once they return to the communities that they're from, they can in an easier way become members of that community again. It actually lessens recidivism.

We do not -- and I certainly share some of the concerns that Senator Nozzolio has, and many of my colleagues on both this side and that side of the aisle, about the costs associated with many of the programs that we run in this state, whether they be in jails or prisons or other parts of the state or other agencies.

So if we are saying that we have a program which can help to keep these individuals back in their communities, being productive members of this community, and not back in a jail or a prison, that is a cost-saving measure.

So ultimately what we're seeing here is a program that I believe, first of all, is -- it requires little infrastructure, it is not a

mammoth program that takes up incredible resources. And most importantly, what it does, what the program actually does, the human element to it -- because this is something that I want to underline. We may have many disagreements from this side of the aisle to that side as it relates to criminal justice, but the arguments that I have made here on the floor and the ones that I will make in the future, they have to do with the constituents that I serve. They have to do with the families that these individuals have to come back to after they have served their time.

And I want to make sure that everything that we can do at the state level to secure -- to make sure that these folks can come back and be productive members of society, that they do not go right back into the system and cost us more money but also separate themselves from their families.

I'm thinking about the families that are back in the Bronx for an incarcerated individual upstate. And once that person leaves, they come back to their community, I believe that this is a program that can make certain, that can help along the way to make sure they do not

return to prison so that they can become productive members of society and do not put a further cost on the state.

So I will be voting in the negative on this bill in the strongest way possible, because I believe that ultimately the financial returns and the human returns that we get from this program will reduce recidivism and will make it -- will be positive, more than positive for the state. It produces way more than it costs the state. I'll be voting in the negative.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Thank you, Senator Rivera.

Is there any other Senator wishing to be heard?

Senator Krueger.

SENATOR KRUEGER: Thank you very much.

I was very impressed with Senator Rivera's analysis of his work with researching the topic. And it seems clear to me that he is right, that this is really an issue of family unification and reunification and that the research is clear, when people leave prison there

are specific reasons why they stay on the straight and narrow or they end up recidivists returning to our prisons, costing us far more.

And that the most important model for ensuring that when prisoners leave our prisons is that they have a home to return to, they have a community, they have a sense of responsibility to family, they have a family who will want to support them and help them stay on the straight and narrow.

And so the arguments were poignant and clear. We should not be passing this bill. Thank you, Mr. President, I'm a no.

ACTING PRESIDENT ROBACH: Thank you, Senator Krueger.

Senator Perkins.

SENATOR PERKINS: Thank you very much.

I rise in opposition to this legislation. I've had the fortunate experience of having opportunities to work in several of these family-reunion-type programs, including the community-based work-release programs. And I don't like the idea of them being called conjugal visit programs, because I think that is somewhat

of a misnomer in terms of the depth of which this these programs actually attempt to be involved. It's really, I think, one of the most single most important efforts made to turn someone around and reunite them not simply with their family, with their community and with the values that many of us share.

So I'm going to have to be opposed to this, because I think that Senator Nozzolio is misunderstanding exactly what is being attempted in this regard and maybe is not as familiar with the facts of the types of experiences that people have had in terms of getting their lives back together, not just in terms of the particular inmate but in terms of the family.

Family reunion is not simply a focus on the inmate but actually on the whole family and the community. And especially if there are children in that family, I think it has a very, very important value that we all would want to support.

So in that regard, I'm voting no.

ACTING PRESIDENT ROBACH: Thank you, Senator Perkins.

If there are no other Senators

wishing to be heard, Senator Nozzolio to close.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President, I appreciate the advocacy on this issue. But let's be straight on the facts. As much as I respect Senator Perkins and his experiences, that I believe you cannot confuse the conjugal visit -- or should not confuse the conjugal visit program with programs for other transitional services.

And that Senator -- and, Mr. President, you yourself have been a great advocate of eliminating the conjugal program, particularly because of your concern for an inmate like Arthur Shawcross, a double-homicide convicted murderer serving a life sentence, two consecutive life sentences. Never to be put out onto the streets, hopefully. But that Arthur Shawcross is eligible for this conjugal visit program.

So let's call the facts the facts. And the facts are simply that this program has no standards. The conjugal visit program allows those who have committed very violent crimes to be eligible for it. The program, I have not

heard the justifications for allowing it in maximum-security facilities where there will be absolutely little chance for an inmate to be released, hopefully, for a long period of time, as opposed to medium-security facilities and minimum-security facilities where, in effect, families should keep that tie together, they will be seeing the family be together much sooner.

I guess the other issue hiding behind the cloak of family, many of these families, so-called families, have been established after the violent criminal has been sentenced to jail, marriage takes place by the inmate after he is sentenced while he's in jail, in order to participate in this very program. It makes no sense.

Let's cut through the rhetoric and let's focus on, let's focus on the issues at hand. We are in a desperate financial situation. Our taxes are too high. The very concern we have for safety is potentially at risk because of prison closures. It's time that this Legislature did the right thing economically and take the appropriate steps to save taxpayers' dollars.

That's why, Mr. President, the equities, the economies all point to the wisdom of ending this program. And I appreciate the opportunity to discuss it today.

ACTING PRESIDENT ROBACH: Thank you, Senator Nozzolio.

The debate is closed. The Secretary will ring the bell.

I ask the members to come to the chamber. We've got about 18 bills on the controversial calendar. If we stay closer to our seats, we've got a lot of work to do today, we can get through this faster.

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT ROBACH: Senator Libous.

SENATOR LIBOUS: As I have said in the past, because today is going to be a vigorous day of activity, and members will want to debate on the floor and have their voices heard on various issues -- and we have, as you said, quite a few controversial bills before us -- members need to stay very close to the chamber.

I recognize that people have meetings and that we are being pulled 15

different directions by our constituents and we need to meet with them. But we want to get through the calendar the best way possible, and I would ask for everybody's cooperation.

ACTING PRESIDENT ROBACH: Thank you, Senator Libous.

I again encourage members, get to the chambers as quickly as possible and be in close proximity for the entire controversial calendar voting.

SENATOR LIBOUS: Mr. President, we're ringing the bell?

ACTING PRESIDENT ROBACH: Yes, sir. The bell is rung.

Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT ROBACH: Senator Hassell-Thompson to explain her vote.

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

I rise to continue to vote no on

this bill.

I heard Senator Nozzolio as I came back into the chambers talking about so-called families or bogus families and the fact that many of these people became families after going to prison. I'm not clear when that became a crime in and of itself. Particularly because one of the things that has made some successes in this program consistent is that having families and having stability helps inmates in terms of their stay in prison. If you have nothing to live for, to hope for, to dream for, then you're a very dangerous kind of person.

And so one of the reasons that this plan was put into place was to ensure -- Mr. President, I only have two minutes, but I'd like to be heard.

ACTING PRESIDENT ROBACH: Can we have a little order in here, courtesy to a member while they explain their vote.

Continue, Senator Thompson.

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

Succinctly, the conjugal visit program may have its flaws and its issues, and I

think that rather than throw out the baby with the bathwater, perhaps what we need to be looking at is how do we in fact improve on the program to the get the results that we want.

But from all accounts from Corrections and other people who work in the prisons, they feel that having the family reunions, as opposed to conjugal visits, is very important to the stability of a person who is an inmate.

So, Mr. President, as long as this bill comes before this chamber, I will continue to vote no.

ACTING PRESIDENT ROBACH: Thank you, Senator.

Senator Adams to explain his vote.

SENATOR ADAMS: Thank you, Mr. President.

I'm going to vote no on this bill as well. And I think Senator Perkins really touched on the issue. I think something that we overlooked often is that when an individual is doing time, the family is also doing time with them. And family members did not commit the robberies, they did not commit the homicides,

they did not commit the felonious assaults.

And so we have to be careful that in the process of punishing the inmate that may have committed the crime that we're not also punishing innocent family members. And if someone is serving 20 years to life, if someone is serving a life sentence, there's no reason not to permit the family to come as a unit and to be with that inmate, because the role that the person who's guilty of the crime -- they still have a role that they should play with that family.

And so I think that Senator Hassell-Thompson clearly laid out and Senator Gustavo Rivera laid out this is not about merely conjugal visits with someone that's engaged in some form of physical relationship, this is about the visit of the family coming together and not punishing innocent family members, children and other family members that did not commit a crime. They should not also have to do time for a crime they didn't commit. And we need to always understand that we want to punish the guilty party but not punish the innocent party.

I will be voting no on this bill.

ACTING PRESIDENT ROBACH: Senator

Adams to be recorded in the negative.

Announce the results.

THE SECRETARY: In relation to Calendar Number 533, those recorded in the negative are Senators Adams, Addabbo, Avella, Breslin, Dilan, Duane, Espaillat, Gianaris, Hassell-Thompson, Huntley, L. Krueger, Montgomery, Oppenheimer, Parker, Perkins, Rivera, Sampson, Savino, Serrano, Squadron, Stavisky and Stewart-Cousins.

Absent from voting: Senators Fuschillo and Smith.

Ayes, 38. Nays, 22.

ACTING PRESIDENT ROBACH: The bill is passed.

Senator Libous.

SENATOR LIBOUS: Mr. President, thank you.

Before we go on to the next calendar number, I believe that Senator Parker -- Senator Parker? -- Senator Parker has a special guest in the chamber, and he would like to make note of that and introduce his guest to the body.

ACTING PRESIDENT ROBACH: Without objection, Senator Parker.

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

Colleagues, thank you for this moment. I know we have a lot on the agenda, and I don't want to take long. But we have a very special guest.

As you know, I represent the 21st Senatorial District in Brooklyn, Flatbush and East Flatbush, Midwood, Ditmas Park, Kensington and Boro Park. And as such, probably along with Senator Adams and Senator John Sampson, I represent probably the largest concentration of Jamaican immigrants outside of Jamaica in the world.

So we're very happy today to be joined by the First Lady of Jamaica, Ms. Lorna Golding. And she's here with us today in the chamber.

She has been somebody who in her own right, outside of being a first lady, in her own right has been someone who, like many of us, is involved in public service and someone who cares about the issues of nutrition and welfare of Jamaican children. She comes from very humble beginnings; her father was a farmer. And coming

from that kind of agricultural background, many of my colleagues -- as you know, New York State is a agricultural state -- have those same kind of ideals and the same kind of strong values.

Her role has expanded really to being the advocate for children in the country of Jamaica. And in 2008, she launched the Jamaican Early Childhood Development Foundation, which seeks to prepare children to become responsible citizens who are environmentally aware and equipped to function in the global world.

She was educated in Windsor High School in Kingston, the prestigious New York School of Business, and initially was introduced to international politics at diplomatic missions in New York. And so she has a great deal of experience, you know, not just in her nation but here in the great State of New York and has worked internationally.

And so I want to -- they recognized Ms. Golding in the Assembly chamber. We could do no less but welcome her here. And so let me present to you all Madam First Lady Lorna Golding to the chambers of the State of New York Senate.

ACTING PRESIDENT ROBACH: Thank

you, Senator Parker.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President. I rise to also welcome the First Lady of Jamaica to our chambers.

She's quite an extraordinary lady. And even though she used to live in my district, at 222nd Street in the Bronx, but she deserted me to go and help to run Jamaica. Which was a wonderful -- yeah, she learned from me -- which is a wonderful thing.

She's an extraordinary woman. And even though she's now a grandmother and has all kinds of degrees and accolades, she's decided that in order to run this foundation she needs to go back to school and get more training in early childhood development. And she wanted to see what this was really all about. So just raising money and promoting this was more in the beginning something to do, but now it's become a passion.

So I congratulate her as she reenters college. It gets a little harder when we become grandparents. But she's so committed to the idea that children starting in their early

years have the best chance for success if they're nurtured very early on.

So to the First Lady of Jamaica, thank you. Welcome to our chambers. And I thank you for the work that you do. And we miss you in the Bronx.

ACTING PRESIDENT ROBACH: On behalf of Senator Parker, Senator Hassell-Thompson, and all of us, First Lady of Jamaica Lorna Golding, we welcome you. Thank you for all you've done and all the contributions of Jamaican-Americans here in New York across our great state.

Welcome to the chamber. We extend to you all the courtesies and hope you have an enjoyable visit. Thank you.

(Extended applause.)

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Calendar Number 725, by Senator Saland, Senate Print --

SENATOR LIBOUS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number

802, by Senator Golden, Senate Print 643, an act to amend the Penal Law.

SENATOR KRUEGER: Explanation.

ACTING PRESIDENT ROBACH: An explanation has been requested.

Senator Golden.

SENATOR GOLDEN: Thank you, Mr. President.

This is a persistent crime of offenders, persistent misdemeanor offenders. This would be a person convicted of a misdemeanor, after having been convicted of five or more crimes within the last five years, this bill would provide a procedure whereby the determination of such classification could be made. Once classified as such, the court must sentence the persistent misdemeanor offender to a mandatory definite sentence of imprisonment to no less than 30 days and no more than one year.

ACTING PRESIDENT ROBACH: Senator Krueger.

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

ACTING PRESIDENT ROBACH: Senator Golden, will you yield?

SENATOR GOLDEN: Yes, I will. Thank you, Mr. President.

SENATOR KRUEGER: Thank you.

So as I read this bill and as the sponsor just explained, five misdemeanor convictions in a five-year period would translate into jail time. Does this bill mandate that the person who's been charged with five or more misdemeanors be put in jail? Does the court have any ability to consider the individual situation?

SENATOR GOLDEN: Through you, Mr. President, there would be no reason for the bill if we did that. The reason for the bill is to a persistent person that commits five crimes within a five-year period to go to jail for a 30-days minimum to a year maximum.

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

ACTING PRESIDENT ROBACH: Will you continue to yield, Senator Golden?

SENATOR GOLDEN: I do indeed, Mr. President.

SENATOR KRUEGER: Does this bill apply to all misdemeanors in the Penal Law or any specific misdemeanors?

SENATOR GOLDEN: All misdemeanors, Mr. President.

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

ACTING PRESIDENT ROBACH: Senator Golden, do you continue to yield?

SENATOR GOLDEN: Yes, Mr. President.

SENATOR KRUEGER: So am I correct in understanding that if you are sentenced to 30 days to no more than 12 months, you would not be sentenced to the state prison system, you'd be sentenced to a county or municipal jail?

SENATOR GOLDEN: Through you, Mr. President. Yes, it's locals.

SENATOR KRUEGER: One second.

SENATOR GOLDEN: I can understand the president taking a break here.

(Laughter.)

ACTING PRESIDENT ROBACH: Hey, I don't get a chance to meet with the First Lady very often.

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

ACTING PRESIDENT ROBACH: Will you continue to yield, Senator Golden?

SENATOR GOLDEN: Yes, Mr. President.

SENATOR KRUEGER: Have we gotten memos of support or home-rule messages from any of the localities who would be forced to bear the increased costs of increased numbers of prisoners in their local jails for up to a year?

SENATOR GOLDEN: Through you, Mr. President, this is a statewide bill. This has not required any home rules.

The reason we're doing this is to actually save the people that live in our cities, our towns, and our villages from these persistent misdemeanor offenders that are causing havoc in our communities and costing our communities money. This actually saves money for the people, the taxpayers of the State of New York.

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

ACTING PRESIDENT ROBACH: Senator Golden?

SENATOR GOLDEN: Yes, Mr. President.

SENATOR KRUEGER: So we're doing this statewide. But again, for the record, it's not a state cost because none of these people would be sentenced to state jail, they would be sentenced to their local or municipal or county jail. And my understanding is that ranges up to $30,000 to $40,000 per year per inmate.

The sponsor believes that a mandatory jail sentence for someone convicted of five misdemeanors in a five-year period is a greater cost to a locality than $30,000 or $40,000 annually?

SENATOR GOLDEN: Through you, Mr. President. I believe that anybody who's out there committing five crimes in the course of five years is causing the people of the cities and the towns and the villages to leave this great state to find someplace else to live. And that tax base is leaving in droves. So it doesn't save the locality, but it saves us in the long run of having money in the state budget so that we can pay for the teachers, the firemen and all of those that work across this great state.

This is a bill that is long overdue for our towns, our villages, and our cities so

that they can have that peace of mind and not be worried about somebody committing crime after crime after crime.

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

SENATOR GOLDEN: Yes, Mr. President.

SENATOR KRUEGER: Thank you.

You know, I can't speak for the population leaving by the droves in upstate New York because the population's been going down. The population in our city, where Senator Golden and I come from, is actually going up. So people aren't leaving in droves, certainly not because of our crime rate. But I do recognize there are regional differences.

But I have to say I see this as an unfunded mandate on the localities who would in fact have no choice but to pay the costs for people being mandated by this law through the courts to do jail time. And again, through the question-and-answer so far, my understanding is any misdemeanor, five in five years.

So, Senator Golden, five marijuana

misdemeanor charges in a five-year period, which could be one per year, would translate into up to a year in jail?

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

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

ACTING PRESIDENT ROBACH: Senator Golden, will you --

SENATOR GOLDEN: Yes, Mr. President.

SENATOR KRUEGER: Five loitering misdemeanor charges in a five-year period would translate into up to a year in jail?

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

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

ACTING PRESIDENT ROBACH: Senator Golden?

SENATOR GOLDEN: Yes, Mr. President.

SENATOR KRUEGER: A crime called jostling, putting one's hand in the vicinity of a person's handbag or shaking someone's person or

handbag, five in five years, would translate into a year in jail?

SENATOR GOLDEN: Through you, Mr. President, the answer is yes. If we go along with the pretense that the -- that Senator Krueger is -- the road that she's traveling down here is that if every judge that had every misdemeanor had to consider the cost of putting that individual into jail and what savings that would be or not be for the State of New York, it's just impossible and it's just not probable and not going to happen.

As far as the crimes, when it comes to marijuana, jostling, whether it comes to whichever the misdemeanors, that is committing a crime, whether the good Senator Krueger believes that or not. It's still a crime here in the State of New York. And they are committing havoc within the communities that they reside in. And yes, that's what drives people and families out of the City and State of New York.

As the good Senator knows, that the City of New York, we may be increasing in numbers, but that 40 to 50 percent of them are people coming from other countries. These are

new people coming into our communities and that are leaving the City of New York. So she understands that the people coming into our city and the people that live in our cities, towns, and villages should have the opportunity of having a good quality of life. And I think they should not be denied that.

Thank you, Mr. President.

SENATOR KRUEGER: If through you the sponsor would continue to yield.

ACTING PRESIDENT ROBACH: Senator Golden, do you continue to yield?

SENATOR GOLDEN: I do, Mr. President.

SENATOR KRUEGER: Has the sponsor done any research as to how many people are convicted of five misdemeanors in a five-year period statewide or in any specific areas of the state?

SENATOR GOLDEN: I can tell you, Mr. President, through you -- see the book under here? In the City of New York, the book is bigger than that. Now if we take a look at the books across the State of New York, you would be able to fill them in this room.

So I believe that she'll be able to, the good Senator, do her homework and see that there are many people committing five crimes or five misdemeanors over the period of five years. It is volume after volume.

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

ACTING PRESIDENT ROBACH: Senator Golden?

SENATOR GOLDEN: Yes, Mr. President.

SENATOR KRUEGER: I'm sorry, I didn't understand what book was being referenced. I just need a little clarification.

SENATOR GOLDEN: Mr. President, through you. Our books here that have all the bills in them. That's how many people in the City of New York have committed five misdemeanors or more in a five-year period.

SENATOR KRUEGER: So are we talking in the tens of thousands?

SENATOR GOLDEN: Are we talking -- we are talking in the tune of thousands.

SENATOR KRUEGER: The tune of thousands -- through you, Mr. President -- but

not the tens of thousands?

SENATOR GOLDEN: Through you, Mr. President, no.

SENATOR KRUEGER: If the sponsor would continue to yield.

SENATOR GOLDEN: Yes, Mr. President.

SENATOR KRUEGER: Thank you.

ACTING PRESIDENT ROBACH: He continues.

SENATOR KRUEGER: So when you go through our criminal sentencing materials, you find an endless number of misdemeanors. And again, just for clarification, it would be a mix. So you could have a loitering, a jostling, a criminal possession of marijuana, an advancing of a poker game, which is promoting gambling in the second degree.

So this could include misdemeanor criminal convictions for adultery?

(Laughter.)

SENATOR GOLDEN: Through you, Mr. President, the articulate, intelligent Senator Krueger obviously reads and understands the bill very well. Yes.

SENATOR KRUEGER: Mr. President, on the bill.

SENATOR GOLDEN: Thank you, Mr. President. Thank you, Senator Krueger.

ACTING PRESIDENT ROBACH: Senator Krueger on the bill.

SENATOR KRUEGER: I agree with Senator Golden that there are crimes and there are penalties. We establish the laws here in Albany. And as we've heard even today, there are differences of opinion about what penalty fits the crime, recognition that there are different kinds of crimes that are committed by different people under different circumstances.

I just can't accept that we in the State Legislature should pass a bill that would require our localities to pay for putting thousands of people into jails for up to a year because they have been convicted of the lowest level of crime under our criminal justice system, misdemeanors.

We read each day about the disproportionate impact of criminal arrests and prosecutions and jail on different segments of our society. We know that in the City of

New York, low-level misdemeanor marijuana-in-your-pocket arrests are at the 50,000 per year level. Disproportionately not in my district, an upper-middle-class disproportionately Caucasian district, but in fact throughout poor communities, communities of color. Communities where people don't have private attorneys and they get moved through a system without representation, frequently, on a misdemeanor charge. And so they end up with a misdemeanor conviction because there's nobody there to fairly represent them.

And yet you can still argue don't do the crime if you're not prepared to do the time. My dilemma with supporting the concept of this bill would be we would now say one misdemeanor per year over a five-year period -- again, as I would argue, crime but as minimal crime as jumping a turnstile, a marijuana cigarette in your pocket, saying, "Hey, guys, the poker game's over here tonight," loitering, or having an adulterous affair -- could translate into your local court and your local government having to put you in jail for up to a year.

An enormous expense to our local

governments, I believe an enormous expense to our society of putting, as the sponsor said, thousands more people into our prison system because they were convicted of misdemeanor charges. It's an unfunded mandate. I believe it's bad criminal-justice policy. I believe it's bad prison policy. I believe it's a place where we should absolutely ensure court discretion and the rights of judges to hear individual cases and circumstances and make individual decisions.

I'm disturbed that I don't have any memos from any locality telling me this is what they need and want and are prepared to pay for.

This bill has been around, I think, since 2004 or 2005. The good news is I don't believe it will become the law of New York State. But I wanted to be on record saying it's a bad idea and I'm voting no.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Thank you, Senator Krueger.

Senator Rivera.

SENATOR RIVERA: Thank you, Mr. President.

It seems to be a repeating pattern

when we are speaking about criminal justice that I will stand up and say a few words. And I want to say something that might seem a little paradoxical, particularly considering, for example, the conversation that we were having last night about rent regulation, when some of our colleagues called us over here socialistic. So I might even be viewed as a socialistic individual, and yet I'm going to say the following.

I believe in public safety. And I am concerned about state spending. And therefore, I oppose this bill. I am concerned about state spending when we are saying that we are going to ask localities, municipalities all across the state to put individuals in their local jails or prisons at a cost of $30,000 or $40,000; I don't remember the exact number that my colleague said.

But that is going to make us spend more. I am concerned with state spending, and I want to spend less, so I'm going to be opposing this bill.

And I also care about public safety. Evidence-based reports tell us that

short-term incarcerations are counterproductive. They do not lead to this person being corrected, if you will. It actually has all sorts of severe consequences, both in their personal lives and certainly now in their criminal record.

So both as somebody who is concerned about public safety -- and I want to make sure that we in this state have the policies that give us the most -- the safest state, so policies that encourage public safety. And as somebody who is concerned about state spending, I oppose this bill.

So I'll encourage my colleagues to do the same because we must look to change policies that we have followed for many, many years that in many instances make us less safe and make our state spend so much more. I will be voting in the negative on this piece of legislation.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Thank you, Senator Rivera.

Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

I rise to commend Senator Golden for bringing this bill before the house and differing, if I might, with Senator Rivera.

Yes, my concern is public safety and the reality is in most jurisdictions outside the City of New York, you're going to be serving time before you get to the fifth misdemeanor. In all likelihood, if you're a two-or-three-time loser, you're going to serve time, somewhere between 30 days and a year.

The tolerance and the pleas down in the City of New York -- and it's a matter of record. Many misdemeanors start off as felony charges. And this is not merely limited to misdemeanors, but it also includes felonies. So what Senator Golden has done is said if you commit five crimes within a five-year period, be they misdemeanors or felonies, or be they five felony charges, four of which have been pled down to misdemeanors, you've had more than your fair share of opportunities.

The costs associated with this -- the cost of investigation, the cost of prosecution, the backlogging of your courts -- you're not going to get a memo. This unfunded

mandate -- among the many foolish things I have heard on the floor of the Senate, the idea that this is an unfunded mandate would basically mean that any court, before it could sentence anybody, would have to consider the fiscal consequences imposed upon either the state or upon a local governing unit that has the correction facility. I mean, that borders on absurdity.

The reality is is that if you're stupid enough, having been charged four times within five years of either a felony that you've had pled down or a misdemeanor, to engage in criminal activity a fifth time, why shouldn't you serve time? I mean, this just makes your head spin 360 degrees.

First and foremost, the responsibility of society is public safety. This basically is simply a public safety measure that says enough is enough.

Senator Golden, thank you.

SENATOR GOLDEN: Thank you, Senator.

ACTING PRESIDENT ROBACH: Thank you, Senator Saland.

Senator Adams.

SENATOR ADAMS: Thank you, Mr. President.

I think that Senator Saland's observation was a good observation, and I just wanted to touch on that a bit.

On the face, Senator Golden's bill sounds like a great bill. Because on the face, one would say, you know, what type of loser is out here being arrested every year, and he's arrested five times in five years. To many of us the thought of being arrested one time is just bizarre.

But let me bring you into the universe of reality. In New York City, we had 600,000 young men who were stopped, questioned, and frisked. Former Attorney General Eliot Spitzer stated for every one documented incident of stop, question and frisk, four went unreported. So that's over 2 million young people were stopped, questioned and frisked.

Now, why is that important? Because out of those 2 million, over 90 percent of them did nothing wrong at all. Yet those small numbers who were stopped, questioned and frisked and were charged with disorderly conduct or some

other petty offense, they now have a misdemeanor arrest. And so in some communities that's probably alien to many of us who are here, in some communities you can go to school classrooms as I do during graduations and you talk to young people and say, "How many of you have been stopped by the police, or how many of you have been arrested for a minor infraction?" Entire classrooms raise their hands.

ACTING PRESIDENT ROBACH: Senator O'Mara, why do you rise?

SENATOR O'MARA: Will the speaker yield for a question?

SENATOR ADAMS: Yes, I will, after my I finish my thought.

ACTING PRESIDENT ROBACH: Momentarily.

SENATOR ADAMS: So the issue here is that what is taking place in many communities in this city is that this call for those who are arrested or have police contact, and multiple times, it may appear as though these are people who are constantly involved in criminal behavior and they're the worst of our society. I am saying no to that.

I in fact, as a police officer, used to give courses of what to do with when stopped by the police to prevent negative interactions between the police and our communities. Because, as Senator Rivera, I believe in public safety.

But we have a problem here when you have large volumes of young people -- over 2 million, potentially, in New York City, 600,000 documented -- that are being stopped, questioned and in many of those cases are being led to arrests based on petty offenses that are taking place.

So when you look on the face, Senator Golden's bill has a great concept to it. And many of you when you sit down at family reunions or barbecues or other community events, you don't have young people coming to you telling you how often they've been stopped, questioned, frisked and arrested for petty offenses. And because you don't hear that and that's not resonating throughout the society or the groups you commingle with, you believe that those five or more who are arrested are the worst society has to offer.

I say no, they're college students,

they're people who are coming home from church, they're people who are merely sitting on their porch playing dominos, they're people who are simply sitting in a ballpark drinking a can of beer while they're watching a Little League game. They're innocent New Yorkers that have been caught up in this wave of as much police interaction and contact you can have as possible that assists in creating what was a database of information of individuals.

This is a bad bill. It's a great concept on the surface, but where the rubber meets the road, it actually hurts many innocent people. Now you're going to compound the situation and have these innocent people who are now going to be arrested for five or more police contacts. And that's the reality that happens to far too many innocent people.

Mr. President, I am now more than comfortable to answer any question the Senator wanted to ask.

ACTING PRESIDENT ROBACH: Senator O'Mara, did you have a question for Senator Adams?

SENATOR O'MARA: Yes,

Mr. President. Thank you, Senator Adams.

You mentioned disorderly conduct as an offense to get you in line for a misdemeanor conviction or the offender status here. But disorderly conduct is not a misdemeanor, it's a violation. Which wouldn't make you eligible for this.

SENATOR ADAMS: Yeah, what happened in -- and when you look at the arrests that takes place, particularly in the New York City area, the five boroughs, oftentime in the stop, question and frisk scenarios where you saw the escalations to arrest, disorderly conduct was not by itself. It was disorderly conduct, resisting arrest, which is a misdemeanor, or assault on a police officer, which is a felony.

So oftentime you don't see this kind of arrest alone, it is marriage with another crime to actually justify what happened in that disorder conduct incident.

SENATOR O'MARA: Will Senator Adams yield for another question.

ACTING PRESIDENT ROBACH: Senator Adams, will you continue to yield?

SENATOR ADAMS: Yes, I will.

SENATOR O'MARA: Senator, I served in the Manhattan DA's office as an assistant DA and saw many of those disorderly/resisting charges come through. And I can tell you the way we typically handled those is that they were treated as a discon or less. And we're talking being convictions here, not just arrests for these charges. And we're not talking about stop-and-frisks and a report being filed making you eligible for this, it's a conviction.

So how does what you're talking about have any impact on the effect of this legislation whatsoever?

SENATOR ADAMS: I'm happy to learn that you served in the district attorney's office, because probably one of the main culprits that didn't deal with the overuse or the abuse of police behavior were those local district attorneys that saw these crimes coming in, that saw these terrible arrests coming in and did not raise a red flag to say that there was a disproportionate number of people of color who were being hit with these charges.

How this impacts on it is when individuals, either they plea because they don't

have the legal representation that they have, so they're pleading to that disorderly conduct, resisting arrest or assaulting a police officer. Then they're found guilty of that misdemeanor, that is -- that plea is a -- they're convicted of that crime, they are guilty of that crime. That is where it comes from, when you deal with a large volume of people who start out, as I shared with you from the beginning -- maybe you didn't hear that part -- it starts out as a stop, question and frisk and it escalates to an arrest. And many of these young people who don't have attorneys, who don't have private counsel, they plead to resisting arrest, disorderly conduct, assault on a police officer. And those are felonies and misdemeanor convictions based on that plea that they took.

SENATOR O'MARA: Well, I can just simply tell you that from my years of experience in that office, that was not the case. That was not the ultimate outcome of those types of charges. And I think you're misfounded in the way you're characterizing this.

SENATOR ADAMS: Would the Senator please -- would he answer a question?

ACTING PRESIDENT ROBACH: Senator O'Mara, would you yield for a question?

SENATOR O'MARA: Yes.

SENATOR ADAMS: I didn't quite understand, Senator, what you stated, that based on in the office -- were you stating that there was not a large volume of arrests that came in for these types of offenses, disorderly conduct, resisting arrest and assaulting a police officer? Was that what you were stating?

SENATOR O'MARA: No. My statement was those cases did come in, and they were certainly red-flagged because they were unusual for that circumstance. And they didn't end in misdemeanor convictions, they ended in an ACD or a disorderly conduct violation, which so many of the misdemeanor arrests in New York City do.

We're not talking five contacts in arrests and convictions with the law, we're usually talking eight or 10. Because you get your ACD, you get your violations, and it's a revolving door where we see these people coming back and that adds cost to the system, the criminal justice system in New York City.

And maybe if there's some

ramification of actual jail time, that individual is going to think twice and next time say, you know, maybe I shouldn't jump that turnstile this time. Maybe I shouldn't do this. Because there's no ramifications for repeat offenses, and they go through the system and never see any time in jail whatsoever.

ACTING PRESIDENT ROBACH: Excuse me. Senator Espaillat, why do you rise?

SENATOR ESPAILLAT: Would Senator O'Mara yield for some questions?

ACTING PRESIDENT ROBACH: He's in the middle of answering a question now.

SENATOR O'MARA: I can answer the question, but I think Senator Adams has the floor.

SENATOR LIBOUS: Senator Adams has the floor.

ACTING PRESIDENT ROBACH: Yeah, Senator Adams actually has the floor. Let's let one member at a time go on this one, and then we can continue.

SENATOR ADAMS: I trust you we -- we're going to behave in a fashion we don't want to be apprehended for disorderly conduct. So

we'll be sure to, you know, respond appropriately.

Would Senator O'Mara --

ACTING PRESIDENT ROBACH: Don't test me, Adams. Don't test me.

(Laughter.)

SENATOR ADAMS: Would Senator O'Mara -- would he yield for another question, please?

ACTING PRESIDENT ROBACH: Senator O'Mara, will you yield for another question?

SENATOR O'MARA: I will.

SENATOR ADAMS: Senator, you said something I thought was very important. You stated that those arrests did come in and you did find them unusual. Did I understand you correctly?

SENATOR O'MARA: Yes.

SENATOR ADAMS: So you're indicating that your -- the district attorney's office that you were in, you saw these unusual, large volumes of arrests coming in and you didn't red-flag those arrests, indicating that something was unusual about these innocent people coming in, that you dropped to an ACD, that there was no

conviction? Is that what you're telling me?

SENATOR O'MARA: I'm not saying there was a large volume of those cases. But when those types of cases come in, whether it was in my work in New York City or my work in Chemung County upstate, those types of charges raised a flag to look into further to see what exactly was going on there.

SENATOR ADAMS: Okay. And again --

SENATOR O'MARA: And it very often, in most cases, results in either an outright dismissal or some lower violation conviction or an ACD.

SENATOR ADAMS: Thank you, Senator.

And this compounds and it really sheds lights on what I am attempting to say. Here we have one of the largest district attorney's offices and probably one of the most influential district attorney's offices in the country, saw these cases coming in, realized that something was strange with these cases, didn't -- gave the person either an ACD, which still goes on this person's record, didn't red-flag to see what was taking place that the police department

was bringing in these large cases. So they were just as involved in what was taking place.

That's why we can't continue to have these types of laws, when we don't have who was supposed to have been the group that should have caught this -- because that's the role of the district attorney. The district attorney's role is not to partner with the police. They should have red-flagged these cases and they should have stopped, they should have joined the Attorney General in stopping these types of issues. But you just heard they turn it into an ACD, which is still -- an adjudication contemplating dismissal, which is still on this person's record.

And that's why when you have these types of cases where you allow these types of laws, it hurts innocent people. And not only is the police department guilty of it, but many of our district attorneys are participating in it as well. I saw it firsthand as a police officer, and now as a state legislator we can't allow these laws to continue.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Thank you, Senator Adams.

Senator Espaillat, you wanted to ask Senator O'Mara a question?

SENATOR ESPAILLAT: Yes. Senator O'Mara, will you yield for a question or two?

SENATOR O'MARA: Yes.

ACTING PRESIDENT ROBACH: Senator -- he will yield.

SENATOR ESPAILLAT: You mentioned the fact that as an ADA in the New York County District Attorney's office you saw a significant number of ACDs, adjournment in contemplation of dismissals.

SENATOR O'MARA: I did not say a significant number, I don't believe. If I did, I misspoke.

I certainly saw those cases, and they did raise a red flag as to circumstances surrounding what brought that individual there.

SENATOR ESPAILLAT: What are the terms established for an ACD, once someone is adjourned in contemplation of dismissal?

SENATOR O'MARA: It's an adjournment in contemplation of dismissal. Which means that if you don't get rearrested or violate whatever terms may be on there -- typically, it's

a rearrest -- your case is dismissed completely in six months.

SENATOR ESPAILLAT: Thank you, Senator O'Mara, for answering the questions.

Mr. President, if I may.

ACTING PRESIDENT ROBACH: Senator Espaillat on the bill.

SENATOR ESPAILLAT: Yes. I agree with Senator Adams that in addition to disorderly conduct we often see other charges attached to that particular infraction. For example, there's often a charge of obstructing government administration that goes along with that.

But what is really troubling is the high number of ACDs that are issued in these plea bargains. And these are adjournment in contemplation of dismissals. And within six months, if the defendant does not get rearrested, the case is dismissed.

But what we're arguing here today is a wholesale-sweep approach to law enforcement, which usually turns out in another arrest within that six months will then trigger that case, which was supposed to be dismissed within the six-month period, to go back on the docket in

criminal court.

And as Senator Adams clearly explained, there are hundreds of thousands of stops in communities across the City of New York, particularly communities of color, where young men and women are randomly stopped, most of them for doing nothing. But if someone is stopped and is rearrested and has received an adjournment in contemplation of dismissal, they will go back to court not only for that second arrest but will have to face the first charge, which was contemplated to be dismissed within the six-month period.

So this is concerning that the wholesale-sweep approach to law enforcement not only generates high volumes of arrests, but that in fact the police department is engaging in the stop-and-frisk of hundreds of thousands of New Yorkers that have not committed a crime.

I am deeply concerned about this bill and the fact that it will perpetrate a kind of action, a knee-jerk-reaction type of action from our law enforcement agencies that would result in the wholesale arrest of thousands of New Yorkers.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Thank you, Senator Espaillat.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. I rise to thank Senator Golden for trying to address what he views as a problem in my district. Because I am sure that this legislation that is being proposed is not meant for arrests that take place in your district -- in his district.

These are -- most of these arrests, most of these charges are going to be against people, young people in particular, young men in particular who live in my part of the borough, in my district and those surrounding me. And so I'm happy to see that Senator Golden cares more about my district than his own, because this is not meant for his district.

And I want to say to Senator Golden I really have not -- I don't want this for my district. I do not want to see the young people in my district harassed more by police so that they can be charged based on this legislation. They are not the threat to society that Senator

Golden worries about. I want to see more resources for my young people, for the people where I represent, so that they have another option, and I want to see less policing. I want to see police treat people respectfully, as they do in Senator Golden's district. And I want them to respect the lives and freedoms of the young people that I represent as well.

So no thank you, Senator Golden, I don't care for it, and I'm voting no on this legislation.

ACTING PRESIDENT ROBACH: Seeing other Senator wishing to be heard, the Secretary will ring the bell. And I encourage all Senators to get in expeditiously for the vote.

Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first of November.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT ROBACH: Senator Golden to explain his vote.

SENATOR GOLDEN: Thank you, Mr. President.

I just want to thank all my colleagues here for such a spirited debated. It's a shame that we spent probably more time on this debate than those that commit five misdemeanors in the City of New York spend in jail.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Senator Golden to be recorded in the affirmative.

Announce the results.

THE SECRETARY: In relation to Calendar Number 802, those recorded in the negative are Senators Adams, Dilan, Duane, Espaillat, Hassell-Thompson, Huntley, L. Krueger, Montgomery, Parker, Peralta, Perkins, Rivera, and Stavisky.

Absent from voting: Senators Fuschillo and Smith.

Ayes, 47. Nays, 13.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Senator Little.

SENATOR LITTLE: Thank you, Mr. President. May we return to motions and resolutions.

ACTING PRESIDENT O'MARA: Motions and resolutions.

Senator Little.

SENATOR LITTLE: Thank you.

Mr. President, on behalf of Senator Johnson, on page 35 I offer the following amendments to Calendar Number 931, Senate Print Number 4935A, 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 LITTLE: Thank you.

May we return to the reading of controversial calendar.

ACTING PRESIDENT O'MARA: Yes. The Secretary will read.

THE SECRETARY: Calendar Number 853, by Senator Nozzolio, Senate Print 3537, an act to amend the Executive Law.

SENATOR RIVERA: Explanation.

SENATOR LITTLE: Lay the bill aside for the day.

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

THE SECRETARY: Calendar Number 1046, by Senator Grisanti, Senate Print 5418A, an act to amend the Navigation Law.

SENATOR SQUADRON: Explanation.

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

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

Basically what I am asking my colleagues here today is to vote for this particular bill, a bill that establishes a new allocation scheme under the Navigation Law to enable the DEC to fairly allocate responsibility for cleanup among discharge sites.

Now, if that's Greek to you, it was Greek to me four months ago. What it basically means is this. Everybody in their district has vacant gas stations that are sitting on corners. If an individual buys that gas station, he's responsible then for what is under the ground and potentially an expensive amount of cleanup cost, even though he never went ahead and did the damage.

What this bill allows is that discharger, we'll call him, the first person, to

be able to present evidence to the DEC, a preponderance of evidence, present that evidence, they do a review. If they feel there's enough evidence, it allows them to go after a second discharger, possibly the prior property owner, or even go further than that. Because the technology, believe it or not, that they have today is they're able to decipher how long gasoline has been in the ground or a petroleum plume or something along these lines.

So what this actually allows is not for somebody now to be afraid to purchase these empty gas station lots that are sitting on corners. They're going to say, okay, I'll do it, I think it's a great location for a new business, new tax revenue, and I'll go ahead and look up the evidence and spend the money, and hopefully somebody else is going to be responsible for the payment. Especially if you do your homework earlier on, you're already going to know.

I think this bill is important for tax revenue, for cleaning up these sites, and it adds fairness so that nobody is sitting there not wanting to buy these properties on these vacant lands.

ACTING PRESIDENT O'MARA: Senator Squadron.

SENATOR SQUADRON: Would the sponsor yield for a question.

ACTING PRESIDENT O'MARA: Senator Grisanti, will you yield for a question?

SENATOR GRISANTI: Yes, I'll be happy to. Thank you, Mr. President.

SENATOR SQUADRON: Thank you very much.

Under current law the DEC has the ability to go after a polluter for the cost of the cleanup. After the fact, if the polluter feels they weren't treated fairly, they have redress in a court of law.

Under this bill, DEC has a very short 30-day window in which to prove their case. And can I ask if the polluter petitions DEC under the 30-day window and doesn't like the answer, what remedy does the polluter have?

SENATOR GRISANTI: The polluter -- it's not going to change. The polluter could still go ahead and go by other avenues and possibly go to a court of law.

What this is doing is actually

streamlining it. And a 30-day window, while it may be a short window, as you're saying, that particular window, they're already going to have enough evidence -- because the polluter's going to be the one that's going to be obtaining that evidence. So he's going to want to make sure that his case is ready to go forward. And if that's the case, the DEC is not going to have any hard time in deciding who exactly is at fault here.

SENATOR SQUADRON: If the sponsor would continue to yield.

SENATOR GRISANTI: Yes.

SENATOR SQUADRON: Isn't it true that in fact what would happen is there's a 30-day window in which the polluter tries to pass off responsibility to another party, DEC has the requirement under a pretty low standard of proof, preponderance of evidence, to find another party responsible within that small window, and if they don't and the polluter doesn't like the answer, the polluter can file an Article 78 proceeding and because of all the requirements in this bill will suddenly have a much stronger case and vastly increase the likelihood that the polluter

will be able to avoid any cost for cleaning up the spill?

SENATOR GRISANTI: I don't believe there is an Article 78 proceeding. Basically it's the initial person, that discharger or polluter, if that's how you're stating that, is going to be the one that has to do the preponderance of evidence to prove to the DEC. If he does not do it or he doesn't prove his case, he is going to be ultimately responsible.

Because put it this way, he's ultimately responsible when he first buys the property anyways. This gives him an open window and a chance to prove that somebody else, possibly a second or third person down the road, is responsible for it. That's why you have all these gas stations that are sitting on the corners.

SENATOR SQUADRON: If the sponsor would continue to yield.

SENATOR GRISANTI: Yes, I will continue to yield. Through you, Mr. President.

SENATOR SQUADRON: I appreciate that. But definitionally, there are a number of requirements on an executive agency that this

bill creates, I think we would agree on that, that don't currently exist. They're in a very, very tight time frame. The standard of proof that the polluter needs to meet is a pretty low one. And definitionally, if the polluter doesn't like DEC's answer, they could pursue an Article 78, in addition to the current remedy, which is to go to a court of law. So I think that's concerning.

And I would ask, is there any provision in here for DEC to extend the 30-day window if they have additional questions?

SENATOR GRISANTI: Under this particular bill there is no provision to extend it beyond a 30-day window.

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

SENATOR GRISANTI: Yes. But just to go back. But as you said, because the preponderance of evidence is so low, the standard, it's up to the -- the DEC doesn't do the investigation. They just review what the investigation from the polluter finds. If he doesn't prepare his case properly, he may have another remedy, but it's his fault for not being

prepared.

If somebody wants somebody else to pay for a cleanup and you spend all this money on a vacant piece of property, you're going to do your homework. You can't hold somebody's hand throughout the entire process. That's why the burden is so low.

SENATOR SQUADRON: If the sponsor would continue to yield.

SENATOR GRISANTI: I will.

SENATOR SQUADRON: I think the concern would be that DEC has a very small window in which to review evidence presented by a polluter who's trying to avoid responsibility, avoid financial liability. And so for DEC to look through all of that and make its own decision I think is difficult, is the concern.

And I think I would ask the sponsor, does the sponsor believe that a polluter is really in a better position to describe whether they should pay for this than DEC is, which is how it works under the current law?

SENATOR GRISANTI: I believe that if the individual that bought the property, the first person, has proof that somebody else caused

it -- if I buy a gas station on a corner and I've never owned that property, then naturally I'm not the one that caused the damage that's laying underground. Would you agree with that?

SENATOR SQUADRON: If the sponsor is asking me to yield, I'd be happy to. If you wouldn't mind just repeating the question.

SENATOR GRISANTI: Okay. Would Senator Squadron yield for a question?

SENATOR SQUADRON: I'd be happy to.

SENATOR GRISANTI: Okay. If you buy a piece of property on a corner and it's a gas station, you've never owned it before, never set foot on it, and you're going to have to do renovation to that property and you find out that there's a leaky gas tank underground, as it stands now the DEC is going to go after you and say, You know what, we'll clean it up, whatever, you're going to have to pay us.

It's logical that that guy who just bought the property did not cause the damage. This gives him a window now to basically say who was the property owner prior to me, or prior to that. And they have ways of finding out, depending on what the spill is, who actually is

responsible for that cleanup. Which in turn will allow somebody else to pay for it, which will alleviate these gas stations from sitting on corners.

So would you agree with that, though, that he would not be responsible for it?

SENATOR SQUADRON: I in fact do agree with that. And that's why the current law works, because the current law is designed to go after the polluter, the entity that's responsible. If you buy the gas station for a different purpose, it's not so clear that you would in fact be liable.

It is true that that liability extends to successor corporations. But I think the sponsor would agree that we don't want to undo the concept that the polluter or the polluter's successors continue to be responsible.

Certainly in Brooklyn alone, Senator Dilan, myself, a number of other colleagues represent scores of sites that were polluted by corporations that no longer exist, Brooklyn Union Gas and others. The successor in one case is National Grid, and others. And they

are taking responsible, as they should, as the successor entity, and cleaning up and helping to clean up neighborhoods and save lives.

If the sponsor would yield for a question on the other item.

SENATOR GRISANTI: Yes.

SENATOR SQUADRON: Thank you.

So one major concern in this legislation is the fact that rather than an impartial analysis by DEC, it drives the analysis to the polluter who is trying to avoid responsibility, trying to save money, and gives DEC a very, very brief period to review that analysis.

I think another concern has to do with the ongoing liability after an agreement is made. And I ask, under this bill, in a hypothetical, if someone has a gas station that has polluted, they do somehow, despite this 30-day window, take responsibility, make a deal with DEC, and then two years later an additional extent of the spill is discovered. It's discovered that it actually extends a hundred yards further than it did.

Under this bill, would the polluter

have to pay for that additional discovery?

SENATOR GRISANTI: Yes. Under this particular bill there are additional protections in place. To go back, the cleanup must be done at the standards determined by what you have in the agreement. If the cleanup falls short, the DEC can require further remediation to meet those standards. If the DEC can structure the agreements in such a way to ensure that the cleanup is done properly, it will basically avoid further environmental damage.

Now, there are additional protections. The liability limitation does not apply to any discharge that occurs subsequent to the execution of the agreement, I think you -- where they're going to build. But further, DEC still reserves its right to require further investigation and remediation due to any fraud, noncompliance with the terms of the initial agreement, or a written finding by the DEC that the cleanup is no longer protective of public health or the environment because of a change in the environmental standard, factor or criterion that the agreement was based on.

So that 30-day window that you seem

to be stuck on is the same 30-day window that they use in brownfield legislation. And it's not something that's too difficult, because they have the scientific technology, with all due respect, Senator Squadron, to have this done. There are over 16,000 spills across New York State, and the cleanups are only in the number of a few hundred. That's not -- and the process needs to be moved a little faster. That's what I'm hoping this legislation will provide for.

SENATOR SQUADRON: I thank the sponsor for that. And the concept of the process both moving faster and being streamlined is one that we share.

If you would continue to yield.

SENATOR GRISANTI: I do.

SENATOR SQUADRON: Just to go back to the question of liability, go back to that hypothetical that I presented before. Let's say there is no fraud, the polluter doesn't realize that the spill that is under discussion extends for a hundred yards farther than both they and DEC believed at the time of the deal. The standards and law haven't changed, it's a six-month period later. Let's just say that a

spill is discovered, there's a brief period in which to make a deal, DEC and the polluter make a deal, and then because, over time, more information comes to light and the residential home next door is discovered to also be on top of this same spill, a spill that occurred before the deal was made, a spill the extent to which no one knew about, in that case for that homeowner, who would pay for the cleanup if this bill were to pass?

Let me ask it differently if the sponsor doesn't mind. Wouldn't the polluter no longer have the requirement to clean up that spill under that homeowner's house as they would today?

SENATOR GRISANTI: Not true. Because the DEC -- under this particular bill, the standard, the standard is so much more higher than it is now that the polluter is going to be responsible.

SENATOR SQUADRON: I thank the sponsor very much.

On the bill, Mr. President.

SENATOR GRISANTI: Thank you.

ACTING PRESIDENT O'MARA: On the

bill, Senator Squadron.

SENATOR SQUADRON: As I say, I very much appreciate the sponsor's goal here. I think that the idea of streamlining the process for remediation, actually of encouraging polluters to come to the table more quickly, are both admirable goals, ones that I share.

Unfortunately, in practice, the conclusion of this bill would be that many polluters end up with no liability. That DEC or some individual, some harmed family ends up holding the bag for the cleanup costs of remediation.

There are two reasons for that. One is the concept of a polluter having a 30-day period in which DEC needs to prove them wrong, that they weren't the polluter, simply turns the process on its head. We should expect that polluters and corporations are going to do everything they can to avoid responsibility for cleaning up spills. That's their role. But in the government, we shouldn't make it easier for them to avoid responsibility when they have done damage.

That part of the process works

today. A polluter, if they they've been wronged, can go to court today and find a redress of their grievances. And under this bill, in practice, you're talking about very, very long administration proceedings, you're talking about two or three different safety valves to let polluters off the hook.

And the other concern I have, in some ways an even greater concern, is under this bill it's simply too likely that the victims of a spill, whether an individual homeowner or a family or a school or a public library, won't have any ability to have the consequences of that spill paid for because DEC will be forced to be rushed into a deal and won't have any additional options.

So I appreciate the sponsor's goal. I would look forward to working with him in the upcoming session on a process to streamline, to encourage polluters to come to the table. Unfortunately, I think at the end of the day this bill doesn't have that effect.

Thank you, Mr. President.

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

Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you, Mr. President. If the sponsor will yield.

ACTING PRESIDENT O'MARA: Senator Grisanti, will you yield for a question?

SENATOR GRISANTI: Yes, I will. Through you, Mr. President.

SENATOR OPPENHEIMER: And I appreciate many of the responses you've given. But I am just really confused why the burden is being placed on the agency instead of the polluter. It doesn't seem to make any sense to me.

SENATOR GRISANTI: Senator Oppenheimer, that's actually a fallacy in the opposition paper.

To be clear, the burden is on the discharger to investigate it and on the DEC to just review the evidence.

SENATOR OPPENHEIMER: As it now stands, the DEC does the investigating and discusses the remediation. But here it seems to be the reverse, whereas the discharger just makes the claim and, you know, he is no longer culpable. And that claim cannot be visible for

much more than the 30 days that is in the bill. As we know, if it's in the groundwater, it can show up a year later.

So how do they remove themselves from the culpability in 30 days?

SENATOR GRISANTI: Through you, Mr. President. Senator Oppenheimer, the burden is on the discharger. The discharger provides a very small, through a preponderance of the evidence -- "Hey, I didn't cause this damage, I just bought the property." They have information, they have records. He provides those records to the DEC; they have 30 days to review.

Now, under this bill, the standards as they are now are so low by the DEC, the DEC will come in and say, Yeah, you know what, there's a little problem here, why don't you clean that up. Oh, you know what, there's a little problem over here, clean it up. And that goes on for years. Nothing gets done. That's why these sites are not cleaned up fast enough. That's why you have all these sites and only a few hundred that are cleaned up out of all these tens of thousands.

What we're saying is the standard is higher, so then DEC -- I mean, the standard is so high that DEC will get it done and get it done right the first time, forcing, hopefully, that more sites are cleaned up completely and not in minimal-type amounts that spread out for years.

And the way to initiate that is not wait for DEC to come into the picture, it's to have a discharger say, "I really want that property on the corner, I think I can do something with that property." He goes ahead and gets the property, he'd able to do the legwork, the investigation, takes it to DEC, says, Listen, here's what I found, can you help me out with this, I think the second property owner before me, or the third one. DEC says, You know what, we have all these new tests now, we can basically tell, through patrolling of plumes or gas spills or what you, exactly how old they are and how long it's been. Yes, I think this person, through the preponderance of the evidence so low, caused the damage, let's go after him.

And as the DEC does their review, they're going to go ahead and see what type of a spill it was. And rather than saying, "Well,

it's just the tanks in this ground over here, just clean up that for now" -- well, some of these gas stations on the corners are quite large. There could be a tank another hundred yards away. The standards are so high they're going to make you check and clean the entire area and find out damage all at once rather than in small amounts.

It just kind of moves the process along a little further, basically gets properties back on the tax roll, increases revenue, hopefully somebody opens up a business, puts jobs creation in there. And it's fairness. It protects innocent owners and properties and it holds the responsible party liable.

SENATOR OPPENHEIMER: I appreciate what you're saying, Senator.

SENATOR GRISANTI: Thank you, Senator.

SENATOR OPPENHEIMER: And I do feel that there is room for great improvement in the process. I don't think that this is the answer.

And as far as developing of properties, I think we probably have a year or two before the economy turns around and we see

people interested in once again developing these sites.

In my particular area, many of these sites have already been redeveloped because the property valuation is high and has not gone down. But I think we have time with this bill to make the changes. Because as I said, I think the economy's turn is still a little bit away, at least couple of years, and that is when I think we might start seeing development start to occur again. But thank you for your answers.

I'd like to speak on the bill.

SENATOR GRISANTI: Thank you, Senator.

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

SENATOR OPPENHEIMER: Oh, well. Many of the things we've already said. But by removing the strict liability and forcing DEC to investigate whether a third party is involved, it takes money away from the agency's program, which is to investigate and to clean up spills. And then they're in a position where they are found to be just investigating where the wrong is.

And if the DEC cannot determine who

the responsible party is within 30 days, there may be no way for the state to recoup the payments that are due them from the polluter.

As background, in any given week there can be up to 400 oil spills in New York State. Over the last four years, DEC staff levels have been reduced, as we all know, by 20 percent. And the amount of resources available to do this investigating and cleanup of oil spills has been cut in half. By removing a polluter's responsibility to pay for an oil spill, the DEC and the New York taxpayers are the ones who are going to be left to shoulder the bill of the cleanup costs.

This bill also creates a liability limitation agreement between the polluter and the state which allows the party responsible for the petroleum spill to get out of any other enforcement by the state if subsequent contamination is found at a later date. The chemical properties of petroleum allow it to move through the ground and the groundwater, making it difficult to determine the extent of the spill right away. Certainly not in 30 days.

In the past, spills have leaked from

covered pits to streams and to larger water bodies, and these leaks could potentially affect our drinking water supply.

So we know the concerns around the spill. We would like to facilitate the movement and the speed with which DEC processes these. But this is something that I feel strongly we should not be supporting. And the environmental planning lobby also considers it with a two-stack environmental assessment.

So I'll be voting no and I hope that my colleagues will be voting no also.

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

Any other Senator wish to be heard?

Senator Kennedy.

SENATOR KENNEDY: Thank you, Mr. President. Will the sponsor yield for a couple of questions?

ACTING PRESIDENT O'MARA: Senator Grisanti, will you yield for a couple of questions from Senator Kennedy?

SENATOR GRISANTI: Yes, I will. Thank you, Mr. President.

SENATOR KENNEDY: Thank you,

Senator Grisanti.

This focuses strictly on the brownfields dealing with petroleum. Is there any clause for some brownfields that deal with former laundromat sites or dry cleaning sites?

SENATOR GRISANTI: No. This bill has actually nothing to do with brownfields at all. It's strictly sites dealing with petroleum and petroleum waste.

SENATOR KENNEDY: Would the sponsor continue to yield, please, Mr. President.

SENATOR GRISANTI: Yes, I will.

SENATOR KENNEDY: These petroleum sites, would they not be characterized as brownfields under the Brownfield Act?

SENATOR GRISANTI: Petroleum sites are not -- if you're talking about the Brownfield Cleanup Program, they're not eligible for those type of sites.

SENATOR KENNEDY: On the bill, Mr. President.

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

SENATOR KENNEDY: In the city of Buffalo and in Western New York we have had many

situations caused by, quite frankly, poor decisions over the years and decisions that were out of the control of the localities, be it in the City of Buffalo, be it in the City of Lackawanna, where former steel development sites are now massive brownfield operations. And quite frankly in some areas we've had Superfund sites, as we're all well-heeled on the operation there. And trying to create economic development on these sites has tended to be very problematic.

There are sites in the City of Buffalo where developers won't come in because the site that they're looking to buy that would typically, were it not for the pollution that is on that site, they would typically be very developable and quite frankly the developers would desire to take those sites and create jobs and create a business atmosphere.

Former petroleum sites, former laundromat sites, dry cleaning sites, steel field development sites, they're all, unfortunately, now in Western New York too many to count. And we need to create an environment where businesses can come in, where it's easier for these businesses, small businesses and large

corporations alike, to get ahold of that property and to clean it up.

I quite frankly am supportive of this bill today. I believe that this is going to help enhance the ability for businesses to come into Western New York, to take some of these sites that have been articulated by the sponsor and create an atmosphere that allows them to be more developable.

ACTING PRESIDENT O'MARA: Excuse me, Senator Kennedy. Senator Grisanti, why do you rise?

SENATOR GRISANTI: Thank you, Mr. President.

Would Senator Kennedy just yield for one question?

SENATOR KENNEDY: Certainly.

ACTING PRESIDENT O'MARA: Proceed.

SENATOR GRISANTI: Okay. Senator Kennedy, I would love for you to become a cosponsor on the brownfield legislation bill that I have pending right now, because that would absolutely address the situations along Route 5, Lackawanna Steel Plant, the Superfund sites in our area all across Western New York. It's a

fantastic program that needs some tweaking. With your help, it would be fantastic because you understand the ramifications, especially in our area.

And I appreciate your support on this bill, because this bill only has to do with the petroleums. Because as you and I know, in Western New York we have a lot of empty gas stations that are sitting on corners. So if you'd like to join on that, that would be fantastic.

SENATOR KENNEDY: Through you, Mr. President, I would love to consider cosponsorship. If you want to have your staff get that bill over to me, I will absolutely read through it thoroughly once again and further consider cosponsorship.

SENATOR GRISANTI: Thank you. Absolutely.

ACTING PRESIDENT O'MARA: Senator Kennedy.

SENATOR KENNEDY: If the sponsor of this legislation would continue to yield.

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

SENATOR GRISANTI: Yes. Yes, I will.

SENATOR KENNEDY: Within this bill's language is there protections for -- the language between a developer using an LLC or a developer purchasing the property as an individual?

SENATOR GRISANTI: Yeah, there's nothing in this particular bill. I understand what you're talking about, because you're worried about the liability aspect. There's nothing in this bill that changes anything with regards to what is under current law now.

SENATOR KENNEDY: Thank you. And if the sponsor will continue to yield.

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

SENATOR GRISANTI: I do.

SENATOR KENNEDY: Just out of my own curiosity, is there a -- oftentimes here in the Senate we're dealing with extremes. So out of my own curiosity, is there a particular situation or situations that helped to spur this legislation, getting this situation moving forward as it pertains to the City of Buffalo?

Because I quite frankly can name a few in my own district that this legislation would be helpful to.

Are there areas in your district or within the City of Buffalo, Western New York, that spurred the development of this legislation?

SENATOR GRISANTI: Through you, Mr. President, there's nothing specific in my area, although I do know of, you know, the areas that are probably affected. What it was is through chair of the EnCon committee, the Gas Station Owners Associations have came to us and said that we think that this type of legislation, and we've worked at it and made some changes, would actually speed up the process.

It was actually kind of interesting, you know, Senator Oppenheimer actually read verbatim an opposition memo discussing this particular bill, of which I explained already each three of those paragraphs does not remove strict liability, the discharger is still on the hook, and if he's going to own the property and can't go ahead and make his case under that small preponderance of evidence -- and also about them having groundwater leaks, the bill makes it

easier to determine who's responsible to pay, and it protects innocent people, and the standards are a lot higher than they are now.

Those were all things that were discussed by the Gas Station Owners Association that would not only significantly help my area and your area, Senator Kennedy, and all of Western New York, but New York State as a whole. Because as I said, 16,000 spills across New York, however the cleanups are only in the hundreds. We want the cleanup numbers to be in the thousands to put these properties back on the tax rolls and increase revenue.

SENATOR KENNEDY: Thank you.

If the sponsor will continue to yield.

SENATOR GRISANTI: I will.

SENATOR KENNEDY: Can you just speak to the State Comptroller's administration and how the Comptroller's office is going to have an enhanced role in the development of the cleanup efforts with these funds?

SENATOR GRISANTI: (Pause.) I just wanted to make sure I was clear on the answer I was going to give you.

The Comptroller's role actually in this is going to be easier because of the DEC's role being easier. And reporting and doing what they have to with the Comptroller's office, their role is going to be easier and a lot faster.

SENATOR KENNEDY: If the sponsor will continue to yield.

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

SENATOR GRISANTI: I will.

SENATOR KENNEDY: Is there a expectation through this legislation that the State Comptroller's office and the office of the DEC will have a more coordinated effort?

SENATOR GRISANTI: Yes, absolutely.

SENATOR KENNEDY: If the sponsor will continue to yield.

SENATOR GRISANTI: I will.

SENATOR KENNEDY: And can you speak to that effort and how the DEC and the State Comptroller's office will have an enhanced effort in these cleanups?

SENATOR GRISANTI: By the entire process actually being more streamlined and faster will help in the work, hand in hand, with

regards to their each specific priorities with regards to cleaning these petroleum sites, by speeding up the process, it eases the burden on both the DEC and the Comptroller's office. Since you know the responsible parties are actually involved and basically who to charge.

SENATOR KENNEDY: On the bill, Mr. President.

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

SENATOR KENNEDY: As already discussed, in many areas of Western New York there seems to be a land development crisis based upon the fact that the land use prior to the land as it exists today was used for industrial purposes, was used for purposes of petroleum sites, gas stations, et cetera, steel field developments. And as I already mentioned, some of the smaller brownfields -- and they are characterized as brownfields -- are the dry cleaning sites and are the laundromat sites. And because of this, because of their past use, the ability of these areas to gain footing and to move forward and be developed is often hamstrung.

So we want to create an atmosphere

on these sites as well as all of these sites. So I look forward to working with the sponsor of this legislation in enhancing the ability for the developers in Western New York in our districts, as well as all of New York State, to have an easier, more streamlined ability to clean up these sites and to help to spread the burden that exists on redeveloping these sites to enhance job growth and opportunities all across Western New York and all across New York State. And I will be voting in the affirmative.

Thank you.

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

Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President. On the bill.

I appreciate that Senator Grisanti has answered each and every question. I intend to vote for this bill. I think it gives a quick and expeditious way to find the tortfeasor, if you will, find the person responsible for the spill. As Senator Grisanti pointed out, too often we look at gas stations closed at the end of the street, thousands and thousands across the

state. This gives us a quick and able way to get that gas station back in operation, find out the people responsible for the oil spill, and satisfy all parties and increase and enhance economic development.

I intend to vote in the affirmative.

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

Seeing no other Senator wishing to be heard, the Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT O'MARA: Announce the results.

THE SECRETARY: In relation to Calendar Number 1046, those recorded in the negative are Senators Addabbo, Avella, Dilan, Duane, Espaillat, Gianaris, Hassell-Thompson, Huntley, L. Krueger, C. Kruger, LaValle, Montgomery, Oppenheimer, Parker, Peralta, Perkins, Rivera, Serrano, Squadron, Stavisky and

Stewart-Cousins. Also Senator Sampson.

Ayes, 40. Nays, 22.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 1111, by Senator Saland, Senate Print 5560, an act to amend the Executive Law.

SENATOR BRESLIN: Explanation.

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

SENATOR SALAND: Thank you, Mr. President.

Mr. President, this is certainly a relatively simple bill. As I believe everybody in this chamber is aware, we have and have had since 1996 a DNA database. And over the course of the following 10 years or so, that DNA base was expanded from originally convictions for homicides and certain sex-offense felonies to include all felonies and certain enumerated, 18 enumerated misdemeanors.

What this bill does is to say that DNA testing will be required upon conviction of any crime. The bottom line is that currently --

ACTING PRESIDENT O'MARA: Excuse

me, Senator Saland {gaveling}.

Could we please have some quiet in here so we can hear the Senator's explanation of this bill.

SENATOR SALAND: Thank you, Mr. President.

The bottom line is that currently only about 46 percent of crimes are covered under the existing construct. I believe everybody understands that DNA is an extraordinarily valuable tool to resolve not only current crimes but so-called cold-case crimes. It has been used very effectively.

There's a legion of unfortunate stories about individuals who have been the subject of cruel and heinous and violent crimes who, had their perpetrator been required to have given a DNA sample during the period of time preceding, when he or she may have committed misdemeanors, that violent crime might not have occurred because previously this same person committed a violent crime that was being handled as a cold case or an unresolved case. So but for the fact that there was no DNA testing available on the occurrence of the misdemeanor, that person

went on to commit yet further violent felonies.

There's certainly readily half a dozen to 10 cases that have attained much public attention. And I would simply point out that there have been, just on the misdemeanor petit larceny, there have been 845 hits on offenders, and those offenders have been linked to 41 murders, 202 sexual assaults, 100 robberies, and 360 burglaries.

This measure is a measure that is truly long overdue. And it piggybacks on a debate perhaps that we had a bit earlier, in which we all alluded to the importance of public safety, perhaps defining how we got to that public safety differently.

But I would certainly hope we can all agree that with regard to this tool, which is a very nonintrusive tool -- which is today what the advent of investigations through the use of fingerprints was tens and tens of years ago, this is a very credible, scientific tool that is both a shield and a sword. It is a sword at times to aid in prosecutions; it is a shield at times to assist those who have been wrongfully accused.

Thank you, Mr. President.

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

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President. On the bill.

ACTING PRESIDENT O'MARA: On the bill.

SENATOR HASSELL-THOMPSON: Currently, only 40 percent of Penal Law crimes are eligible for DNA collection. And simply put, the bill that you're proposing would require that any person convicted of any felony or misdemeanor be required to provide a DNA sample after conviction. In turn, this sample would become part of the criminal database maintained by the State of New York. Thus DNA recovered at the crime scene could be compared to the criminal DNA database, and then any hits or matches that may occur could be used as evidence against a suspect and a defendant.

I buy that. But I think that the serious debate is not whether or not we should expand the DNA database, but rather, because DNA is the wave of the future and is in general liable and powerful evidence that helps law

enforcement solves crimes and helps district attorneys convict wrongdoers -- but any DNA bill could cut both ways. It should help us to convict the guilty, but it also be equally accessible to people wrongfully convicted of a crime.

This bill does not establish the minimum time that forensic samples of blood tissue and other biological materials should be maintained by the forensic scene investigators. And we also need to create standards that govern the timing of the destruction of DNA material.

This bill also does not provide transparency. Often individuals wrongfully convicted are not aware of what material investigators have removed from the crime scene or where such evidence is being stored. This leads to unnecessary discovery litigation and imprisonment.

We need a bill that allows people with standing the right to know what evidence was collected at the crime scene and where it's being stored, when it is appropriate to destroy the DNA samples collected, and we need to know who should be notified when the samples recovered at the

crime scene are being destroyed.

We also need a bill that looks at this issue from both the perspective of both the defense as well as the prosecution. Legislation is supposed to be about justice. False confessions. What have we learned from false confessions? What have we learned from people who confess to very serious crimes only to be exonerated by DNA evidence?

Access to DNA testing should be available to any prisoner who can show the court that a verdict or a plea bargain may have been different had the defendant had access to the DNA. There are many experts that talk about the issue of false confessions and how DNA testing has proven that some people confess to crimes that they did not commit. We need a bill that requires the police to electronically record custodial interrogations of suspects. We need a bill that includes this important piece: What happens to the DNA? When a person gives a DNA sample to law enforcement and is proven innocent because of the DNA, what happens to the sample? Is it destroyed? Is the sample returned to the individual who gave it? Should the police be

allowed to keep the sample?

We need a DNA bill that addresses issues of privacy and ethics. The bill that I had produced, interestingly enough, was a better bill. But you chose not to support that bill because it required that all defendants convicted of a crime provide DNA samples but also it gives them greater access to prove innocence where appropriate. It improves the procedures concerning the preservation and destruction of DNA evidence and amends the composition of the forensic commission to help prevent wrongful convictions and improve police procedures.

That's the written text of my presentation. But let me say, in conversations with several DAs around this state, and particularly from the DA in the Bronx when he called my office to ask us were we going to move the bill because of his belief of what DNA can do in terms of the many cases that come before his office. And my question to him was, "What bill are you talking about?"

Well, unfortunately I was not able to say to him that this bill would go anywhere. It won't go anywhere because it doesn't have --

it does not have an Assembly sponsor. And yet he said, "Well, what do we have to do to get your bill moving?" And I said, "Well, you'll have to talk with Senator Saland and some of the others who are putting forth a bill."

Because one of the things that needs to be negotiated is that this is not just about prosecution. Justice is not about one side versus another. Justice is about access by both sides to the same amount of evidence and to ensure that we reduce the numbers of people who end up in prison innocently and who spend 26 to 30 years of their lives convicted of crimes that they never committed.

I am as anxious as you are, Senator Saland and others, to make sure that we have a DNA database that is appropriate, because I believe that those that commit crimes should do the time. But I also believe, because of the work that I've done with the Innocence Project, I know that there are too many people who admit to crimes under pressure by DAs and by full calendars of the court. They are pressured to accept pleas that have nothing to do with innocence.

And so therefore, Senator Saland, I would have hoped that you would have worked with me more closely to put in a bill that would have shown that we really are about justice in the State of New York and not just the things that pander to the needs of the district attorneys and the prosecution in the State of New York.

Thank you, Mr. President. And I will not entertain questions.

ACTING PRESIDENT O'MARA: Thank you, Senator.

Senator Klein is next on the list.

Senator Duane, why do you rise? Just to speak? You'll be next.

Senator Klein.

SENATOR KLEIN: Thank you, Mr. President.

I rise in support of this legislation. And I think it's a very important first incremental step. But it's unfortunate, when we look at the whole issue of DNA evidence, we're taking very small steps.

I support legislation which I passed in this house last year which would have not only expanded DNA for all convictions in New York

State but also those for serious felony arrests as well.

One of the things that I think we have to wrap our arms around is that DNA is not any more intrusive than fingerprints. It's the fingerprints of the 21st century. And it's virtually foolproof in making sure that we not only convict those who commit horrible crimes but also exonerate the innocents.

So I think one of the things that we have to be mindful of, that we're very, very behind the times here in New York State. And because of our inability to expand the database pool beyond just felony convictions, we're causing the number, which is a very large number -- 38,000 unsolved crimes in New York which we know about because other states know that there's other matches which we're unable to do.

One of the things we see time and time again, if we can collect DNA upon arrest or upon conviction, we will be able to prevent crimes. Because we see very clearly that in many cases sometimes these criminals start off with a misdemeanor. If they're in the database, we can

actually catch them when they commit other misdemeanors or more serious crimes.

So I think one of the things we have to do first -- and I heard Senator Thompson, and I agree with her wholeheartedly that we have to do some of that work also. But the problem is the constant joining of these two issues together ensures we never get anything done. So I think we need to handle the DNA issue separately, make sure we expand our pool as much as possible so we can get those hits and solve crimes, and at the same time ensure those who are arrested don't have forced confessions and have the videotapes and all the other things that the Innocence Project wants to do.

So I commend Senator Saland. And I'm hopeful that at least in this legislative session we can take the first small step, and I do think it's a small step, to at least collect DNA upon all convictions, both felonies and misdemeanors.

I vote yes, Mr. President.

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

Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

I was torn about this issue, and I had to think long and hard about it. You know, on the face of it, you know, it seems as if, well, this legislation makes a great deal of sense. But it doesn't make enough sense, I believe, in the context of what is happening in our criminal justice system in general. And my colleague Senator Ruth Hassell-Thompson really laid out some of the very important concerns surrounding that.

And sadly, I also believe that because of the way, sadly, we operate, it is difficult to join together different points of view in a way to make a bill that would satisfy everyone's best intentions.

I would say, gee, if we did have this legislation it might make it easier to, you know, exonerate those who have been falsely convicted and falsely imprisoned. And, you know, I realize I'm going to repeat some of what has been said. And that would -- of course I would very much like to see that happen. I've seen the warehouse in New York City where a tremendous

amount of untested DNA is just sitting around. I don't know, where are we going to keep this DNA? How are we going pay for it? Who's going to have custody of it? There's going to be battles over whether it's kept locally or on the state level and what we do with it nationally.

And I know that the perfect shouldn't be in the way of doing good things, but I think if you put that together with other reforms of our criminal justice system, that it would not have this enormous cost. I mean, this would cost a tremendous amount of money. And I'm not sure that it is going to provide the protection, because I don't think we'll be able to do it. And even if we could, I don't think it's going to provide the protection for people that it could appear to be promising.

And, you know, our best science in criminal justice calls for sequential lineups and videotaping of questioning of suspects. And we know that there are errors in nonsequential lineups. We know that there are errors with false confessions. We know that there's a problem with I guess what you would call people who are incarcerated who trade on getting better

treatment by not telling the truth about other people who are incarcerated. And all of these things are being left unaddressed.

And my fear is that we say, Oh, you know, we did this and now, you know, our work is done. But that's not true. And I don't even believe that we can get this work done.

So well-intentioned though this legislation is -- and I think I hear everybody say that -- there are other things that need to be done which should be done before this. And using our best science, and with the best resources and coordination that we can find, we could make a better system of DNA collection that would protect citizens and also make sure that people are not falsely imprisoned.

So after much thought, of which now you've heard some of it, I'm going to encourage my colleagues to vote no on this legislation, with the hope that we can work together and come up with a more comprehensive piece of legislation that would really help protect New Yorkers more.

Thank you, Mr. President.

ACTING PRESIDENT O'MARA: Seeing no other Senator wishing to be heard, the debate is

closed. The Secretary will ring the bell.

Oh, excuse me. Back up a second. Senator Saland.

SENATOR SALAND: Briefly to close.

First I'd like to clear up any misconception that there's no Assembly sponsor to this bill. This bill is being sponsored by Assemblywoman Amy Paulin in the Assembly. It's been introduced, and it is a two-house bill.

And just several other things I think just simply bear mention. The data is all stored through the State Police lab in Albany. There are no capacity questions. I don't know why we would want to limit the duration of the storage of that data. In some instances it may lead to successful prosecutions. In some instances, at the very least, it may help very aggrieved families to have closure.

And unlike fingerprinting -- I think we all recognize fingerprinting occurs on arrest -- this only occurs after conviction. And the information is available by way of motion practice to a defendant through, obviously, his or her attorney.

So while certainly there are issues

that are raised in the context of the Innocence Project, those issues should not be married to this bill in an effort to do what we do so frequently here in Albany, is piggyback issues that are not necessarily related one on top of another, in order to try and secure some strategic advantage.

This is a freestanding bill. It speaks for itself. The issues that relate to the Innocence Project similarly speak for themselves. They warrant consideration. That's not what's in front of this house at this time.

Thank you, Mr. President.

ACTING PRESIDENT O'MARA: Thank you, Senator.

Debate is closed. The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT O'MARA: Senator Hassell-Thompson to explain her vote.

SENATOR HASSELL-THOMPSON: Yes, Mr. President, thank you.

The only comment that I would like to make is that I heard at the end of Senator Saland's statement that the Innocence Project has its own agenda. And that may be true, but I think that the real agenda here ought to be about justice.

And I don't see any justice that gives an advantage to the prosecution over -- you know, because the Constitution talks about equal access. And I think that if we're going to do a DNA bill we ought to do one that allows equal access both by the defendant as well as the prosecution.

So thank you, Mr. President, but I will be voting no.

ACTING PRESIDENT O'MARA: Senator Hassell-Thompson will be recorded in the negative.

Senator Perkins to explain your vote.

SENATOR PERKINS: Thank you. I just want to take a moment to explain my vote.

I want to make reference to a

wrongly convicted man who was recently released from prison after -- his name was Newton, Alan Newton. He was a constituent of mine and spent 18 years in -- 20 years in jail because they could not find his DNA after his lawyers had requested it. And it just seems to me that this type of mistake that extended his time in jail, even though he was innocent, gives me pause to realize that this type of legislation needs to have some additional improvements before I can actually be able to support it.

So in that regard, I vote nay in honor of Mr. Alan Newton and the unfortunate experience that he had to go through.

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

Senator Stavisky to explain your vote.

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

Number one, it's not only to protect the guilty, to provide DNA, but the innocent as well. Secondly, it's on conviction, not on arrest. And the third point that I think is significant is that we already collect

fingerprints. And for these reasons I vote aye.

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

Senator DeFrancisco to explain your vote.

SENATOR DeFRANCISCO: Yes, I'm going to vote aye, and I don't have to say anything because Senator Stavisky put it right on the money. She explained it precisely.

But I will just say, as far as Senator Perkins is concerned, he complained about the DNA and how it -- because it was lost, it prolonged his time in jail. I suppose that if there was no DNA, he'd probably still be there because the DNA evidence can exonerate people. And under this bill, the DNA evidence can exonerate people because defendants, by motion to the judge, can get the DNA sample.

This is really a good bill and it's something that we all should support.

I vote aye.

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

Senator Grisanti to explain your vote.

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

I would like to commend Senator Saland for actually bringing this to our attention. In our area, Western New York, we had two very high-profile cases, the gentleman spending over 18 years in jail, another lady about 10 years in jail for crimes that they did not commit. And had this information been there prior, it may not have happened.

The bottom line is is that, you know, it's -- out of felony cases, it's a $50 fee. Whatever the fee is or whatever it is, it does, it protects the innocent as well. So that's why I vote aye on this bill.

Thank you, Mr. President.

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

Announce the results.

THE SECRETARY: In relation to Calendar Number 1111, those recorded in the negative are Senators Dilan, Duane, Espaillat, Hassell-Thompson, Huntley, Montgomery, Parker, and Perkins.

Absent from voting: Senator

Fuschillo.

Ayes, 53. Nays, 8.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 1142, by Senator DeFrancisco, Senate Print 4749, an act to amend the Social Services Law.

SENATOR BRESLIN: Explanation.

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

SENATOR DeFRANCISCO: Yes. This bill does a radical thing. It basically says that if you're on Medicaid and your copay -- it's either a dollar, $3, or $6 per prescription -- that copay has to be paid before you can get your prescription.

It's just sort of like people who are on insurance policies where, to get their prescriptions, they've got to pay a copay. And I think it's fair, if people who are paying for their insurance have to pay their copay, I believe that people who the state is providing their insurance for should pay much more nominal copays in order to get their prescription drugs.

ACTING PRESIDENT O'MARA: Senator

Liz Krueger.

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

ACTING PRESIDENT O'MARA: Senator DeFrancisco, do you yield for some questions?

SENATOR DeFRANCISCO: Yes, I would.

SENATOR KRUEGER: As you just explained, this is for people who are on Medicaid and Child Health Plus, state health insurance. May I ask what the population difference is between people who are on these programs and everyone else who has health insurance in New York State?

SENATOR DeFRANCISCO: I don't know how many who have health insurance. But I do know that there are approximately -- prescription drugs are filled for approximately 4 million New Yorkers on an annual basis.

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

SENATOR DeFRANCISCO: Yes.

SENATOR KRUEGER: Thank you.

Perhaps I didn't ask my question correctly. There are several million New Yorkers who unfortunately don't have health insurance at

all. There are several million New Yorkers who are on Medicaid and Child Health Plus. And then there are the remaining millions of New Yorkers who are on private insurance. What's unique about the population receiving Medicaid and Child Health Plus?

SENATOR DeFRANCISCO: Absolutely nothing. Absolutely nothing. Because pharmacists can now say to people who are on insurance, "We're not going to get you your prescription until you pay your copay." But with Medicaid, according to the policy as it exists right now in the State of New York, the pharmacist cannot deprive the Medicaid recipient of their prescription until they pay their copay.

So there should be nothing different, but there is something different that has to be corrected.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT O'MARA: He continues to yield.

SENATOR KRUEGER: I'll answer my

question and then follow up the question.

The difference is these people are exceptionally poor. That is the definition of eligibility for these programs. Oh, they may also be exceptionally ill. And statistically, they are more likely to be sicker, because it correlates to poverty being an indicator of poor health. Or in fact a medical emergency may have driven them into eligibility for Medicaid and/or Family Health Plus, Child Health Plus.

So they are statistically much poorer than the rest of New Yorkers. And in fact if you do household budgets, you can actually see that they may have a negative income, that their income per month, which may be a combination of very low wage work, some disability benefits, perhaps a public assistance benefit, and perhaps food stamps, which can't be used for anything but food, that that actually adds up to less than their rent, basic food needs, transportation, health costs, including prescription drugs.

So my question to the sponsor is, you have prescriptions. You might have one, you might have five. At the same time, you have a negative income. The doctor has told you you

need these drugs, your child needs these drugs, your disabled elderly mother needs these drugs. But you don't have perhaps the $3, the $6, or the $30 if it's five other six prescriptions at the same time.

What would the sponsor have these people do?

SENATOR DeFRANCISCO: First of all, the copay bill does not apply to children or disabled people.

Number two, the federal government does say that we can require copay in this type of situation. And I don't think anybody in the federal government is draconian in any way.

And let me tell you a little story that happened to me. I happen to take prescription drugs, and I was at my pharmacy. It was freezing outside. I got out of my car and walked to the pharmacist to go pick up my prescription. And as I was waiting, there was a big SUV in the drive-in lane getting this woman's prescription drugs. And because it was cold out, and this woman just didn't have enough -- well, she didn't want to walk from the car like I did in the cold weather. She sat there in her SUV

burning gasoline that apparently she had the money to pay for while she's waiting for her drugs to be handed to her.

When the pharmacist said the copay is $3, she said no. And the pharmacist said, "What do you mean, no"? She said, "Because I don't have it." He says okay. So I asked the pharmacist, I said, "What in god's name is that all about?" He said, "The State of New York will not allow us to withhold the drugs until she pays."

Now, you can give the most heart-wrenching stories about people, but there are many people under those circumstances that have the wherewithal to pay their $1, $3 or $6 copay. And it's so bad, it's so epidemic that in New York City 90 percent, 90 percent of the people don't pay their copay for prescription drugs. Overall in the State of New York, 50 percent overall. So obviously upstate has less poor people, apparently, because there's only about 25 percent that don't pay the copay upstate. But in New York City, 90 percent. It's amazing, when the economy is so much better in New York City, that more people, almost all

people don't have the money for their copay.

Well, let me tell you some numbers. The $4 million, there were 4 million people that we're talking about, let's suppose they just didn't pay their $1 copay for their monthly prescription for 12 months. That's $12 for these 4 million people. That comes out to $48 million. If 50 percent don't pay those $48 million copay, $24 million is not being paid because the people in the State of New York, the pharmacists, are not allowed to demand the copay. Whereas someone who paid for their insurance has to pay that copay before they get their drugs.

We have a problem with Medicaid. We're spending like crazy. That money is eating away money for education and everything else. So I'm sure there's some heart-wrenching stories, but it doesn't apply to disabled or children. And if people in upstate New York can pay their copay, so can everybody else. And this is only fair, and it's only right to do this.

And that's why the bill is here, and this is something I'm going to advocate for strongly during the next budget negotiations if

this bill isn't passed over the next couple of days during these last days of session.

SENATOR KRUEGER: Thank you, Mr. President. On the bill.

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

SENATOR KRUEGER: I don't know the story near Senator DeFrancisco's home with an SUV. I think conceivably it's not so different than the stories about the millionaires in prison or the welfare-queen stereotypes.

I know the statistics of who is on Medicaid and Family Health Plus in New York. They are poor. And if he says there's a lower rate of copayment in New York City, I will actually make the argument to him that actually the poor in New York City are disproportionately poor. Poorer. The irony of my city is to some degree we're becoming a third-world city, a city of the wealthy and a city of the extremely poor.

Our rate of demand for emergency food is skyrocketing -- families who cannot get enough food to feed their children, who line up at pantries and soup kitchens for whatever anybody might be offering. They can't pay their

rent. The number of people in our housing courts dealing with eviction threats because they do not have the money to pay their rents is skyrocketing. Our rate of homelessness is off the charts.

I wish that people had jobs that met their basic needs. But even among the employed we have homeless, we have people lining up at their church food pantries, we have people who cannot pay their prescription drug costs. And what the research shows is that when you mandate copayments -- and I accept a dollar, $3, $6 may not mean much to Senator DeFrancisco or myself. And even if we had five prescriptions at the same time, it might not mean that much in our daily lives or our budgets --

ACTING PRESIDENT O'MARA: Excuse me, Senator Krueger.

Senator DeFrancisco, why do you rise?

SENATOR DeFRANCISCO: Yes, I was wondering if Senator Krueger would respond to a question.

ACTING PRESIDENT O'MARA: Senator Krueger, will you yield for a question?

SENATOR KRUEGER: Certainly. I'm happy to yield.

SENATOR DeFRANCISCO: You indicated that the research shows. What research are you talking about?

SENATOR KRUEGER: The research on poverty statistics in New York City, the percentage of the population that are at varying cohorts of the rate of poverty. You can be poor by being at a hundred percent of the poverty rate; you can be poor by being at 50 percent of the poverty rate.

And in fact the statistics show that New York's poor are getting poorer in relationship to a federal poverty line. Our rate of eligibility for food stamps continues to grow. Our participation in the food stamp program continues to grow. Our unemployment rate, yes, is high throughout the State of New York. And in fact there is rural poverty that parallels, in percentage, the rate of poverty.

And I could get you materials from the Census Department. The Community Service Society of New York City does statistics. The

mayor actually has his own Poverty Research Institute. There's some national statistics. The Center on Budget and Policy Priorities does comparative data. New York State specifically has the most extreme range between poverty and wealth of any other state in the country. I don't have the reports on the desk now, but I can certainly get them for you today. They are all accessible on the computer.

And again, to some degree I speak from the experience of the fact that I spent 20 years running antipoverty programs in New York City, started the New York City Food Bank, worked with emergency food providers pretty much my entire adult life, and even just today was working on their behalf to try to make sure the state funds for emergency food moved out as quickly as possible because they are showing skyrocketing demand statewide for emergency food.

The funding for the emergency food program that we put into the budget has not yet moved, and summer is a disproportionately tough time for hunger and for emergency food providers because the children aren't in school and aren't

getting the federal breakfast and lunch program every day.

So I would be happy to get the Senator as much research as I can pull together this afternoon.

But on the issue of copays, again assuming we accept that there are a disproportionate number of poor and ill people who don't have the money for copays, the national data also shows that cost containment for prescription drug strategies in fact shows that when you make mandatory copayments you actually see decreases in the uses of the drugs by the ill, having negative health consequences.

I'm referencing right now a Kaiser Family Foundation Report which is a review of the research and shows that low-income patients may also have the effect of reducing the use of necessary drugs when there are mandatory copayments. They reference the Center for Studying Health System Change analysis of Medicaid and copayments: a reduction in beneficiary access to needed drug therapies. They reference studies in South Carolina. Patients reduced their use of medications when

faced with mandatory copayments. Long-term effects were clearest for cardiovascular, cholinergic, diuretic and psychotherapeutic drugs. Use of these drugs declined significantly. Patients were more likely to reduce the use of drugs for hypertension and other conditions where the effect of reducing or discontinuing the use of medication was less obvious to the patient but significant from a clinical perspective.

People who can't afford to pay copayments -- in a perfect world, I would like to see national health care with some model for shared costs based on a scale of income. We don't have that system. I know that. But again, we're talking about preventing some of the poorest and sickest New Yorkers from potentially getting life-saving drugs.

And by the way, the research also shows when you don't get sick people the drugs prescribed, on the theory, perhaps, that you save -- I think you said $24 million annually? I don't want to misspeak, but I believe you said that number.

SENATOR DeFRANCISCO:

Conservatively.

SENATOR KRUEGER: Conservatively $24 million annually. It doesn't take that long to spend way more than that in hospital care for patients who, without the drugs, don't have their healthcare problems addressed at the beginning of a sickness stage. They don't end up having, for example, to rush to the emergency room because their child has an asthma attack, while if they had been able to get the asthma drug, it would have been much less likely that the child ever would have ended up in the emergency room, perhaps much less likely that the older person with a heart problem ended up in the emergency room with a heart attack.

There's cause and effect in healthcare. And decreasing poor or sick people's ability to get the drugs that have been prescribed by physicians doesn't translate to lower health costs when they get sicker and end up in our hospitals and needing more intensive healthcare services afterwards.

I think this is a proposal that if it became law would end up costing the State of New York more in healthcare costs. And again, I

would urge my colleague, who I have enormous respect for, to reconsider his position on the bill based on research findings from healthcare and from statistics on who is receiving these programs and their income level.

I would urge a no vote. Thank you.

ACTING PRESIDENT O'MARA: Senator DeFrancisco.

SENATOR DeFRANCISCO: The copay requirement would not apply to individuals under 21 years of age. So the heart-wrenching discussion about the child being brought to the emergency room, children's drugs are going to be provided.

Pregnant women would be provided, individuals that are inpatient in medical facilities or residents of community-based residential facilities for mental health or Office of Mental Retardation and Developmental Disabilities, individuals enrolled in health maintenance organizations.

So you know, we could make an argument that the poor people are needy of this. But, you know, we just cut the reimbursement rates to pharmacies because the costs of drugs

are so high. We cut the reimbursement rates for pharmacies and then ask them to eat, conservatively, $24 million because people who don't fit in these categories are using their money for something other than necessary drugs.

And the thing -- you know, the pharmacies have to remain open in order to provide drugs to these people with all these disabilities. And at some point in time you got to recognize that what's fair for someone paying insurance -- namely, paying copays -- is also fair for those who are provided the best insurance coverage in the state, usually better coverage than most people who pay for their own insurance.

If we were in a vacuum and all we had to worry about is one group of individuals, what Senator Krueger says is correct. But when our Medicaid bills are going up higher and higher, when we're cutting rates to pharmacies, for example, something has got to give. Something has got to give. And unless we look hard at some of these areas, we're not going to find the savings we need to make the Medicaid system work and not make it bankrupt us in the

State of New York.

And so for those reasons, I would hope that there would be logic behind this decision and that there would be a unanimous vote, except for Senator Krueger, on this important legislation. Thank you.

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

SENATOR KRUEGER: Just one more quick statement. And again, in respect for my colleagues's rightful concern about not penalizing the pharmacists.

I certainly agree that we need to focus heavily on ensuring that we have an adequate and fair reimbursement rate to pharmacists. And I think that the State of New York, if it recognizes the importance of ensuring that when drugs are prescribed by physicians as needed by people who are ill, and those people are on a government health insurance program, that we should keep the pharmacy and the pharmacist whole.

And I would be happy to work with Senator DeFrancisco on a proposal that did that. Thank you.

ACTING PRESIDENT O'MARA: Seeing no other Senator wishing to be heard, debate is closed. The Secretary will ring the bell.

Will the Senators please expeditiously return to the chamber so we can get this vote completed.

ACTING PRESIDENT MARTINS: Read the last section.

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

ACTING PRESIDENT MARTINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MARTINS: Announce the results.

THE SECRETARY: In relation to Calendar Number 1142, those recorded in the negative are Senators Avella, Breslin, Diaz, Duane, Gianaris, Hassell-Thompson, Huntley, L. Krueger, C. Kruger, Montgomery, Oppenheimer, Parker, Peralta, Perkins, Rivera, Serrano, Squadron, Stavisky and Stewart-Cousins.

Absent from voting: Senator Fuschillo.

Ayes, 42. Nays, 19.

ACTING PRESIDENT MARTINS: The bill is passed.

THE SECRETARY: Calendar Number 1206, by Senator Libous, Senate Print 2466A, an act to amend the Highway Law.

ACTING PRESIDENT MARTINS: Read the last section.

SENATOR BRESLIN: Explanation.

SENATOR LIBOUS: Thank you, Mr. President.

This is a great bill. And, my colleagues, your constituents -- let me repeat myself, Mr. President. This is a great bill, and your constituents are going to love it.

What this bill does is, very simply, if you have traveled in the State of Pennsylvania on their highways, you notice that their exits coincide with the mileage markers. So if you get off on a particular highway, like the -- Mr. President. Mr. President.

Mr. President, I'm having a difficult time hearing myself.

ACTING PRESIDENT MARTINS: Senator Libous, you're absolutely right. If we can have order in the house.

Please continue.

SENATOR LIBOUS: Thank you, sir.

If you travel in the State of Pennsylvania and you're traveling, say, on the turnpike, if you are at Mile Marker 100, the next exit that comes up would be Exit 101, and so forth. The emergency service personnel love this because it's easier to track people down, it's easier to report an incident that takes place.

But of course we don't have it in New York State. Now, I know the question that's going to be asked today, Mr. President, is that how much does it cost. And it does cost money. But this bill doesn't cost any money. What this bill does is set up the framework to do this system, subject to appropriation. Which means whether it's next year's budget or the year after, whenever money is available.

Now, we have spoken to the Department of Transportation. As many of you know, I had the honor and pleasure of being chairman of that committee for a couple of years and got to know the folks there and understand a little bit more about our transportation system. We have figured out a way that we can do this for

less money, when the time comes, by using the existing signs. And we think it can be done at a far less cost.

So the concept here is to set up the mileage marker exit program in New York State. It's one that the emergency personnel and police officers think could be very effective. This bill, passing this bill and having it signed into law will cost us nothing. It is subject to appropriation.

ACTING PRESIDENT MARTINS: Thank you, Senator.

Senator Farley.

SENATOR FARLEY: You know, I rise in support of this bill. This is something that is being done all over the nation. States on their interstates are doing a mileage situation as opposed to the sequential number. It's a good bill. It's one that makes sense. A person knows how far it is to the next exit. Emergency personnel, so many like it.

It's a bill that we should have done a long time ago. I applaud you, Senator Libous. It's a good piece of legislation that really brings us into the era that everybody is doing.

Florida has done it, so many states are doing it. And I support the bill.

ACTING PRESIDENT MARTINS: Thank you, Senator Farley.

Senator Krueger had risen for an explanation. Senator, my apologies. Please continue.

SENATOR KRUEGER: I was happy to let Senator Farley go first.

ACTING PRESIDENT MARTINS: Thank you.

SENATOR KRUEGER: If the sponsor would yield, please.

SENATOR LIBOUS: Yes, Mr. President.

SENATOR KRUEGER: Thank you.

I also think this is a very good bill, so I share Senator Farley's opinion. But I do have two questions.

One, just conceptually, so if I live near Exit 14 of the New York State Thruway, that could conceivably become Exit -- I don't know the numbers, but several hundred -- I mean, in the hundreds.

SENATOR LIBOUS: Mr. President,

through you of course. Senator Krueger is actually correct. And I'm not sure if the Thruway starts coming out of the city or if it starts if Buffalo. I'm assuming it comes out of the city.

So let's assume that the Ramapo, Senator Carlucci, the Ramapo exit right now is -- what exit would that be? 14. It might be Mile Marker 29 or Mile Marker 56. So it would then be changed to whatever that mile marker is. So instead of 14, and if it was Mile Marker 60, it would be Exit 60.

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

SENATOR LIBOUS: I certainly would.

SENATOR KRUEGER: Thank you.

So if I got on at what was 14 and now might be 45, and I was coming to Albany, so I got off at what is now Exit 23, it could now be 45 plus 120 miles?

SENATOR LIBOUS: It could be Exit 196.

SENATOR KRUEGER: Okay. One more question, if the sponsor wouldn't mind,

Mr. President.

ACTING PRESIDENT MARTINS: Would you continue to yield?

SENATOR LIBOUS: For Senator Krueger, I would be honored to yield.

SENATOR KRUEGER: Thank you.

Since we spent quite a bit of time discussing the Highway and Bridge Trust Fund -- and I completely understand this is a bill that does not have appropriation language -- is it the belief that in a future year we would take money from the Highway, Bridge and Road Trust Fund to pay for this change in the signage?

ACTING PRESIDENT MARTINS: Can we please have some order in the house.

Senator Libous, did you hear the question?

SENATOR LIBOUS: Yes, I did, Mr. President.

Mr. President, through you. Senator Krueger, it would not be my belief or intent, because as you know, my feeling is that the trust fund is broke. And as we debated I think a couple of days ago about putting the penny in, I want to do that because the fund is broke and it

doesn't go to road and bridge repair.

So my intent -- and I would hope never to bring before this house a proposal to do that. We have talked with DOT. DOT believes that at some point in time they can put together something very similar to a five-year plan, or maybe in the next transportation plan. We don't expect to do this in one year. This may take four or five years. Because obviously, when it takes place, you're going to have to make sure that people know that Exit 40 is now Exit 196 and you can't just come at night and change it.

So no, it is not my intent to take anything out of the dedicated fund, and I don't believe DOT would do that. And it would be subject to an appropriation made by this body, Senator Krueger, at some point in time in the DOT budget or the plan.

SENATOR KRUEGER: Thank you. I'd like to thank the sponsor for his answers. And I would like to vote for this bill.

Thank you, Mr. President.

ACTING PRESIDENT MARTINS: Thank you, Senator Krueger.

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 4. This act shall take effect immediately.

ACTING PRESIDENT MARTINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MARTINS: Senator Squadron to explain his vote.

SENATOR SQUADRON: Thank you, Mr. President.

This is really a very positive bill. I'm very supportive of it. If you've ever driven in a state that has this, it's a whole lot easier to get around.

And I think it's important to note that we're not going to have to pay for this until the dollars come. Hopefully federal dollars would come to do it.

I have just two outstanding questions. If you have two exits in the same mile, how would you number them? And can't we probably save signage on the Thruway entirely,

because every exit I see has both the exit number and then tells me how many miles to the next exit. We'll no longer need that.

So I vote yes, Mr. President.

ACTING PRESIDENT MARTINS: Thank you, Senator.

Senator Rivera.

SENATOR RIVERA: Thank you, Mr. President.

I stand to speak on this bill because it is unlikely that I will say this very many times in the Senate: I agree wholeheartedly with Senator Libous.

This is an excellent bill, and I will be voting in the affirmative.

ACTING PRESIDENT MARTINS: Thank you. Senator Rivera will be recorded in the affirmative.

Any other Senator wishing to be heard? Announce the results.

THE SECRETARY: Ayes, 61. Nays, 0. Absent from voting: Senator Fuschillo.

ACTING PRESIDENT MARTINS: The bill is passed.

THE SECRETARY: Calendar Number

1207, by Senator Bonacic, Senate Print 2544, an act to amend the Real Property Tax Law.

SENATOR BRESLIN: Explanation.

ACTING PRESIDENT MARTINS: An explanation has been requested.

SENATOR BONACIC: Thank you, Mr. President.

This particular legislation repeals subdivision 3 of Section 420A of the Real Property Law to add a new subdivision 3 to provide that vacant or otherwise unimproved land shall only be tax-exempt if concrete and definite plans for utilizing the property are done within seven years.

What we're trying to do is to prevent the continued abuse of land banking on tax-exempt lands. What we've seen is a proliferation of more tax-exempt organizations in charitable, education and religious.

Now, back in 2000, one out of three parcels in the State of New York were tax-exempt, and it amounted to over $4 billion of tax-exempt property where no taxes were collected. And when no taxes are collected, that gets shifted to everybody else that pays taxes. That was back in

2000. In 2009, that is now over $8 billion. It is not sustainable.

We have struggled in this chamber, both when we were in the majority, when the other side was in the majority. And I remember Senator Klein tried to do circuit-breaker legislation to try to help people with property taxes, and homeowners. Well, this is the other side of the ledger, where we can help homeowners by trying to cut out the abuses that's happening in tax-exempt properties.

ACTING PRESIDENT MARTINS: Thank you, Senator.

Senator Krueger.

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

ACTING PRESIDENT MARTINS: Do you yield, Senator?

SENATOR BONACIC: I do.

And before I continue to listen to Senator Krueger's question, I know that she was particularly active the last couple of years in trying to grapple with this problem and trying to do some constructive improvements and reform.

ACTING PRESIDENT MARTINS: Thank

you. The Senator yields, Senator Krueger.

SENATOR KRUEGER: Thank you. I appreciate the kind words.

And yes, certainly Senator Bonacic and I have explored this issue in a variety of different frameworks, through roundtables, through various legislation, and through various reports that both Senator Bonacic has done and I have done. So I appreciate his continuing to push on this issue.

And I'm truly torn because of some of the confusion I may have from the way the bill is written. So may I ask what Senator Bonacic's understanding is of what would happen if a not-for-profit lays out plan, in good faith is trying to accomplish the outlined plan within seven years, but they run out of funds to do so, as we all can understand. Is there some kind of appeals process to go beyond the seven-year timeline?

SENATOR BONACIC: I think it's a good question.

Under this legislation, let's start by -- let me just say the standard has to be clear and convincing evidence. Number two, Real

Property Services would set up standard guidelines of what would qualify for tax-exempt.

And the courts are all over the place in terms of what the burden of proof is on tax-exempt lands. The Legislature has never defined what is charitable, what is educational, and what is religious. We let the courts do it for the last 30 years, and we have a hodgepodge of decisions. Meanwhile, you have this proliferation of not-for-profits and you have the burden, the big rock of tax-exempt lands being shifted, less money for police, fire, EMS services.

I would say to you if there was a good-faith effort and plans were put forward and they started construction and they didn't finish in seven years, I think there would be the standard of reasonableness as to why, their progress, and whether they should be granted an extension. This is not an absolute truth that at the end of seven years, you know, they stick it to the person or the organization.

Where land banking has been going on for, let's say, 20 or 30 years, if this legislation were to become law, there's a new

clock for the seven years. And if they don't build in seven years, then the local municipality can assess for the back seven years.

But what's been happening is -- I can give you so many examples of abuse. We have people applying to become ministers by mail order from the metropolitan area. Then they come and they buy resorts, resorts that have gone out of business in the Catskills, in the mid-Hudson area, anywhere from 3 to 1,000 acres. Say we're a church, an education facility, and it sits there. And they may come up in the summer and enjoy the resort and go home. And that particular 300 to a 1,000 acres is not used, in mothballs for the other nine months. And what that assessment was on that property gets shifted to all the small businesses and the homeowners in that community that really are losing their tax base.

And when this was first started, this social policy, it was good. I mean, not-for-profit organizations are good. And when they utilize their land for the purposes that they're incorporated, they are tax-exempt. But the land banking has just gone way over the top.

And unless we do something constructive, we will drive people out of this state, homes will be foreclosed because they can't keep up with their mortgage and/or their property taxes.

And my last point, we have the fastest-growing property taxes in the nation in the mid-Hudson area. The Island, Westchester, all those legislators know what I'm talking about where their particular counties are heavily burdened by property taxes.

I'm sorry, Senator Krueger. I went a little astray. But I'll come back to your next question

SENATOR KRUEGER: I'm afraid to ask the next question.

(Laughter.)

ACTING PRESIDENT MARTINS: Senator Krueger, the Senator will continue to yield.

SENATOR KRUEGER: Thank you so much.

So again, I think you make an eloquent argument about why this is important territory for the Legislature to go down. And I don't necessarily disagree with the intent. Again, my concerns are a little more technically

specific to the bill, which is why I actually think it's good for us to have this discussion on the floor, because legislative intent is often recognized by the courts. And when you have information on the record through a memorandum attached to the bill, or through debate on the floor, there's a record for people to use in clarifying the technical understanding of the bill.

So again, I already was asking you what happens if you had a plan, in good faith and intent, and you didn't meet the seven-year deadline because perhaps you didn't have the funds. The follow-up would be you didn't have the funds and you might decide what you need to do is sell the land. But suppose you can't sell the land. So here you are a not-for-profit, you bought the land with a stated mission-related purpose -- so you bought the land with a specific mission-related purpose, you filed plans, you intended to meet your plan, you ran out of money and could not do this and you might not be able to sell the land. Will you now be a not-for-profit short of cash who has a tax bill they can't pay on top of their problems? Is

there some mechanism to address that possibility?

SENATOR BONACIC: Let's talk about what the legislation does. If you own a piece of property and you're a not-for-profit, and you have plans but you never can come up with the money to actually build a building or for the purpose that -- you know, your mission for your not-for-profit, if at the end of seven years you have not built your building, they're going to go back and start taxing you prospectively.

Now, you don't lose your land, you're just paying taxes on your land. And you still have an asset, the value of that land, where you've enjoyed tax-exempt status for how long you have owned it for the prior seven years, and if and when the market gets better I assume you're going to be able to sell it and make money. But you would have done your civic duty and paid taxes for seven years if you did not build the building.

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

SENATOR BONACIC: I do.

SENATOR KRUEGER: Thank you.

The bill specifically says "The plans must be proven by clear and convincing evidence and must be in written form. The Office of Real Property Services shall develop guidelines to be utilized by property owners and tax assessors to determine whether such evidence exists in adequate form."

Guidelines means a state agency will give advice. But am I reading it correctly when I think it reads that any individual tax-assessing unit can interpret guidelines differently? So that we could have many, many different standards within the same counties of how they're interpreting the guidelines.

I'm concerned about not opening ourselves -- you've very well laid out that right now we have a hodgepodge, is I believe the term you used. I'm concerned that we don't have want to have a new kind of hodgepodge.

SENATOR BONACIC: Well, you've just described the present status of what's happening with tax-exempt lands. Every assessor will give their own interpretation of what's going on.

What this legislation does, it tries to create a universal standard for New York and a

direction to those assessors. It says, number one, it has to be clear and convincing evidence, number one, that you are a tax organization. And we're going to ask Real Property Services to give guidelines in written form to every assessor in the State of New York that will guide them as to the parameters of reasonableness and take away that discretion of interpretation that may be whether they like someone or not, or like a particular not-for-profit or not.

But I would say to you in general the local assessors are pretty savvy. They're probably more knowledgeable on the activity and the lands in their particular town than anybody. With this legislation, which is a legal standard, with Real Property Services that establish a state guideline standard, I don't think there's going to be much wiggle room for an assessor to go off the reservation in terms of what we're trying to accomplish.

SENATOR KRUEGER: Mr. President, if the sponsor would please yield to an additional question.

SENATOR BONACIC: I do.

SENATOR KRUEGER: Thank you.

What if the mission of your not-for-profit is to use the land in its natural state?

SENATOR BONACIC: Like the Open Space Institute?

SENATOR KRUEGER: Summer camps have written a memorandum of opposition very concerned that land that they purchase, a YMCA, sleep-over camp or day camp, a Boy Scouts camp, a church-sponsored camp, that they are very concerned that they would lose their tax-exempt status because they aren't buying land to build lots of things on it, they're buying land so that it's available and open for natural activities. A nature reserve wouldn't likely be building a lot of things. So how do we deal with those concerns.

SENATOR BONACIC: I'm going to take three examples to try to answer your question. Nature preserve, that was the intent of what the not-for-profit was formed. This legislation would not affect it. They would still be protected, no taxes.

The -- I think you mentioned a camp?

SENATOR KRUEGER: Summer camps, sleep-over or day camps.

SENATOR BONACIC: Right. If that was the purpose of how the land is being utilized now, they would not be affected.

But let me qualify that. Let's talk about a Boy Scout camp that has a thousand acres, that has 10 acres of facilities and they say all of the rest of the land is for sleep-over. That becomes a question of reasonableness, clear and convincing evidence, the real property guidelines.

Whatever lands they use for the purpose for which they were formed, like a sleep-over camp, they would be protected. But if they just make the generic statement "I need the full thousand acres for my sleep-over" and they only use 200 of it, that could be subject to dispute and the lands they don't use could be taxed. That might be for a court to decide. But I'm just explaining to you the intent. Okay?

SENATOR KRUEGER: Mr. President, one more question, if you would please ask the sponsor.

ACTING PRESIDENT MARTINS: Would

the sponsor yield?

SENATOR BONACIC: Of course.

SENATOR KRUEGER: Thank you.

ACTING PRESIDENT MARTINS: Thank you, Senator Krueger.

SENATOR KRUEGER: It seems, based on lawsuits that have gone as high as the Supreme Court, that some of the most complex issues when talking about taxation, yes or no, of not-for-profits is the mission statement of a specific religion and what they say they are doing as part of their religious activity.

So suppose it was a monastery who wasn't planning on building a lot of buildings, they might only be building one or two buildings and they might be farming, they might be -- I think some monasteries are involved with making jelly, wine. How do we, through the Office of Real Property Services, make sure we get guidelines that don't cross lines that the Supreme Court and the IRS have already drawn when it comes to religious freedom and the broad interpretation that our Constitution and our Internal Revenue Service seem to recognize in self-declaration of what religious institutions

do on land they own?

SENATOR BONACIC: Let me just refer to the State Constitution, because you raised the word "Constitution."

What the Constitution says is that religious, charitable, education facilities that are used exclusively for that purpose shall be tax-exempt.

Now for your monastery, religious, tax-exempt. The argument that you're making, if you have an accessory use that is connected to the monastery, feeds the priest, the nuns or the clergy, is that a protected activity? In my opinion, if that were so and they were connected, it should be. Okay? It should be.

But, you know, if I have a clergy of 50 living there and I have 2,000 acres, do I make 2,000 acres of farming for some jelly for 50 people, then you got a question of reasonableness, it's got to be clear and convincing evidence.

But, you know, I'm not Solomon. I'm here trying to give you parameters of what the intent of the legislation hopes to accomplish.

SENATOR KRUEGER: Mr. President, on

the bill.

ACTING PRESIDENT MARTINS: Senator Krueger on the bill.

SENATOR KRUEGER: Thank you. I want to thank Senator John Bonacic for his answers to my questions, for his commitment to dealing with this very challenging set of issues, what is nonprofit tax-exempt use of land versus simply taking land off the books that translates into a smaller tax base for local governments and county governments. And it is enormously complex, and it's different in different parts of the state.

I'm going to vote for Senator Bonacic's bill. I think we will open up a huge set of new problems for ourselves as a state if this becomes law, and that we will probably need to revisit clarification on the constitutional issues and on the authority of the Office of Real Property Services to have the power to succinctly establish guidelines that could hold up. I suspect we'll see litigation.

But it is time for the State of New York to try to wrap its arms around a very complex set of issues in the context of tax

policy. And I know Senator Bonacic knows that I feel it's very important for the state to reopen and constantly discuss whether we have a 21st-century model of tax policy or a 19th-century model. Too often I think we have a 19th-century model.

So I look forward to perhaps the continuing debate that would take place after this became law, so thank you very much for your bill, with the full understanding that this will cause the next set of actions to happen if it were to become law. I look forward to the challenge.

Thank you, Mr. President.

ACTING PRESIDENT MARTINS: Thank you, Senator Krueger.

Any other Senator wishing to be heard?

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

The Secretary will read the last section.

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

ACTING PRESIDENT MARTINS: Call the

roll.

(The Secretary called the roll.)

ACTING PRESIDENT MARTINS: Announce the results.

THE SECRETARY: In relation to Calendar Number 1207, those recorded in the negative are Senators Addabbo, Carlucci, Diaz, Duane, Espaillat, Farley, Hannon, Huntley, Kennedy, C. Kruger, LaValle, Marcellino, Martins, Oppenheimer, Savino, Seward, Smith, Squadron and Stavisky. Also Senator Hassell-Thompson. Also Senator Saland.

Absent from voting: Senator Fuschillo.

Ayes, 40. Nays, 21.

ACTING PRESIDENT MARTINS: The bill is passed.

SENATOR LaVALLE: Mr. President.

ACTING PRESIDENT MARTINS: Senator LaValle.

SENATOR LaVALLE: Can we return to motions and resolutions.

ACTING PRESIDENT MARTINS: Returning to motions and resolutions.

Senator LaValle.

SENATOR LaVALLE: Thank you, Mr. President.

On behalf of Senator McDonald, on page 39 I offer the following amendments to Calendar Number 1003, Senate Print Number 4525A, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR LaVALLE: Mr. President, can we return to the controversial calendar.

ACTING PRESIDENT MARTINS: Thank you, Senator LaValle.

The Secretary will please continue to read the controversial calendar.

THE SECRETARY: Calendar Number 1218, by Senator Gallivan, Senate Print 3649A, an act to amend the Tax Law.

ACTING PRESIDENT MARTINS: Read the last section.

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

ACTING PRESIDENT MARTINS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

Absent from voting: Senator Fuschillo.

ACTING PRESIDENT MARTINS: The bill is passed.

THE SECRETARY: Calendar Number 1225, by Senator Larkin, Senate Print 4223, an act to amend the General Municipal Law.

SENATOR BRESLIN: Explanation.

ACTING PRESIDENT MARTINS: An explanation has been requested, Senator Larkin.

SENATOR LARKIN: Thank you, Mr. President.

This is a very simple bill. It actually follows the guidelines and the recommendations of our Governor, who during his campaign --

ACTING PRESIDENT MARTINS: I'm sorry, Senator Larkin.

Can we please have order in the house {gaveling}.

Please continue.

SENATOR LARKIN: As most of you know, during the campaign Governor Cuomo said we

have too many elements of government. You know, we have 935 towns, we have 472 villages, we have 742 school districts, we have 56 small cities, five large cities.

So the goal that he had, and a lot of us -- and a gentleman that there are still some Senators here who remember him, was Senator Charles Cook. Senator Cook --

ACTING PRESIDENT MARTINS: I'm going to ask my colleagues to please respect the fact that we do have a Senator speaking on the floor. Please restrain yourselves in your conversations. We do want to move forward today.

Senator Larkin, please accept our apologies. Please continue.

SENATOR LARKIN: So we have a lot of elements. The Governor promised during the campaign that he was going to strike and consolidate. And there are some oppositions. People think about -- I've had people call me and say my son will never wear pink and gray. When he went to school, it was black and red. That's not what it's about it's about taxpayers' dollars.

What we have in front of us today is

a town and a village who a few years ago thought they should become a village and a town, not just a town. Well, they've experienced this for over 3½ years, and they find out that the costs are exorbitant. They're telling us that -- without an audit -- that they'll save at least $300,000, maybe $350,000 a year. In a small town in upstate, that's a lot of money.

Right now, because of the way the law was written at their request, the village took over all of the responsibilities -- the assessors, the fire departments, the water department, the highway department. All they want to do now is to go back to what they were before, one town called Woodbury in the Hudson Valley.

There are millions of reasons why this should be approved. First of all, it sets an example, complies with what the Governor has wanted. But most importantly, I was there at the debate at the town hall with the joint venture between the town and the village. And the opposition was like, well, why don't we try it for another four or five years. And the mayor and the supervisor jointly said, "Are you willing

to accept the increased costs?" "No, no, no, we don't want that."

So if we don't want these increased costs, we've got a Governor who's campaigned and wants to do the consolidation, the public in these two elements, the village and the town, express support -- both boards unanimously voted for it. They sent us a home-rule message and they're saying, Please, Albany, listen to us, the people that are paying the taxes for this. We want to become one government like we've been for 170 years.

I think it's very important that we send a good message back home: We listened to you, we heard you, and we believe strongly that home rule means home rule.

ACTING PRESIDENT ROBACH: Thank you, Senator Larkin.

Senator Stewart-Cousins.

SENATOR STEWART-COUSINS: Thank you, Mr. President. Will the sponsor yield for a question?

SENATOR LARKIN: Yes, Mr. President.

SENATOR STEWART-COUSINS: Senator

Larkin is right, there is a means by which then-Attorney General Andrew Cuomo put forward the consolidation bill. And I was privileged to carry it in this house.

And the reason why it was such a big deal is because, as we know, there are over 10,000 different taxing entities and districts and so on and so forth. And what happened is that everybody had its own version of how to do what had to be done, which made things inconsistent, untenable, unaccountable. And there was not, for the most part, the type of citizen involvement that is required in order to make sure that what gets done gets done.

So I was just wondering, Senator, are you familiar with the process of the consolidation bill that was passed by this house in 2009?

SENATOR LARKIN: And so was the village and the town, and they discussed it openly with their legal counsels at the public meetings. And it was their concern that this would drag on and drag on, and this is what they wanted to propose.

Because -- and I think you would

appreciate it because you served in local governments before you came here. Their biggest concern was is that we will just delay implementation. And what we need to do is to move forward on it and do it.

SENATOR STEWART-COUSINS: I appreciate that. But I think that you said something about there was -- oh, through you, Mr. President, does the sponsor continue to yield?

SENATOR LARKIN: Yes.

SENATOR STEWART-COUSINS: I think that you said there was a debate, there were those people who said yes, those people who said no, those people wanted this, and those people wanted that. And that's so much part of what democracy is about, and I think that's part of what the legislation was about.

This legislation actually has a time frame. You can't drag it on. Were you aware of that?

SENATOR LARKIN: I'm aware of that. But I also -- you know, our upstate people are not as available as a lot of people are in bigger cities. And these people work all over.

And to get people even to run for public office -- in these municipalities, the two of them put together, I think only two out of about 11 candidates have challenges for this coming year. And it's because people don't have the time.

And when you start to see that and you see what can happen, I think this is -- this action was in the best interest of the people. And I know how strong you feel about local government. And I just believe that when you saw the town board and the village board there -- and it was at the high school, so they had plenty of room. And there was -- I didn't -- you know, two hours later everybody was walking out saying when are we going to do it. And I said when we go back to session. And that's it.

You know, we can sit here and say, well, we should have done this, we should have done that. I think we're giving the Governor a message that there are municipalities that got his message. There are municipalities who say we can't afford this. There are municipalities out there that are saying we can continue to do the job we did before, when we were Woodbury, and

then we will have one sensitive government.

You know, CSEA and PEF did not give us anything. I think their question was about reducing the staff. And they agreed that it would have been minimal and it would be through attrition.

So I think that -- I know we can go back and forth, and I agree with that. But I'm here standing here representing two municipalities who say: We sent you to Albany to do a job, here's the message, here's the home rule, please. You don't pay taxes in Woodbury, Bill, in the village or the town. We do. And our taxes, which include our school district, are some of the highest in the whole valley.

And that's why we're here. We can go back and say, you know -- and I was the one that didn't agree with the Governor's -- his proposal. I think we took away from local, I think we took the power and the authority away because we started saying you'll do this, you'll do this, and you'll do this.

When this came up at the local government, they invited me to the meeting. And I said, Well, you know, the Governor has said A,

B, C. And you know what they said? Home rule.

SENATOR STEWART-COUSINS: Well --

SENATOR LARKIN: And they had attorneys. You know? And I'm not an attorney, but these attorneys around both sides of the aisle here, you know, they duly represent their client.

SENATOR STEWART-COUSINS: Well, Senator Larkin, I know why --

ACTING PRESIDENT ROBACH: Do you want him to yield or are you going to go on the bill?

SENATOR STEWART-COUSINS: Well, yes. And you can continue to yield, if you would.

SENATOR LARKIN: Yes, Mr. President.

SENATOR STEWART-COUSINS: Certainly, Senator Larkin, I know why they sent you to represent them, because you do it so well. And, you know, I appreciate --

SENATOR LARKIN: Can I tell my constituents in November next year what you said?

(Laughter.)

SENATOR STEWART-COUSINS: Senator

Larkin, you know, the only thing that -- well, one of the things that I had asked, and I don't know whether I got an answer there, because you talked about the local officials getting together and how difficult it was to find somebody to run and so on and so forth. And this is why there is a bill that allows for people, grassroots, to say yes or no to certain things and not just leave it in the hands of the board. Because sometimes the boards, you know, obviously represent the people, but it's very important, I think, for all of to us make sure that there's input.

And so I was wondering, do you know the process of how they could have done this? So did they have a -- you said they had a consolidation agreement that was adopted by the board. Did they have a public hearing?

SENATOR LARKIN: Yes.

SENATOR STEWART-COUSINS: Okay. And so then there was a final agreement approved?

SENATOR LARKIN: Yes.

SENATOR STEWART-COUSINS: Did they have a referendum? Through the chair.

ACTING PRESIDENT ROBACH: Senator Larkin, do you continue to yield?

SENATOR LARKIN: I would have to say if -- not, as we would say, a public referendum or something. But I remember that you couldn't go anyplace where there wasn't a sticker, town hall meeting to consolidate our government back again. You know, I'm being honest. But, you know --

SENATOR STEWART-COUSINS: No, I know. I expect you to be honest.

SENATOR LARKIN: Some would say it was a referendum when the question was discussed. They said this is the will of the people. They had petitions. This was not done by the town board and the village board, Senator, this was done by the people. Because they all got their tax bills. And they said, "When we separated, it was supposed to benefit us. Our taxes have gone up 8 percent. Let's get out of this and let's go back to a government body."

Because what they've planned on is that the body -- okay? It's all right, I just didn't want to -- I wasn't trying to be rude talking while you were conversing.

SENATOR STEWART-COUSINS: I know. I appreciate that.

SENATOR LARKIN: They said that the town board that exists would be the board until next election, which will be this November. And then they'll have, you know, a town-wide, which would be both the town and the village.

And, you know, maybe they did something less than what we wanted them to do. But my feeling, and I've been there many times in that municipality, it was the will of the people. When I went to school boards, instead of talking about state aid, they were talking about when are you going to do our bill. Because they're upset. And they believed people when they did the split. Now all of a sudden they're saying "The split split us."

I mean, I know people in the town that, Senator, don't even talk to people in the village. Now, hopefully, that they'll get back on track and have a good government. The town supervisor is a Democrat. John Burke and I have been friends for 12 years since he's been there. And you wouldn't want a better representative. He thinks it's the best thing. The gentleman who runs the village said, "You know, I'll be out of a job." But the point about it is this is the

best thing for this municipality.

SENATOR STEWART-COUSINS: Through you, Mr. President, will the sponsor continue to yield.

ACTING PRESIDENT ROBACH: Senator Larkin, do you continue to yield?

SENATOR LARKIN: Yes. Yes, ma'am.

SENATOR STEWART-COUSINS: It sounds to me like you went through -- the town went through part of the steps. When I asked about the referendum, apparently it didn't really do that.

SENATOR LARKIN: They didn't have a formal vote, no.

SENATOR STEWART-COUSINS: And, you know, I think one of the things that you said was that there were people who weren't even talking to each other. Now, this is a group of people who voted to split and now they want to come back together. And if I'm not mistaken, this piece of legislation would not allow them ever to be a village again. Is that right?

SENATOR LARKIN: That's the exact way they wanted it, both the village and the town.

SENATOR STEWART-COUSINS: So through you, Mr. President, if the sponsor continues to yield.

So you would like the state in this particular instance, despite the fact that there's a consolidation law that you pretty much followed, and it sounds like you have an election obviously coming, as everyone else does, the referendum date could be set, you could vote to do this, but they don't want to do that. But yet this is a village that a few years ago decided to dissolve, then wants to come back, and then wants never, ever to be able to make a village again.

This would be not only a carve-out from the consolidation law, but it would be something that we haven't done to any other place in the state, which would be to disallow the people to form a village if that's what they wanted to do. Is that your understanding of this?

SENATOR LARKIN: It is. But, you know, Senator, I looked at this -- you know, you go to your villages and towns just like all the rest of us do here. And you find out that some of them think they know more than we do. And,

you know, they don't.

But what I took out of this in discussing this with their attorneys was very clear. One of the attorneys kept saying, The Governor said it. And I talked to people in the Governor's office, he doesn't want to -- he wants to start closing down. And you know, if you start to look at the number of entities, over 10,000. And I know in this chamber there's some here when Senator Cook was here, he was the leader of all of the consolidations. Some of the stuff that's in that bill were the late Senator Cook's thing.

To say -- the portion in there where you say they don't want to allow it anymore, I think that came from their attorneys. Because they said, Look, you went down this road, now you're at this road. And you've talked to the village people, they had no problem with it. They were, you know, "Why did we ever do this? This was stupid." And you had the townspeople that said, you know, "Let's make sure we don't make this mistake again. We don't want any split."

I don't run Woodbury. I know them.

I know the leaders in the village and I know the leaders in the town. When you talk to the fire department, when you talk to the police, a little municipality like that, we don't need another police department. And when you say, well, that'll will stop somebody else, maybe we will be looking at the guidance from the Governor, consolidate. And sometimes I think we put more stumbling blocks into it than we do in correcting it.

I look at the overall number of governments. You know, I don't know how many people here -- how many people here have ever been town supervisors or mayors of a unit? See? We know where the back door is, and we know where the table is when you get there. And I'm not being disrespectful to anybody. And I don't mean -- I wasn't trying to show off there.

But when you start to think of how do you help the -- you know, when you see taxpayers come in to you in their 60s and 70s, I say, "What are you young folks doing here," at my age, because they're saying "I can't afford this. The taxes in this municipality went through the roof, 8.5 percent. You know, we have

a lot of people in that neck of the woods who are elderly. And so --

SENATOR STEWART-COUSINS: I understand.

SENATOR LARKIN: -- I did what they requested. I tried to guide them. But then, you know, they keep hollering at you, home rule, home rule, even though.

SENATOR STEWART-COUSINS: I understand.

SENATOR LARKIN: I did not try to water down what the law said. I wanted to do something that would help a municipality and help the taxpayers, and this bill does it.

SENATOR STEWART-COUSINS: Thank you, Senator Larkin.

On the bill.

ACTING PRESIDENT ROBACH: Senator Stewart-Cousins on the bill.

SENATOR STEWART-COUSINS: I don't think there's any question that Senator Larkin is doing everything he can to represent his constituents. And certainly all of us here are here to do just that.

I think that what Senator Larkin

described, however, is why this bill exists. He describes a situation where the town, the village decided that they wanted to be a village, and then they decided they don't. And that's within less than 10 years, actually, that they've made that change. So obviously there's people who are on both sides of the question.

And so the process was put in place so that there would be not only the public hearing but a referendum where people can go and say, by vote, yes, I want to do this, no, I don't.

And that's the piece that's missing here, and that's why I have real concern about it. Because if you decide we're going to follow points one, two, and three and decide that the rest of it just takes too long, where it really doesn't, because it is contained within, I think -- you know, many people think it's even too short a time frame.

I think this way you're protected. Whatever the decision is, the town, the village, you have the vote of the people, you have a collaboration between the officials as well as the community, and you have the vote tally to

prove that what you're doing is indeed what you want done.

So, number one, I can't support this because, you know, again, I carried the legislation that the now-Governor put forward. And I think that an orderly process matters. And not having the opportunity for the verifiable vote of the entities involved, again, I think could open you up to some sort of contention in any case. So I don't think it's a shortcut, although I understand that people want it done.

Secondly, the point is that now in this legislation we are prohibiting this group of people to ever form a village. I don't know why we would want to do that. I don't know why the state should decide that nobody can ever form a village. And I don't know why they would want us to do that. They have a process that they were able to pass in the village that says that you could form a village by petition. You had to have at least 23 percent and so on and so forth. It's their legislation that was passed, and they agreed to this.

What we would be doing by passing this is not only carving out a special exception

for this particular group of people not to follow the laws of the state in terms of consolidation, but also prohibiting them, among all the other villages and all the other localities in the state, from ever following their own laws to create a village.

I have concerns about that. I don't know that the state should have that kind of power. I think that it really goes against the principle of what we are all trying to do here, which is empowering people on the grassroots level, empowering people to embrace their own rights to vote, and empowering people to understand that democracy can indeed work and giving them the invitation to do it.

I think us telling them you can never form a village and you don't have to follow the law isn't sending that right message.

So I thank you. Mr. President, I'll be voting no.

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

Seeing no other Senator wishing to be heard, the debate is closed.

The Secretary will ring the bell.

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

There is a home-rule message at the desk. Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT ROBACH: Senator Martins to explain his vote.

SENATOR MARTINS: Thank you, Mr. President.

I've spent the last eight years serving as the mayor of the village, participating in discussions over the last three years as it pertains to consolidation and specifically consolidation of local governments. And although it pains me to differ with my esteemed colleague Senator Larkin, it does also give me the opportunity to agree with my colleague Senator Stewart-Cousins.

The Governor's consolidation bill, as it was passed and as it was amended this year, empowers local residents to be able to make

decisions for themselves as to whether or not they want to form a village or whether or not they want to dissolve a village --

ACTING PRESIDENT ROBACH: Excuse me, Senator Martins.

{Gaveling.} If we could get a little order in the chamber and respect for a colleague who's speaking, I would appreciate it.

Please continue, Senator Martins.

SENATOR MARTINS: Thank you, Mr. President.

At the crux of the consolidation issue is that we are empowering individuals, residents, to make decisions for themselves as to what is right or wrong within their communities. Whether they feel they need a village or whether they want to dissolve their village is within their right and within the purview of their control.

Let's understand that this bill would not only short-circuit that process -- which I can understand limited to those circumstances alone -- but would also create a black hole in New York State, being the only town within the State of New York where a village

cannot be formed. Not today, not ever.

Let's understand that we are taking away the opportunity from the residents of the Town of Woodbury in the future, should they wish to, to decide to form a village for whatever reason they may wish to pursue.

And again, although it pains me to do so, consistent with our policy in New York State of home rule and empowering local residents, I will be voting no.

ACTING PRESIDENT ROBACH: Senator Martins to be recorded in the negative.

Announce the results.

THE SECRETARY: In relation to Calendar Number 1225, those recorded in the negative are Senators Adams, Breslin, Dilan, Gianaris, Hassell-Thompson, L. Krueger, Martins, Oppenheimer, Parker, Perkins, Rivera, Serrano, Stavisky, and Stewart-Cousins.

Absent from voting: Senator Fuschillo.

Ayes, 47. Nays, 14.

ACTING PRESIDENT ROBACH: The bill is passed.

Senator Libous.

SENATOR LIBOUS: Mr. President, could we return to motions for a moment, please.

ACTING PRESIDENT ROBACH: Motions and resolutions.

SENATOR LIBOUS: Thank you, Mr. President.

On behalf of Senator LaValle, I want to call up Senate Print 3237. It's recalled from the Assembly and it is now at the desk.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Calendar Number 347, by Senator LaValle, Senate Print 3237, an act to amend the Agriculture and Markets Law.

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

ACTING PRESIDENT ROBACH: 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 ROBACH: The amendments are received.

SENATOR LIBOUS: Mr. President, on behalf of Senator Golden, on page 54 I offer the following amendments to Calendar Number 1270, Senate Print 1748, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR LIBOUS: Mr. President, can we continue the controversial calendar, please.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Calendar Number 1239, by Senator Saland, Senate Print 4851A, an act relating to authorizing the establishment of a long term care community.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

Absent from voting: Senator

Fuschillo.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1242, by Senator Young, Senate Print 4943, an act to amend the Tax Law.

SENATOR BRESLIN: Explanation.

ACTING PRESIDENT ROBACH: An explanation has been requested, Senator Young.

SENATOR YOUNG: Thank you, Mr. President.

This bill would require that any external economic indices used by the Department of Taxation and Finance in estimating sales tax payments due must utilize regional economic indices to reflect the wide variation of the cost of goods and services sold throughout the state.

Basically I got the idea for this piece of legislation because of some incidents that have occurred in my district where I've had several small businesses call my office for help because of unfair audits by the Department of Taxation and Finance over the last couple of years.

One that really stands out is a very

reputable business that is in Allegany County, which is the second-poorest county in the entire state. And this business called and said they had been audited by Tax and Finance, and Tax and Finance was saying that they owed $40,000 in additional sales taxes. Which was completely erroneous. And what Tax and Finance was saying was, Well, we know that your records state that you charged $5 for this beef sandwich, but we believe that you actually charged a lot more and didn't report it. Not taking into account that in Allegany County that's all you can charge for a beef sandwich, because that's what people can afford to pay.

What's happened over the last couple of years is that Tax and Finance has been on a money grab. And they've hired more than 200 additional auditors that have specifically gone after small businesses in this state, in many cases unfairly. They've hit them with huge fines. And as a result, these small businesses feel that they've been persecuted, that they've been harassed. They feel that if they contest it, maybe Tax and Finance will go after them even more. Many of them feel that they don't have

money to pay lawyers and legal fees if they do contest it.

But I will tell you there are several instances of businesses that have contested it in the courts and they've won. So they've gone to these desk audits in Tax and Finance. Which means that they sit at a desk and they come up with this national average of what they think a sandwich or a glass of beer should cost, instead of looking at the local economy.

And this fixes that fact. You know, I feel very strongly that we should do all that we can to help our small businesses in New York State. They are the backbone of who we are and where our people work. And if the state continues to go after them in an unfair manner, they will drive them out of business. And we need to take that into account.

So that's that this legislation does. It actually has sales tax audits that would be based on reality, based on the local economy, based on what salaries people are paid in that region. And I think that's the right thing that we should do as a state.

ACTING PRESIDENT ROBACH: Thank

you, Senator Young.

Senator Krueger.

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

ACTING PRESIDENT ROBACH: Senator Young, would you yield?

SENATOR YOUNG: Certainly.

SENATOR KRUEGER: Thank you. I understand the concern. And if in fact the State of New York is overly burdensome in audits for some kinds of businesses or businesses in some areas, we should be able to figure out a way to solve that problem.

But I am confused by your bill. So can you explain to me how Tax and Finance currently determines that sales tax payments are owed to the state?

SENATOR YOUNG: I'm sorry?

SENATOR KRUEGER: Can you explain the current system to me? You're saying your bill proposes an alternative system, so I'm trying to understand the difference between the current system which you think isn't working versus the system you're proposing.

SENATOR YOUNG: Well, basically they've gone into these desk audits where they have a bureaucrat in Albany that sits down and uses a national standard for the cost of a sandwich, a glass of beer, a glass of wine. And then they extrapolate that out. So they'll say, for example, the customer should be paying $14 for that sandwich -- and maybe that's what it sells for in New York City. I'm sure that it does. But in Allegany County they only charge $5 because that's what the market can bear.

Recently I had someone from Albany go out to my district, and he was laughing. He went there for a wedding, and he stopped by one of the local bars. And he said, "I couldn't believe it, I was in Wellsville, and I got a glass of beer for two bucks." And I said, "Well, welcome to Wellsville. That's what people can afford to pay there."

So it's not fair for Tax and Finance to use different indices that maybe apply to other regions. And I just want to let you know -- this is actually cost-of-living rates. And for example, in Nassau County, the average annual pay is $36,944. The U.S. city average is

$34,868. In the State of New York the average rate of pay is $31,850.47. But in Jamestown, which is part of my district, the average annual pay is $24,813. So you see there's a wide discrepancy in what the average annual pay is based on region.

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

ACTING PRESIDENT ROBACH: Senator Young, do you continue to yield?

SENATOR YOUNG: Yes, Mr. President.

SENATOR KRUEGER: Thank you.

So this -- I'm trying to get my questions in the right order. So this would propose that Tax and Finance come up with some way to allow for regional indices. Again, just for the record, this is only people who somebody thinks hasn't paid their correct tax amount. So audits involve Tax and Finance believing that somebody has failed to pay the correct amount of tax into Tax and Finance.

But, you know, I understand that different entities sell products at different prices. Those can be regionally different. I don't know about my colleagues here, but in

Albany, where we both spend a lot of time, you can go to the Brown Derby and pay much more for a hamburger than you would at the Pump Station. I don't know whether I'm in trouble naming two restaurants from Albany here on the floor, but those two came to mind.

So how would we define various regional indices? Because you were giving the example that average food prices might be different in a specific town in Senator Young's district versus Manhattan. But I can tell you you can find a hamburger for $5 in Manhattan and you can probably find a hamburger for $35 in Manhattan.

My understanding is that the logic for the State Department of Tax and Finance to use an average -- again, in order to do an initial evaluation of the possibility of somebody not having paid their correct sales tax -- again, an average in order to do an audit which might find that the sales tax was accurately paid or might find that it wasn't. I guess I'm just having trouble understanding how we would set up this regional variation. Because I think in any town in the State of New York you could probably

find a fairly broad range of prices for specific items.

SENATOR YOUNG: Thank you, Mr. President. Through you. Senator Krueger, you're right that you may have a restaurant or a bar that's more upscale than others in the same town. But actually there is a resource that would be available. It's the U.S. Bureau of Labor Statistics Consumer Price Index. And they actually have average price data per region. So it would be very easy for the New York State Department of Taxation and Finance to look at this average-price data that's already been compiled by the U.S. government through the Department of Labor and apply that regionally.

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

ACTING PRESIDENT ROBACH: Senator Young, do you continue to yield?

SENATOR YOUNG: Yes, Mr. President.

ACTING PRESIDENT ROBACH: Continue.

SENATOR KRUEGER: This is very enlightening. So I guess I didn't read that in your bill. We were talking about using the federal regional price index standard. So just

for me to clarify, it's your understanding that that's the regional definitions this bill would have the Department of Tax and Finance apply?

SENATOR YOUNG: Well, what I'm saying is -- through you, Mr. President, what I'm saying is that that's just one resource. There are several resources that are available out there. And I think it would be very easy for the New York State Department of Taxation and Finance to be able to come up with a system where they're actually using data that's been compiled by several sources in order to come up with consumer price indices.

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

ACTING PRESIDENT ROBACH: Senator Young, do you continue to yield?

SENATOR YOUNG: Yes.

SENATOR KRUEGER: So my understanding is that was an example that perhaps the Department of Tax and Finance might use the federal price index regions as the regions they would use for the state, but not necessarily. And so in this bill it's still -- it's leaving it

up to Tax and Finance to establish some new regional index measures that might or might not be parallel to the federal government. Would that be a fair statement?

SENATOR YOUNG: Just to clarify, Senator Krueger -- through you, Mr. President -- actually, the ability to use external indices or regional indices is optional. And for example, the establishment could just say to Tax and Finance: We want you to use the sales records. But if there's a disagreement, then you could go to these regional price structures and check.

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

ACTING PRESIDENT ROBACH: Does the sponsor continue to yield?

SENATOR YOUNG: Yes, thank you.

SENATOR KRUEGER: Thank you.

I believe I heard her say the business could be involved in choosing what external index was used for their region? I'm just trying to understand that. So the business would be able to challenge the indices and regional definitions used by Tax and Finance and, what, choose another model? How exactly would

that work? Would they be able to challenge the model Tax and Finance chose under this law? And how would they challenge that?

SENATOR YOUNG: Through you, Mr. President. Actually what I said was that Tax and Finance could choose to use the information that the business actually gives them. But there's also the ability of Taxation and Finance to go and check the regional economic indices.

SENATOR KRUEGER: I'm sorry, perhaps I had a little trouble hearing Senator Young. If people would quiet down a little bit. I'm sorry, I didn't quite hear your answer.

ACTING PRESIDENT ROBACH: Colleagues, please. Both people are having difficulty hearing, and we want to continue the debate.

SENATOR KRUEGER: May I ask Senator Young to repeat her answer, please.

ACTING PRESIDENT ROBACH: Senator Young?

SENATOR YOUNG: Through you, Mr. President. Thank you very much.

Actually, Tax and Finance could choose to use the actual sales tax information

that the business gives them. However, if there is some kind of disagreement, then Tax and Finance could go and check these economic regional indices that would be established.

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

SENATOR YOUNG: Absolutely.

SENATOR KRUEGER: Thank you.

So yes, Tax and Finance only decides to audit when it thinks there's some problem between what it believes should be the taxes being paid and what the business is reporting. So we'd have to start with the assumption that these audits are based on an initial disagreement between the State of New York and the individual business as to whether the correct taxes have been paid.

And so I believe, again, I'm hearing that when a business chooses to challenge the audit, they would like a different indices to be used for the evaluation compared to what's currently used, which is the statewide average. So that that might be modeled on the federal regional differences; it might be something else that Tax and Finance came up with. But I really

just want to make sure I understand that it wouldn't be the business choosing the measurement, it would be State Tax and Finance choosing the measurement indicators. Because after all, it's the Tax Department auditing for whether in fact correct taxes were paid.

So it would be the department making the decision about what indices it used, not the business that is being audited; is that correct?

SENATOR YOUNG: Through you, Mr. President. What I'm saying once again, Senator Krueger, is that if there's an audit that's done and the Department of Taxation and Finance says, Well, we think that you owe $40,000 more in sales tax, and they're extrapolating that based on that they think, through a desk audit, through some national average that they use on a cost of a sandwich, that they owe them much more money, and the business is saying no, we only charge $5, we didn't charge the national average of $14, then the Department of Taxation and Finance can go back and check these locally determined economic indices to make sure that what they're extrapolating and the figures that they're using for the price of a sandwich would

match what the local regional economy can bear.

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

ACTING PRESIDENT ROBACH: Senator Young, do you continue to yield?

SENATOR YOUNG: Yes, Mr. President. Thank you.

ACTING PRESIDENT ROBACH: Continue.

SENATOR KRUEGER: I don't think we're -- we may be having a semantic difference, but I'm just not still totally clear. You said locally determined. Again --

SENATOR YOUNG: Based upon -- Senator Krueger, what I'm getting at, what I'm saying over and over again is the fact that you can use things such as the U.S. Bureau of Labor Statistics average price data as a reference based on local economic data to come up with a consumer price index that matches the actual region.

As I pointed out before, the prices in Nassau County, for example, in the average annual salary for somebody in Nassau County in New York State, is very much higher than somebody in Jamestown or Olean, New York, or Wellsville,

New York, because of regional differences.

So this bill actually, Mr. President, is very easy to understand because it actually takes into account those local economic factors to make sure that the figures that the Department of Taxation and Finance are extrapolating out as far as a business owning sales tax will match the region.

And I would say -- and I would hazard a guess, and most of my colleagues in this chamber are big supporters of small business, and they understand that we have to support our small businesses. The most important thing that should happen for the state right now is that we grow our economy. And this is to make sure that we're not drive our small business out of business through some unfair practices through the Department of Taxation and Finance.

And I would also hazard a guess that because they've hired 200 additional auditors over the past two years -- and by the way, NFIB, there are Chambers of Commerce that support this legislation strongly because they've seen this firsthand with many of their members. So if we went around this chamber, I bet you that we could

find other Senators that have run into this exact same problem in their districts and they would like to see this fixed in order to support their small businesses.

ACTING PRESIDENT ROBACH: Colleagues, again, if we could just get a little order in here so we can continue the debate and get through the calendar in an orderly fashion, it would be greatly appreciated.

Senator Krueger.

SENATOR KRUEGER: Thank you. I so appreciate the Senator's patience in answering my questions.

And again, I was just trying to, for legislative intent, get on the record that this bill doesn't come up with the plan, it says the commissioner can use information as may be available, pursuant to paragraph 1 of the subdivision, using any external indices used to estimate tax due, and shall reflect local economic conditions.

So it's basically saying we want the commissioner of Tax and Finance to have models that take into account and reflect local economic conditions. It does not explicitly say "Thou

shalt use the following model." It does not say the business being audited is choosing the indices to be used. Again, I just wanted to make sure I understood and that I had the chance to ask the Senator.

She's referenced small businesses as her examples, which is totally legitimate. This bill, as I read it, would apply to all businesses potentially being audited in the State of New York. I'm just wondering -- she started out very carefully for small businesses -- how this would work for larger businesses or businesses that had multiple locations with regional differences.

Conceivably a chain of restaurants, supermarkets, clothing stores would have regional pricing differences. Perhaps they would charge less in County X than County Y, perhaps because County X had a 4 percent local sales tax and County Y had a 2 percent local sales tax. There would be significant differences in taxes due simply depending on which location the taxes were being added up for.

How would this work in a multilocational business?

ACTING PRESIDENT ROBACH: Are you asking the Senator to yield for a question?

SENATOR KRUEGER: Yes. I apologize for the delay; it took me a while to get there.

ACTING PRESIDENT ROBACH: The sponsor yields.

SENATOR YOUNG: Through you, Mr. President. So, Senator Krueger, what you're asking is say there's a large chain store, for example, that has sites around the state? So say they had a store in Buffalo but they had one in New York City. Then they would use the Buffalo data for Buffalo and they would use the New York City data for New York City.

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

ACTING PRESIDENT ROBACH: Does the sponsor yield?

SENATOR YOUNG: Certainly.

SENATOR KRUEGER: So the Tax Department would be expected, on one audit of one company, to use different indices for different portions of the audit? Because I would assume -- although I don't know; I've never been a tax

auditor -- that if the State of New York decided to audit a company with 15 stores in 15 different counties, it's one audit on one set of books as a corporation, but under this scenario we would expect the Department of Tax and Finance to potentially use 15 different indexes and have the business break down their tax filing by each store? Is that a correct analysis?

SENATOR YOUNG: Through you, Mr. President. Just so Senator Krueger understands that they can't just do one audit of one corporation, because every county has a separate structure. As you know, the sales tax rate varies from county to county. So it's already broken down that way. And so they would be looking at a store in Buffalos versus a store in New York City, because there's a different sales tax structure in different parts of the state.

SENATOR KRUEGER: On the bill, Mr. President.

ACTING PRESIDENT ROBACH: Senator Krueger on the bill.

SENATOR KRUEGER: Thank you.

You know, it's so interesting

whenever you jump into tax policy. The bill is one paragraph long, but in fact I could probably stand here all day asking hypotheticals about how this might work. I don't think anyone wants me to stand here all day asking hypotheticals.

Here's my dilemma, Senator Young. I understand the concern that there may be audits that people feel are unfair. I'm not going to say Tax and Finance is perfect. I actually don't know whether Tax and Finance has a disproportionate number of audits of smaller companies versus larger. I think it would be a great question to ask them. I don't know whether they have a disproportionate rate of audits on companies in any specific region of the state or any specific counties. That would also be a great question to ask them.

I'm hoping that they have a professional staff who use fair and nondiscriminatory and nonarbitrary measures for evaluating the taxes that companies pay. I hope that they have a fair appeals system where they actually go beyond simply "on average, it looks like you didn't pay your fair share of taxes," and they actually do fair legal audits. I am

hoping that they actually go: You know, we were wrong. We thought something was askew, we thought you didn't pay your taxes, but we've checked and in fact you have paid legitimate taxes. You do charge less for your sandwiches if you're a restaurant than the statewide average might be. You did have a slower business period than some other equivalent store somewhere else, and that's unfortunate.

So I'm hoping that they actually have an audit rate where they don't find the companies have in fact underpaid their taxes. I think that's a model for a good Tax and Finance audit system. You don't want to overburden anybody, you want to be fair, you want to treat people equitably. And frankly, you want to not discover things. You want to learn that in fact sometimes you're wrong, they were right.

And I also understand that maybe a different model than we currently use in New York State would be a better one. And in fairness, this legislation says "the commissioner shall come up with."

I think I will still vote no, because I would rather we actually got all those

answers and tried to craft a specific alternative model. I don't want to presume one way or the other. But in fact, if one had the belief that Tax and Finance is unfairly auditing certain-size companies or in certain geographic areas of the state, one might be concerned that giving them a new carte blanche to come up with a different model could just allow them to fine-tune their discriminatory, unfair treatment of some businesses.

And that Senator Young raises excellent questions about the potential for an unfair auditing pattern of businesses in the State of New York. I think that as a legislative body we would be better off doing the homework, getting some of the answers, and crafting a specific alternative that everyone actually agreed would work, as opposed to a new carte blanche to do something different but not necessarily something that would resolve the concerns that we are hearing.

So I appreciate very much the sponsor's discussion with me today, and I'll be voting no.

ACTING PRESIDENT ROBACH: Thank

you, Senator.

Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

I rise just in support of this bill, and I thank Senator Young for putting it forward. I have had this situation occur in my district. And it's unfortunate that there's even a need for this bill. But what is happening is a small diner, a small restaurant, hamburger place, and they get called by Tax and Finance who's telling them, You paid so much sales tax on the meals that you sold and the goods that you sold, but we don't think you charged enough. And if you had charged more, according to our records, what we think you should have charged, you would have collected more sales tax. Therefore, you owe us more sales tax.

And it's a certain amount of anxiety that they bring on a very small business that really kind of emphasizes what we're trying to correct, that New York is not a business-friendly state. And it certainly isn't when you come at people in that way.

Small rural areas, they may charge

less. Who knows what kind of facility it is. But they are assuming that the person is being dishonest and is not reporting their sales tax.

So if what Senator Krueger was hoping for would actually happen, we wouldn't need this bill. But we do need a new method, and I think that Senator Young's bill proposes that method and that way of doing it and correcting this injustice and aggravation that comes to many of our small businesses.

Thank you.

ACTING PRESIDENT ROBACH: Senator Young.

SENATOR YOUNG: Thank you, Mr. President. On the bill.

ACTING PRESIDENT ROBACH: On the bill.

SENATOR YOUNG: I wish to thank Senator Little for her comments because she's right on target. And right now in the Department of Taxation and Finance, there are 523 field auditors -- 200 were hired over the past two years -- plus the desk auditors that I referred to. And they have this gotcha mentality. It's like a money grab out of Albany. Unfortunately,

it hurt our small businesses.

And I want to commend the National Federation of Independent Businesses. As you know so well, NFIB is the voice of small business in New York State. At the same time that I was investigating this issue on behalf of the small businesses in my district, unbeknownst to me, NFIB was having the same concerns because they were hearing from small businesses statewide about this issue. They went to the State Comptroller, Thomas DiNapoli, who currently is undergoing an investigation into these practices from the State Department of Taxation and Finance. So obviously it's more than me today saying that there's a problem that needs to be cured.

I want to thank my colleague Senator Krueger for her questions. But it was interesting to hear her say that a different model would be better than the one that we have now. That's exactly what this piece of legislation does.

So I'm hoping that my colleagues in this chamber will forge ahead, support our small businesses. As Senator Little said so well,

right now in New York State a lot of businesses have been driven out of business. It's a very unfriendly business environment. We need to reopen New York State for business -- small business, manufacturers, all business. And this legislation takes steps of progress toward that goal.

So I would urge all of my colleagues to vote yes. Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Seeing no other Senator wishing to speak on the bill, debate is closed.

The Secretary will ring the bell. I encourage all Senators to come to the chamber as expeditiously as possible.

Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT ROBACH: Senator Alesi to explain his vote.

SENATOR ALESI: Briefly to explain my vote, Mr. President.

I'd like to applaud Senator Young for focusing on this issue. Tax and Finance is implementing a system of audits that is based entirely on assumption. And she correctly points out that it is erroneous because it's taking average costs across a state that has such diversity when it comes to things like overhead, market share, volume of sales, et cetera, et cetera.

It's interesting to note that Senator Krueger pointed out you can get a $5 hamburger in Manhattan, and yet under the current system if these audits are being conducted on a presumptive basis, I would think that an auditor looking at a restaurant selling hamburgers for $5 in Manhattan would be a prime target for an adjustment. So I would Senator Krueger to reconsider based on that fact alone, because that is a very dangerous situation to put her own constituents and her own small businesses in.

I can't see any reason why anybody would vote against this bill. It helps small business. And I congratulate Senator Young for recognizing the dangerous situation that a state

agency is putting our small businesses in with an assumption when it comes to how they think that people should pay their taxes.

ACTING PRESIDENT ROBACH: Announce the results.

THE SECRETARY: In relation to Calendar Number 1242, those recorded in the negative are Senators Huntley and L. Krueger.

Absent from voting: Senators Adams, Montgomery, Parker and Peralta.

Ayes, 56. Nays, 2.

ACTING PRESIDENT ROBACH: The bill is passed.

Senator Libous.

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

My colleagues, at this time I would like to make an introduction on behalf of all of us. We are pleased today to have a visitor. Our visitor is from the state of Indiana, the House of Representatives. He's actually the Speaker Pro Tem of the House of Representatives. And he's been spending some time here watching how orderly we function.

And I would like to introduce him at

this time. He is Eric Turner, he's the Speaker Pro Tem of the Indiana House of Representatives. He's behind me. Let's give him a big round of applause.

(Applause.)

SENATOR LIBOUS: Mr. President, I did not mention the small fact that he is a Republican, but I -- I wouldn't do that. I wouldn't do that.

(Laughter.)

ACTING PRESIDENT ROBACH: Welcome, Speaker Turner. Thank you for your visit, and enjoy your day. Feel free to share the great democracy here in the State of New York.

SENATOR LIBOUS: This bipartisanship that goes on all the time in this chamber, Mr. Turner. So thank you for joining us today.

Mr. President, I think if we could continue along this, just to give everybody a little bit of an idea where we're heading, we're going to finish up this controversial calendar, we're going to call a Rules Committee meeting, and then we'll come back and begin the active list for today and keep moving right along. And

I think maybe about 7:00, between 7:00, 7:30, while we're working on doing bills, we'll have a chance to break a little bit. Okay?

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Calendar Number 1265, by Senator Golden, Senate Print 5631, an act to amend the Executive Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 1273, by Senator Alesi, Senate Print 2438, an act to amend the Tax Law.

SENATOR LIBOUS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 1274, by Senator Grisanti, Senate Print 2878 --

SENATOR LIBOUS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 1277, by Senator Alesi, Senate Print 4228, an act to amend the Tax Law.

SENATOR LIBOUS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 1290, by Senator Oppenheimer, Senate Print 5532A, an act to amend the Town Law.

SENATOR LIBOUS: Read the last section.

THE SECRETARY: Section 7. This act shall take effect July 8, 2011.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ROBACH: The bill

is passed.

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

SENATOR LIBOUS: Mr. President, have we cleaned up the two controversial calendars?

ACTING PRESIDENT ROBACH: Yes, we have now cleaned up the two controversial calendars.

SENATOR LIBOUS: Mr. President, I don't want to take anything away from Senator Hassell-Thompson, but I believe we're going to recess so that the minority can conference.

Would you call on Senator Hassell-Thompson, please.

ACTING PRESIDENT ROBACH: 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, at this time the Democratic Conference will meet. We'll come back here at a quarter of, or ten of,

within that time frame, call a Rules Committee meeting, and then come back on the floor and pass more bills.

At this time we'll stand at ease.

ACTING PRESIDENT ROBACH: There will be an immediate Democratic conference in their conference room.

The Senate will stand at ease until ten to 5:00, followed by a Rules Committee meeting.

(Whereupon, the Senate stood at ease at 4:24 p.m.)

(Whereupon, the Senate reconvened at 5:21 p.m.)

ACTING PRESIDENT ROBACH: The Senate will come to order.

Senator Libous.

SENATOR LIBOUS: Mr. President, there will be an immediate meeting of the Rules Committee in Room 332. Immediate meeting of the Rules Committee in Room 332.

ACTING PRESIDENT ROBACH: There will be an immediate meeting of the Rules Committee in Room 332.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 5:22 p.m.)

(Whereupon, the Senate reconvened at 6:08 p.m.)

ACTING PRESIDENT GALLIVAN: The Senate will come to order.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

At this time could we go to the reports of standing committees. I believe there's a report of the Rules Committee at the desk.

ACTING PRESIDENT GALLIVAN: Reports of standing committees.

The Secretary will read.

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

Senate Print 571, by Senator Klein, an act to amend Chapter 25 of the Laws of 2009;

746A, by Senator Young, an act to amend the Penal Law;

1200, by Senator Griffo, an act to amend the Tax Law;

1507, by Senator Larkin, an act to amend the Vehicle and Traffic Law;

2004A, by Senator Skelos, an act to amend the Penal Law;

Senate 2185, by Senator Golden, an act to amend the Elder Law;

2592A, by Senator Lanza, an act to amend the Education Law;

2765, by Senator Hassell-Thompson, an act to amend the Correction Law;

3168, by Senator Huntley, an act to amend the Mental Hygiene Law;

3357, by Senator LaValle, an act to amend the Village Law;

3467, by Senator Oppenheimer, an act to authorize approval of certain transportation contracts;

3546, by Senator Lanza, an act to establish the Teen Driver Safety Commission;

3912A, by Senator Savino, an act to amend the Penal Law;

3965, by Senator Robach, an act to amend the Labor Law;

4025A, by Senator Maziarz, an act to create a temporary commission;

4055A, by Senator Alesi, an act to amend the Public Health Law;

4209, by Senator Flanagan, an act to amend the Criminal Procedure Law;

4225A, by Senator Lanza, an act to amend the Judiciary Law;

4492, by Senator Valesky, an act to amend the Elder Law;

4563A, by Senator Savino, an act to amend the Public Health Law;

4732, by Senator DeFrancisco, an act to amend the Tax Law;

4825A, by Senator Saland, an act to amend the Public Authorities Law;

4946A, by Senator Gallivan, an act to amend the Correction Law;

5077A, by Senator Valesky, an act to amend the Elder Law;

5263, by Senator Ball, an act to amend the County Law;

5267, by Senator Ball, an act to amend the Executive Law;

5293, by Senator Ball, an act to amend the Executive Law;

5501, by Senator Stavisky, an act to

authorize the City of New York;

5637, by Senator DeFrancisco, an act to amend the Tax Law;

5640, by Senator Carlucci, an act to amend Chapter 420 of the Laws of 1998;

5650, by Senator Flanagan, an act to amend the Education Law;

5652, by Senator Seward, an act to amend the Public Authorities Law;

5671, by Senator DeFrancisco, an act to amend the State Finance Law;

5687, by Senator Bonacic, an act to authorize the Town of Thompson;

5688, by Senator Bonacic, an act to authorize the Town of Thompson;

5701, by Senator Flanagan, an act relating to actions taken by the Smithtown Central School District;

5715, by Senator Robach, an act to amend the City of Rochester;

And Senate 5743, by Senator Hassell-Thompson, an act to amend the Executive Law.

All bills reported direct to third reading.

ACTING PRESIDENT GALLIVAN: Senator Libous.

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

ACTING PRESIDENT GALLIVAN: All in favor of accepting the report of the Rules Committee signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GALLIVAN: Opposed, nay.

(No response.)

ACTING PRESIDENT GALLIVAN: The report of the Rules Committee is accepted.

Senator Libous.

SENATOR LIBOUS: Mr. President, at this time if we could go to Calendar Number 54, I believe, which is today's active list, and begin the reading -- I'm getting signals from the counsel. Excuse me.

(Pause.)

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

(Laughter.)

ACTING PRESIDENT GALLIVAN: Certainly. Returning to motions and resolutions.

Senator Libous.

SENATOR LIBOUS: On behalf of Senator Skelos, a very important motion, on page 24 I offer the following amendments to Calendar Number 646, Senate Print 4941B, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR LIBOUS: Mr. President, now may we go to the reading of the noncontroversial calendar.

ACTING PRESIDENT GALLIVAN: The Secretary will read.

THE SECRETARY: Calendar Number 106, by Senator Libous, Senate Print 2462B, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 142, by Senator Stewart-Cousins, Senate Print 2373A, an act to amend the State Technology Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 365th day.

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 170, by Member of the Assembly Sweeney, Assembly Print 5318A, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

THE SECRETARY: Section 11. This act shall take effect January 15, 2012.

ACTING PRESIDENT GALLIVAN: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GALLIVAN: Senator Grisanti, to explain his vote.

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

My colleagues, this monumental legislation is known as the Water Withdrawal Bill. It passed in the Assembly about a month and a half back. It authorizes the DEC to implement a comprehensive permitting system for all significant water withdrawals to ensure water will continue to be available to all New Yorkers.

Specifically, this bill would create a comprehensive statewide water management program in New York State to enhance the state's ability to manage water resources and to promote economic growth and address droughts. It enables New York to meet one of its most significant responsibilities under the Great Lakes Compact, the regulation of all significant withdrawals in the New York portion of the Great Lakes Basin.

New York's greatest natural resource is its water. And this legislation gives

substantial protection to that resource. With our Great Lakes containing more than one-fifth of the world's freshwater, steps are necessary to prevent its depletion.

I would like to take this time to thank my colleagues here in the Senate for their support of this bill, to recognize all those environmental groups who have worked on this issue and that have sitting up there in the gallery for the last three weeks in sleeping bags.

I would like to recognize Commissioner Martens and his staff for all the important work they've done, because this was a huge issue in my first year as chairman of the State Senate's Environmental Conservation Committee.

I want to also thank those business groups for all their input to make this as painless as possible, and I would like to thank Assemblyman Sweeney for his leadership in his house on this issue.

This legislation will do what all good legislation should do for the people of New York, it will protect our constituents, our

environment and protect business. I vote in the affirmative.

Thank you, Mr. President.

ACTING PRESIDENT GALLIVAN: Senator Grisanti shall be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 206, substituted earlier today by Member of the Assembly Cusick, Assembly Print 7697, an act to amend the General Municipal Law.

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GALLIVAN: The bill is laid aside.

THE SECRETARY: Calendar Number 225, substituted earlier today by Member of the Assembly Gunther, Assembly Print 409D, an act to amend the Penal Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 225: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 237, by Senator Carlucci, Senate Print 2843, an act to amend the General Municipal Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

THE SECRETARY: Section 12. This act shall take effect on the first of January.

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GALLIVAN: Senator Carlucci to explain his vote.

SENATOR CARLUCCI: Thank you, Mr. President.

This is an extremely important piece of legislation that will really give municipalities the tools they need to cut costs and spread those savings on to property taxpayers.

What this bill does is allows municipalities to share services such as pooling their employees under one healthcare plan, allowing them to do deferred compensation programs together, personnel services, administrative services like that.

So this is the type of position that we've got to move towards. We have 10,000 taxing entities in the State of New York, all providing similar services but doing them in different ways. This is a great way to move and have the synergy of all of these municipalities working together to drive down property taxes in New York State.

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

ACTING PRESIDENT GALLIVAN: Senator Carlucci to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 254, substituted earlier today by Member of the Assembly Latimer, Assembly Print 777A, an act to

authorize approval of certain transportation contracts.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 276, by Senator Maziarz, Senate Print 3914A, an act to amend the Energy Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The

bill is passed.

THE SECRETARY: Calendar Number 279, by Senator Larkin, Senate Print 3111B, an act to amend the Public Health Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GALLIVAN: Senator Kennedy to explain his vote.

SENATOR KENNEDY: Thank you, Mr. President.

This is somewhat of an incredible day, momentous in many ways. And we're here on this bill for an extraordinarily important reason and reasons.

I want to thank the sponsor Senator Larkin for his fortitude, for his vision, and for his heart in focusing in on this particular piece of legislation, not only this year in your efforts but since 2003.

This bill is a recognition of

New York State providing a Certificate of Birth Resulting in Stillbirth. Thousands of families will be impacted in a positive way because of this legislation today.

But what's extraordinary about this is not this house passing this, but the movement and the legs and the momentum that it's gotten in the New York State Assembly, which in the last 24 hours has passed it through Ways and Means, on to Rules, with an expectation that they'll hopefully pass this through the Assembly tomorrow.

Since this was first introduced in 2003, there have been 16,000 stillborn children in New York State. On a yearly basis across the United States, there's 30,000 stillbirths.

And the emotional roller coaster that families have to endure, mothers have to endure by having to go through the expectation and the excitement of having a child on the way and then to find out that that child in utero has passed away, and the awful emotions that are tied to the loss of a child and then having to go through the physical pain of labor.

It is an emotional roller coaster

that thousands of families have unfortunately had to endure. And it's something that after that emotional roller coaster comes to an end and the families are dealing with the loss of a child, the birth and the loss of a child, they then have to deal with New York State telling them that your child died and here's a certificate of death, but that your child at the same time never existed.

This legislation closes that gap. This legislation recognizes that families that are grieving the loss of a stillborn child, that New York State in fact recognizes that that child in fact existed.

This is supported by so many different organizations. There's a particular group, Still Parents New York, and many other bereavement groups across New York State. I want to thank a woman, Kelly Anderson, who has led the fight for this bill's passage across New York State. We've probably all gotten hundreds of emails from Kelly Anderson and her group, Still Parents New York, in memory of the loss of her son Michael Anthony Anderson, as well as the loss of my nephew who was stillborn, John Christian

Jude Mulderig.

And I just again want to thank Senator Larkin and all of my colleagues for your vote in the affirmative on this important legislation today. Thank you.

ACTING PRESIDENT GALLIVAN: Senator Kennedy to be recorded in the affirmative.

Senator Adams to explain his vote.

SENATOR ADAMS: Thank you, Mr. President.

I want to add my voice and thank Senator Larkin for this bill as well. For the last 2½ years I have been meeting with a large number of constituents who have gone through this process as Senator Kennedy just stated. And many of them, both the husband and the wife experienced this very difficult period. And this bill brings closure. It allows them to really address a very difficult period in their lives.

And this is a very important bill. I know Senator Larkin, year after year he has pushed this bill. Finally we may get it through the Assembly and this bill can be passed and signed into law.

You know, sometimes bills go

through here and we don't really know the human element involved. But when you sit down and speak to the parents and sit down and speak with the family members, this is an important bill.

And I want to really thank the Senator, Senator Larkin, for this bill. And I hope that this is the year that this bill will finally be signed into law and we can reach out to those family members that are attempting to close a very painful chapter in their lives. And this bill is a way to do so.

Thank you, Mr. President.

ACTING PRESIDENT GALLIVAN: Senator Adams to be recorded in the affirmative.

Senator Larkin to explain his vote.

SENATOR LARKIN: Thank you, Mr. President.

I'd like to thank my colleagues Senator Adams and Senator Kennedy for their gracious response to this issue. This has been an issue that's been going on a long time. The first time I ever heard of a stillborn was in Japan in 1951 when some of us who went to Korea came home and found that our wife had this unforgiven event in their lives.

We've tried here for many, many years. We thought we were getting it. I can tell you that on Monday Senator Kennedy came to me and he said, "I said the rosary today." I said, "Thanks a lot. We might need it."

But seriously, the technical questions that we were getting on it, we have overcome it. Senator Hannon said to me to go and see Assemblyman Gottfried, chairman of Health on the other said. I told Senator Adams and I told Senator Kennedy that we did. He wanted one specific addition to it. And you know what? We did it. It's here now. I thank everybody.

This has been 10 years since we first were introduced to this issue. And I want to thank everybody who helped us. This is important. You know, we've all known people who have had a miscarriage, and it's been explained and it's carried on. But we men have no idea of the real trauma that goes on in a family when there's a stillborn.

I think what we've done today is made sure that there is no pressure on anybody. The certificate is very simple. If somebody doesn't want the certificate, we're not going to

issue them one. But today we issue a death certificate. This is a death.

I thank everybody here for your help. I know some people have raised some questions, but Planned Parenthood even come in and helped. This was an issue that is not pleasant, but it's an issue that took a long time. But I thank all of my colleagues here today for supporting us.

Thank you very much.

ACTING PRESIDENT GALLIVAN: Senator Larkin to be recorded in the affirmative.

Announce the results.

THE SECRETARY: In relation to Calendar Number 279: Ayes, 61. Nays, 1. Senator Hassell-Thompson recorded in the negative.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 352, by Senator Lanza, Senate Print 4373, an act to amend the Penal Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the first of November.

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 386, by Senator Golden, Senate Print 2147, an act to amend the Public Health Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 386, Senators Montgomery and Perkins recorded in the negative.

Ayes, 60. Nays, 2.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 420, substituted earlier today by Member of the

Assembly Magnarelli, Assembly Print 676B, an act to amend the Executive Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 90th day.

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GALLIVAN: Senator DeFrancisco to explain his vote.

SENATOR DeFRANCISCO: Yes, this bill is an important bill and it was a long time coming.

Several years ago I was an author of a bill that became law entitled the Amber Alert, whereunder the police agencies would cooperate together and disseminate information to the news media immediately about children being missing from their house or missing from the people that they were living with. And it started a process by which the whole community was involved in trying to find this child, in view of the fact that it is well-known that the sooner the child is looked for, the more likely that child is

going to be found.

For several years I've been trying to get this bill to become law, and fortunately this is the year it's going happen. Senator Valesky had the bill last year. I had the bill before that.

And basically it applies to adults, adults with dementia, adults that are vulnerable adults. We call it the Gold Alert. And it's the same concept. And I'm sure everyone in their communities, as I've had in mine, have an adult that has wandered off from home and things have happened that are not good. And as a result, the same rationale for the Amber Alert for children applies to vulnerable adults with dementia and the like who might wander off from their home.

So this is that bill. It already passed the Assembly. I believe it's going to be signed by the Governor since the Governor's office was involved in the negotiations. And it's going to be a good law, and I thank Assemblyman Magnarelli and Senator Valesky and everyone who's had a role to play in this very, very important bill.

Thank you very much. Believe it or

not, I'm going to vote aye.

ACTING PRESIDENT GALLIVAN: Senator DeFrancisco shall be recorded in the affirmative.

Senator Valesky to explain his vote.

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

I want to join my colleague Senator DeFrancisco in underscoring how important this piece of legislation is. And make no mistake about it, this bill will save lives.

And I simply want to, for the record, thank Senator DeFrancisco for his many years of leadership on this issue. And we finally will have a new law in place that will make a significant difference for people all across the state.

I vote in the affirmative.

ACTING PRESIDENT GALLIVAN: Senator Valesky to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 429, by Senator Flanagan, Senate Print 4391A, an

act to amend the Penal Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 448, substituted earlier today by Member of the Assembly Zebrowski, Assembly Print 6836, an act to amend the Uniform City Court Act.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The

bill is passed.

THE SECRETARY: Calendar Number 500, by the Senate Committee on Rules, Senate Print 4575, an act to amend the Tax Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar 500, those recorded in the negative are Senators Adams, Espaillat, Gianaris, Huntley, L. Krueger, Montgomery, Parker, Peralta, Perkins, Rivera, Squadron and Stavisky.

Ayes, 50. Nays, 12.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 515, by Senator Fuschillo, Senate Print 4488A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the 120th day.

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 521, substituted earlier today by Member of the Assembly Thiele, Assembly Print Number 1410A, an act to amend the Public Health Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 541, by Senator Ball --

SENATOR LIBOUS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 562, by Senator Fuschillo, Senate Print 4610, an act to amend the Penal Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar 562, those recorded in the negative are Senators Duane, Espaillat, Parker, and Perkins.

Ayes, 58. Nays, 4.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 600, by Senator Little, Senate Print 547, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 608, by Senator Parker, Senate Print 1149A, an act to amend the Public Service Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 623, substituted earlier today by Member of the Assembly Hawley, Assembly Print 7738, an act in relation to dissolving the Village of Medina.

ACTING PRESIDENT GALLIVAN: 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 GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 624, by Senator Hannon, Senate Print 1465A, an act to amend the Real Property Tax Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 624, those recorded in the negative are Senators Bonacic, Larkin and O'Mara.

Ayes, 59. Nays, 3.

ACTING PRESIDENT GALLIVAN: The

bill is passed.

THE SECRETARY: Calendar Number 626, by Senator Johnson, Senate Print 2637, an act to authorize the West Islip Union Free School District.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar 626, those recorded in the negative are Senators Bonacic, Larkin and O'Mara.

Ayes, 59. Nays, 3.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 628, by Senator LaValle --

SENATOR LIBOUS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number

632, by Senator Flanagan, Senate Print 4166, an act to authorize the Holy Cross Roman Catholic Church.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 632, those recorded in the negative are Senators Bonacic, Larkin and O'Mara.

Ayes, 59. Nays, 3.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 633, by Senator Flanagan, Senate Print --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GALLIVAN: The bill is laid aside.

THE SECRETARY: Calendar Number 644, by Senator Skelos, Senate Print 4893B, an act to authorize the assessor of the County of Nassau.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 644 are Senators Larkin and O'Mara.

Ayes, 60. Nays, 2.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 645, substituted earlier today by Member of the Assembly Graf, Assembly Print 7302, an act to authorize Hands Across Long Island.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in

the negative on Calendar Number 645 are Senators Bonacic, Larkin and O'Mara.

Ayes, 59. Nays, 3.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 727, by Senator LaValle, Senate Print 3716, an act in relation to legalizing, validating, ratifying and confirming.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 727 are Senators Bonacic and Larkin.

Ayes, 60. Nays, 2.

ACTING PRESIDENT GALLIVAN: The bill is passed.

SENATOR BONACIC: Excuse me, Mr. President.

ACTING PRESIDENT GALLIVAN: Senator

Bonacic.

SENATOR BONACIC: Mr. President, I just want to make sure we're correct on the calendar. It was Number 646, Senate Bill 4941B, is what we were voting no on. Is that what was recorded?

ACTING PRESIDENT GALLIVAN: 646 has been amended. We were on Calendar Number 727.

SENATOR BONACIC: Okay, thank you. I'm up on 727.

ACTING PRESIDENT GALLIVAN: The Secretary will announce the results again of Calendar Number 727.

THE SECRETARY: In relation to Calendar 727: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 728, by Senator LaValle, Senate Print 3874, an act to legalize, validate, ratify and confirm.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 733, by Senator Johnson, Senate Print 5031A, an anxiety to provide for the payment.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 736, by Senator Hannon, Senate Print 1922, an act to amend the Family Court Act.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 781, by Senator Savino, Senate Print 4038B, an act to amend the Banking Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 797, substituted earlier today by Member of the Assembly Cymbrowitz, Assembly Print 6815, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 818, substituted earlier today by Member of the Assembly Gunther, Assembly Print 475, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 824, by Senator Libous, Senate Print 5396, an act to amend the Private Housing Finance Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 832, substituted earlier today by Member of the Assembly Ramos, Assembly Print 4163A, an act to authorize the Commissioner of General Services.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 857, by Senator Farley, Senate Print 4053A, an act to amend the State Finance Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 877, by Senator Farley, Senate Print 5197, an act to authorize the assessor of the City of Schenectady.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to

Calendar Number 877, those recorded in the negative are Senators Bonacic, Larkin and O'Mara.

Ayes, 59. Nays, 3.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 879, substituted earlier today by Member of the Assembly Hooper, Assembly Print 5255A, an act to authorize the Hebrew Academy of Nassau.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar 879, those recorded in the negative are Senators Bonacic, Larkin and O'Mara.

Ayes, 59. Nays, 3.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 880, substituted earlier today by Member of the Assembly Amedore, Assembly Print Number 5195A, an

act to authorize Planned Parenthood Mohawk Hudson.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar 880, those recorded in the negative are Senators Bonacic, Larkin and O'Mara.

Ayes, 59. Nays, 3.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 882, by Senator Farley, Senate Print 3412B, an act to authorize Schenectady Civic Players.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 882 are Senators Bonacic, Larkin and O'Mara.

Ayes, 59. Nays, 3.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 883, by Senator Farley, Senate Print 3413A, an act to authorize State Street Presbyterian Church.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 883 are Senators Bonacic, Larkin and O'Mara.

Ayes, 59. Nays, 3.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 884, substituted earlier today by Member of the

Assembly Cahill, Assembly Print 5791, an act to amend Chapter 158 of the Laws of 1988.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 889, by Senator Larkin, Senate Print 4676, an act to remove from the Albert Wisner Memorial Public Library.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 889: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 891, by Senator Farley, Senate Print 4766, an act to authorize Bethel AME Church.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 891 are Senators Bonacic, Larkin and O'Mara.

Ayes, 59. Nays, 3.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: On page 33, Senator Griffo moves to discharge, from the Committee on Local Government, Assembly Bill 7736 and substitute it for the identical Senate Bill Number 5434, Third Reading Calendar 893.

ACTING PRESIDENT GALLIVAN: Substitution ordered.

The Secretary shall read.

THE SECRETARY: Calendar Number 893, by Member of the Assembly Galef, Assembly Print 7736, an act to authorize the assessors of the Town of Whitestown.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 893 are Senators Bonacic, Larkin and O'Mara.

Ayes, 59. Nays, 3.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 894, by Senator Farley, Senate Print 5479, an act to authorize First Unitarian Society.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 894 are Senators Bonacic, Larkin and O'Mara.

Ayes, 59. Nays, 3.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 904, by Senator Griffo, Senate Print 5460A, an act to amend the Tax Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 913, substituted earlier today by Member of the Assembly Weinstein, Assembly Print Number 7794A,

an act to amend the Family Court Act.

ACTING PRESIDENT GALLIVAN: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 90th day.

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 916, substituted earlier today by Member of the Assembly Zebrowski, Assembly Print 7465A, an act to amend the Civil Practice Law and Rules.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar 916 are Senators Duane and Perkins.

Ayes, 60. Nays, 2.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 921, by Senator Zeldin, Senate Print 5477A, an act to amend the General Business Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 90th day.

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 930, by Senator Bonacic, Senate Print 4663A, an act to amend the Education Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 939, by Senator Ritchie, Senate Print 5499, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

SENATOR KRUEGER: Can you tell us what calendar number we're on? I'm a little confused.

ACTING PRESIDENT GALLIVAN: Calendar Number 939.

SENATOR KRUEGER: 939? Thank you.

ACTING PRESIDENT GALLIVAN: Senator Oppenheimer to explain her vote.

SENATOR OPPENHEIMER: This is rather simple. And I think I can very briefly explain why several of us are voting against

this. It isn't that we don't love maple syrup, which we all do. And we use it in ample supply on our pancakes.

But what's happening here is they're trying to take the process of permitting, the permits which are necessary for the water which goes into maple syrup, the permit requirement is being relieved. And we don't feel that's something that's appropriate, because the water usage has been always permitted and should continue to be.

ACTING PRESIDENT GALLIVAN: Senator Oppenheimer to be recorded in the negative.

Announce the results.

THE SECRETARY: In relation to Calendar 939, those recorded in the negative are Senators Adams, Addabbo, Avella, Breslin, Dilan, Duane, Espaillat, Hassell-Thompson, Huntley, Klein, LaValle, Marcellino, Oppenheimer, Parker, Peralta, Perkins, Rivera, Serrano, Squadron, Stavisky and Stewart-Cousins. Also Senator Savino. Also Senator Sampson.

Ayes, 39. Nays, 23.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 1002, by Senator Huntley, Senate Print 3078, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 1054, by Senator Fuschillo, Senate Print 2597, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first of November.

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The

bill is passed.

THE SECRETARY: Calendar Number 1082, substituted earlier today by Member of the Assembly Weinstein, Assembly Print Number 8007, an act to amend the Judiciary Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 1084, substituted earlier today by Member of the Assembly Weinstein, Assembly Print 7729, an act to amend the Estates, Powers and Trusts Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 1102, substituted earlier today by Member of the Assembly Markey, Assembly Print 8091, an act to amend the Executive Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 1103, substituted earlier today by Member of the Assembly Sweeney, Assembly Print 8303, an act to amend the Executive Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 1176, substituted earlier today by Member of the Assembly Cusick, Assembly Print Number 7698, an act to amend the Penal Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GALLIVAN: Senator Griffo to explain his vote.

SENATOR GRIFFO: Thank you, Mr. President. I appreciate that.

And I want to thank Assemblyman Cusick for his sponsorship in the Assembly, Senator Zeldin and Senator Ball for their

support, along with all the members here.

We know that funerals can be very stressful times and very traumatic experiences for many families, and I would hope that this bill will enable us to provide the dignity and respect that we need to ensure that those services, particularly for members of the armed forces who have paid the ultimate sacrifice and are coming home, to allow those families to grieve and mourn in a respectful, dignified manner.

So I appreciate the support here today, and I vote aye.

ACTING PRESIDENT GALLIVAN: Senator Griffo to be recorded in the affirmative.

Senator O'Mara to explain his vote.

SENATOR O'MARA: Yes, thank you, Mr. President.

As I spoke earlier this week on the recent tragic death of Devin Snyder in Cohocton, New York, her funeral is set for this Saturday morning. There are calling hours this evening, calling hours tomorrow evening. The Westboro Baptist Church has given notice that they are planning on coming and protesting this funeral.

Unfortunately, the active date of this legislation will not be in time for this week's proceedings. But this is very important that we don't allow these activities of groups such as the Westboro Baptists to infringe upon the sorrow and the grieving of families like Devin Snyder's. They deserve the respect and honor and dignity to grieve in peace with those supporting it.

Fortunately, we have groups like the Guardian Riders that are coming, and they will be there to line the route to be sure that the proceedings are peaceful, honorable, and dignified. And we hope that it remains that. We are hoping that we have a strong outpouring in our community to support the Snyder family in this extremely difficult time, as our hearts pour out to them and we recognize the significance of the ultimate sacrifice that the Snyder family has made and that it should not be interrupted by groups such as those that I have mentioned.

And this legislation, I thank the sponsors of this and myself as a cosponsor to move forward with this so that other families don't have to go through this that already have

in these terrible times.

Thank you, Mr. President.

ACTING PRESIDENT GALLIVAN: Senator O'Mara to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 1195, by Senator Farley, Senate Print 5140B, an act to amend the Tax Law.

ACTING PRESIDENT GALLIVAN: Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

THE SECRETARY: Calendar Number 1212, by Senator Libous, Senate Print 2952B, an act to legalize, validate, ratify and confirm.

ACTING PRESIDENT GALLIVAN: There

is a home-rule message at the desk.

Read the last section.

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

ACTING PRESIDENT GALLIVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GALLIVAN: The bill is passed.

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

SENATOR LIBOUS: Thank you, Mr. President.

Mr. President, at this time the Senate will stand at ease for about 20 minutes. When we come back, we will take up the controversial reading of this calendar and then the noncontroversial reading of Calendar 54A.

So we will stand at ease till, say, 7:30.

ACTING PRESIDENT GALLIVAN: The Senate stands at ease until 7:30.

(Whereupon, the Senate stood at ease

at 7:00 p.m.)

(Whereupon, the Senate reconvened at 7:51 p.m.)

ACTING PRESIDENT ZELDIN: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

At this time we would like to take up Supplemental Calendar 54A. And we would like to take up the noncontroversial reading of the calendar. If it's okay with you, sir.

ACTING PRESIDENT ZELDIN: The Secretary will read Supplemental Calendar 54A.

SENATOR LIBOUS: Then it's okay with you.

ACTING PRESIDENT ZELDIN: It's okay with me.

THE SECRETARY: Calendar Number 1280, by Senator Klein, Senate Print 571, an act to amend Chapter 25 of the Laws of 2009.

ACTING PRESIDENT ZELDIN: Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the

roll.

(The Secretary called the roll.)

ACTING PRESIDENT ZELDIN: Senator Klein to explain his vote.

SENATOR KLEIN: Thank you, Mr. President. Just briefly.

This is a piece of legislation which we attempted to pass previously which would treat private schools around the State of New York the same as we treat the public schools, having them reimbursed for the MTA payroll tax.

This is an issue of fairness. Private schools are having the same problems in many cases as our public schools, and I think this would take away a very grievous burden that our private-school parents have for the MTA payroll tax.

So I vote yes, Mr. President.

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

Announce the results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number

1296, by Senator Young, Senate Print 746A, an act to amend the Penal Law.

ACTING PRESIDENT ZELDIN: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first of November.

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 1297, by Senator Griffo, Senate Print 1200, an act to amend the Tax Law.

ACTING PRESIDENT ZELDIN: Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 1298, by Senator Larkin, Senate Print 1507, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT ZELDIN: Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 1299, by Senator Skelos, Senate Print 2004A, an act to amend the Penal Law.

ACTING PRESIDENT ZELDIN: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first of November.

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 1300, by Senator Golden, Senate Print 2185, an act to amend the Elder Law.

ACTING PRESIDENT ZELDIN: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 90th day.

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 1301, by Senator Lanza, Senate Print 2592A, an act to amend the Education Law.

ACTING PRESIDENT ZELDIN: Read the last section.

THE SECRETARY: Section 3. This act shall take effect July 1, 2011.

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1302, Senator Hassell-Thompson moves to discharge, from the Committee on Rules, Assembly Bill Number 3582 and substitute it for the identical Senate Bill Number 2765, Third Reading Calendar 1302.

ACTING PRESIDENT ZELDIN: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1302, by Member of the Assembly Aubry, Assembly Print 3582, an act to amend the Correction Law.

ACTING PRESIDENT ZELDIN: Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 1303, by Senator Huntley, Senate Print 3168, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT ZELDIN: Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 1304, by Senator LaValle, Senate Print 3357, an act to amend the Village Law.

ACTING PRESIDENT ZELDIN: Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT ZELDIN: Senator LaValle to explain his vote.

SENATOR LaVALLE: Thank you, Mr. President.

I just want to say the bill that we're voting on was the outcome of discussions with the Port Jefferson Youth Council and their involvement in village government.

A number of years ago I had passed a bill that is now law that allows, in our school-district communities, students to be involved on local school boards. So this is another move toward getting our young people involved in government, making leadership decisions, and being involved in their local community.

I vote aye, Mr. President.

ACTING PRESIDENT ZELDIN: Senator LaValle will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1305, Senator Oppenheimer moves to discharge, from the Committee on Rules, Assembly Bill Number 5689 and substitute it for

the identical Senate Bill Number 3467, Third Reading Calendar 1305.

ACTING PRESIDENT ZELDIN: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1305, by Member of the Assembly Latimer, Assembly Print 5689, an act to authorize approval of certain transportation contracts.

ACTING PRESIDENT ZELDIN: Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 1306, by Senator Lanza, Senate Print 3546, an act to establish the Teen Driver Safety Commission.

ACTING PRESIDENT ZELDIN: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect immediately.

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 1307, by Senator Savino, Senate Print 3912A, an act to amend the Penal Law.

ACTING PRESIDENT ZELDIN: Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1308, Senator Robach moves to discharge, from the Committee on Labor, Assembly Bill Number 7630 and substitute it for the identical Senate Bill Number 3965, Third Reading

Calendar 1308.

ACTING PRESIDENT ZELDIN: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1308, by Member of the Assembly Wright, Assembly Print 7630, an act to amend the Labor Law.

ACTING PRESIDENT ZELDIN: Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1309, Senator Maziarz moves to discharge, from the Committee on Finance, Assembly Bill Number 3722A and substitute it for the identical Senate Bill Number 4025A, Third Reading Calendar 1309.

ACTING PRESIDENT ZELDIN:

Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1309, by Member of the Assembly Russell, Assembly Print 3722A, an act to create a temporary New York State War of 1812 200th anniversary commemoration.

ACTING PRESIDENT ZELDIN: Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 1310, by Senator Alesi, Senate Print 4055A, an act to amend the Public Health Law.

ACTING PRESIDENT ZELDIN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect one year after it shall have become law.

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 1311, by Senator Flanagan, Senate Print 4209, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT ZELDIN: Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar 1311 are Senators Duane and L. Krueger. Also Senator Perkins. Also Senator Hassell-Thompson.

Ayes, 58. Nays, 4.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 1312, by Senator Lanza, Senate Print 4225A, an

act to amend the Judiciary Law.

ACTING PRESIDENT ZELDIN: Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1315, Senator Valesky moves to discharge, from the Committee on Finance, Assembly Bill 6733 and substitute it for the identical Senate Bill Number 4492, Third Reading Calendar 1315.

ACTING PRESIDENT ZELDIN: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1315, by Member of the Assembly Braunstein, Assembly Print 6733, an act to amend the Elder Law.

ACTING PRESIDENT ZELDIN: Read the

last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 1316, by Senator Savino, Senate Print 4563A, an act to amend the Public Health Law.

ACTING PRESIDENT ZELDIN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1317, Senator DeFrancisco moves to discharge, from the Committee on

Investigations and Government Operations, Assembly Bill Number 6274 and substitute it for the identical Senate Bill Number 4732, Third Reading Calendar 1317.

ACTING PRESIDENT ZELDIN: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1317, by Member of the Assembly Farrell, Assembly Print 6274, an act to amend the Tax Law.

ACTING PRESIDENT ZELDIN: Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 1318, by Senator Saland, Senate Print 4825A, an act to amend the Public Authorities Law.

ACTING PRESIDENT ZELDIN: Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 1318, those recorded in the negative are Senators Dilan, Duane, Hassell-Thompson, C. Kruger and Perkins.

Ayes, 57. Nays, 5.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 1319, by Senator Gallivan, Senate Print 4946A, an act to amend the Correction Law.

ACTING PRESIDENT ZELDIN: Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT ZELDIN: The bill

is passed.

THE SECRETARY: Calendar Number 1320, by Senator Valesky, Senate Print 5077A, an act to amend the Elder Law.

ACTING PRESIDENT ZELDIN: Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 1321, by Senator Ball, Senate Print 5263, an act to amend the County Law.

ACTING PRESIDENT ZELDIN: Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 1322, by Senator Ball, Senate Print --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT ZELDIN: The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 1323, Senator Ball moves to discharge, from the Committee on Finance, Assembly Bill Number 628A and substitute it for the identical Senate Bill Number 5293, Third Reading Calendar 1323.

ACTING PRESIDENT ZELDIN: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1323, by Member of the Assembly Weinstein, Assembly Print 628A, an act to amend the Executive Law.

ACTING PRESIDENT ZELDIN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect nine months after the day it shall have become law.

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 1325, by Senator Stavisky, Senate Print 5501, an act to authorize the City of New York.

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

Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 1326, by Senator DeFrancisco, Senate Print 5637, an act to amend the Tax Law.

ACTING PRESIDENT ZELDIN: Read the last section.

THE SECRETARY: Section 7. This act shall take effect on the first day of a sales tax quarterly period.

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1327, Senator Carlucci moves to discharge, from the Committee on Local Government, Assembly Bill Number 7652A and substitute it for the identical Senate Bill Number 5640, Third Reading Calendar 1327.

ACTING PRESIDENT ZELDIN: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1327, by Member of the Assembly Jaffee, Assembly Print 7652A, an act to amend Chapter 420 of the Laws of 1998.

ACTING PRESIDENT ZELDIN: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 1328, by Senator Flanagan, Senate Print 5650, an act to amend the Education Law.

ACTING PRESIDENT ZELDIN: Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 1329, by Senator Seward, Senate Print 5652, an act to amend the Public Authorities Law.

ACTING PRESIDENT ZELDIN: Read the last section.

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

SENATOR LIBOUS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 1330, by Senator DeFrancisco, Senate Print 5671, an act to amend the State Finance Law.

ACTING PRESIDENT ZELDIN: Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 1331, by Senator Bonacic, Senate Print 5687, an act to authorize the Town of Thompson.

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

Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 1332, by Senator Bonacic, Senate Print 5688, an act to authorize the Town of Thompson.

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

Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT ZELDIN: Senator Robach to explain his vote.

SENATOR ROBACH: Yes, Mr. President. Just very briefly, this bill would allow school modernization to move forward -- oh, this is the wrong bill, right? I

want go on the next one.

(Laughter.)

ACTING PRESIDENT ZELDIN: Announce the results.

SENATOR ROBACH: Excuse me. I love Senator Bonacic's bill.

(Laughter.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 1333, by Senator Flanagan, Senate Print 5701, an act relating to actions taken by the Smithtown Central School District.

ACTING PRESIDENT ZELDIN: Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number

1334, by Senator Robach, Senate Print 5715 --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT ZELDIN: The bill is laid aside.

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

SENATOR LIBOUS: Mr. President, I'm going to have to relieve you because we're going to debate your bill first on the other calendar.

So if I could ask Senator Griffo, my ace reliever, to get up there. And we will go back to the controversial Calendar Number 54, and we will start with Senator Zeldin's bill.

ACTING PRESIDENT GRIFFO: The Secretary will ring the bell.

SENATOR LIBOUS: We'll give Senator Zeldin a moment to get prepared here.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 206, by Member of the Assembly Cusick, Assembly Print 7697, an act to amend the General Municipal Law.

SENATOR BRESLIN: Explanation.

ACTING PRESIDENT GRIFFO: Senator

Breslin has requested an explanation.

Senator Zeldin.

SENATOR ZELDIN: This bill authorizes state municipalities to create and regulate a 1,000-foot zone around military funerals. It also allows the Parks Commissioner to require demonstrators to apply for a permit prior to demonstrating on state property.

Additionally, local governments will be allowed to, by local law, enact similar permit requirements to regulate demonstrations on public property and in parks.

This original bill that was passed established an automatic buffer zone of 2500 feet. If you can recall, back in March we passed a permanent bill at that time. This one is 1,000 feet. The protesters will be required to obtain a permit as established by local law.

The bill also gives a municipality more discretion to -- more discretion is given to the municipality in establishing a permit program. Additionally, the penalty in the first bill was $500 for violating a permit requirement. An intentional violation was a Class A misdemeanor. This bill's penalty is

progressive, with no criminal sanction. Multiple violations lead to increased dollar penalties. The second time, $1,000. The third time, $2,000.

ACTING PRESIDENT GRIFFO: Senator Duane.

SENATOR DUANE: Thank you, Mr. President, if the -- well, before I begin, I just -- I do know that the United States Supreme Court recently ruled on the issue of funeral protests. I know -- I believe it was in March of this year.

And the ruling -- well, I'll say one other thing. I also realize that it's not exactly the same, but a similar issue is being addressed by Senator Griffo's legislation, which was 5605, which was 1176 on our calendar, which I know Senator Zeldin was also a sponsor of.

But I was wondering if the sponsor could just maybe describe the gist of that ruling, because it seems as if this legislation is maybe in response to that Supreme Court ruling.

ACTING PRESIDENT GRIFFO: Senator Zeldin, is that a -- Senator Duane, you want to repeat that question?

SENATOR DUANE: I'm asking if -- I'm asking for a description of this legislation as it may be in response to the U.S. Supreme Court decision in March of this year.

ACTING PRESIDENT GRIFFO: Thank you, Senator Duane.

Senator Zeldin.

SENATOR ZELDIN: Mr. President, Snyder v. Phelps was a U.S. Supreme Court decision from March that ruled against a tort action called the intentional infliction of emotional distress. That particular Supreme Court ruling did not rule on time, place, manner restrictions, which is what this bill as well as Senator Griffo's bill does.

As a matter of fact, the Supreme Court's decision footnotes the Maryland rule, which is the state where that particular action took place, where Maryland imposed a buffer zone similar to what Senator Griffo's bill did earlier today.

It also talks about the compelling state interest that New York State would have, for example, in enacting legislation such as this one or the one from Senator Griffo from earlier

this evening.

So in response to your question, Senator Duane, because this is not addressing an intentional infliction of emotional distress or any type of tort or civil action and it's dealing with time, place, manner restrictions, not only does it not conflict the Supreme Court's decision, it's actually perfectly in line with the language in the ruling.

ACTING PRESIDENT GRIFFO: Senator Duane.

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

ACTING PRESIDENT GRIFFO: The sponsor yields?

SENATOR ZELDIN: Yes, I would.

SENATOR DUANE: I know the case arose from a protest at the funeral of a Marine who had died in Iraq, Lance Corporal Snyder. Although very sadly, and just -- I mean, I can't even describe just, you know, how distressing and really, you know, despicable these actions were.

But I'm just wondering if the sponsor could maybe tell us in that particular case, similar to other cases, what exactly were

the protesters doing that led to this court case which went up to the Supreme Court.

SENATOR ZELDIN: Through you, Mr. President. In that particular case it was a family member of the deceased that brought a civil action against Westboro Baptist Church, and specifically Phelps, for what they were alleging was intentional infliction of emotional distress, the distress that they received by the protest itself.

That was a civil action that went up to the U.S. Supreme Court. Originally there was a judgment that the Snyder family received for the intentional infliction of emotional distress, but by the time it went to the Supreme Court, they overruled that, saying that it would be improper for there to be a tort for the intentional infliction of emotional distress.

The Maryland buffer-zone bill was not in place at the time of that funeral.

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

SENATOR ZELDIN: Yes, I would.

ACTING PRESIDENT GRIFFO: The

sponsor yields.

SENATOR DUANE: I know that the Westboro Church members and their followers were doing particularly, I don't know how else to say it, hateful, distressing, just, you know, horrible signs. And just because I think it's important if we're passing this legislation -- and I think it may pass muster under the Supreme Court ruling, but I was wondering if just for us to know in this house the kind of hate speech and language and despicable words that the protesters were holding up that really brought us to this place and that made it so that we would need legislation like this.

SENATOR ZELDIN: Well, this legislation does not specifically target Westboro Baptist Church. I just want to make that very clear. We do not target any particular type of speech or particular groups that are engaging in any conduct.

However, in the particular example of Snyder v. Phelps and in other conduct of Westboro Baptist Church -- because they were the ones involved in that particular case -- they usually engage in language and conduct suggesting

that the deceased service member was gay, deserved to die, and other derivative messages with regards to the sexual orientation of the particular deceased service member as well as the fact that they deserved to die because they were serving overseas.

SENATOR DUANE: -- because I know that the sponsor and I know --

ACTING PRESIDENT GRIFFO: Senator Duane, are you going to ask the sponsor to continue to yield?

SENATOR DUANE: Yes, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Zeldin, do you continue to yield?

SENATOR ZELDIN: I would.

ACTING PRESIDENT GRIFFO: Yes.

SENATOR DUANE: And I'm sorry for my, you know, hesitation, about -- but I think people understand as I ask the questions and sort of get confirmation of why it is that we're passing this legislation and then the companion, what I would consider companion legislation by Senator Griffo, the language on the signs were things like "Thank God for Dead Soldiers," "We Deserved 9/11," which was my district and Daniel

Senator Squadron's district now, "God Hates Fags and That's Why Soldiers Are Dying."

And so of course I'm someone who supports free speech, and I have demonstrated myself, and I think in an appropriate manner -- I hope in an appropriate manner -- but never with signs like "America is Doomed." And I am wondering or asking if the sponsor is -- will this legislation help to make it so that this kind of horrible and just, you know, hate speech and just nonsensical, just horrible language and signage, would this make it so that mourners would maybe not have to see this kind of trash, really?

SENATOR ZELDIN: Well, Mr. President, through you. The whole objective of this legislation is to balance the freedom of speech -- the right of, for example, in that particular case, Westboro Baptist Church, their right to make those signs, to say their hatred things -- balancing that with the compelling state interest of protecting those families, those who are mourning the loss of their loved one, to provide dignity and honor at that most important part of their life.

Like coincidentally in the Snyder family of that case, Sergeant Snyder, who will be buried in Senator O'Mara's district this Saturday, where as, just ironically, Westboro Baptist Church plans on protesting that funeral to say hatred things, this bill -- as well as the bill that was earlier by Senator Griffo -- aims to balance that freedom of speech with that compelling state interest. Because I personally because that it's wrong. And I think that it's important that the next time someone in the same position as Mr. Snyder in the Snyder v. Phelps case, or Sergeant Snyder, who's being buried in Senator O'Mara's district this Saturday, the next time the state is going to be there to, as Senator Griffo's bill attempts to do, provide a buffer zone, and as this particular piece of legislation does, allows localities to have a 1,000-foot barrier if there's going to be any demonstrations.

SENATOR DUANE: Thank you, Mr. President. Thank you. On the bill, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Duane on the bill.

SENATOR DUANE: I commend the sponsor of this legislation, Senator Zeldin, as well as yourself, Mr. President. The actions of this particular -- and people who I -- I know I should be able to and I sometimes may be able to pray for them.

But to picket funerals of people who died in service to our country, they even picketed the funeral of Coretta Scott King. They use hateful and horrible language. They denigrate our country and people who live in our country and soldiers who fight for our country.

And I know that one of the things that makes our country great is that people can -- they're permitted to say these things and to hold up these signs. But there does have to be a buffer zone. And grieving families deserve to have some protection from this kind of demonstration and hate speech.

So I'm going to be voting in the affirmative. I'm hopeful that exactly that kind of balance is being struck between free speech and protecting families when they are at the absolute worst moments of their lives, and that -- and that there be -- that they not use

epithets about any group in their activities, which I know are just about causing -- for them to get attention. And it's a sickness that they have.

So I hope that this bill and the companion bill will have the impact that it's supposed to have. And I thank the sponsors of both pieces of legislation, and I urge my colleagues to vote yes.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Duane.

Is there any other Senator wishing to be heard?

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

Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 60th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Zeldin to explain his vote.

Can I have some order in the

chamber, please {gaveling}.

SENATOR ZELDIN: For me personally, a lot of inspiration behind being part of this historic act of this entire body is a specialist named Thomas J. Wilwerth, who went to the same high school that I did, William Floyd, and lost his life in combat in Iraq. Senator Griffo had his inspiration. Assemblyman Cusick, who is behind me, who carried this legislation in the State Assembly, which passed it last week, had his inspiration. And he had actually a few years back with Senator DeFrancisco passed legislation that created a 100-foot buffer zone.

For all of us in here -- Republicans, Democrats, all of us in the Assembly and the Senate -- we found an opportunity to all just show our commitment and respect for those families mourning the losses of those loved ones.

I would be remiss without acknowledging, as well, Assemblyman Murray, who's from my home area, who also was inspired by Specialist Wilwerth's family story. And I want to thank Bob Farley, who did so much work on our end in putting this legislation together. And once again, thank you, Assemblyman Cusick,

because there's no way we would be here without everyone coming together.

And I'm excited to see Governor Cuomo hopefully signing this bill into law and protect those families the next time someone might be in our districts, that Westboro Baptist Church or any other group wanting to protect a military funeral. We stand with the Patriot Guard Riders, this body stands with those Gold Star families, we're here for them and we're showing that tonight.

Thank you. I'll be voting in the affirmative.

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

Senator DeFrancisco to explain his vote.

SENATOR DeFRANCISCO: Yes. As a veteran and being active with the veterans in my district for many, many years, when I first proposed the initial bill that this bill expands, I couldn't believe how despicable certain people could be to actually demonstrate at a funeral of a veteran who gave his life so that they could be free and say what they want to say.

But there's a time and a place as far as what people can say and where they can say it. And that bill that I passed gave certain limits, and this bill is even better. And it shows this unified chamber is standing together, arm to arm, to make sure that we protect the freedom of speech but provide limits that are absolutely necessary to protect the honor, the dignity, and the memory of those who gave that free speech -- gave their lives for that free speech that we all enjoy.

Thank you, Mr. President. I vote aye.

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

Senator Larkin to explain his vote.

SENATOR LARKIN: Thank you, Mr. President.

I want to congratulate Senator Zeldin. You know, I hope everybody in this room knows that he's a combat veteran in Iraq. He has been in the position to see and observe those being shipped home.

And, you know, as Americans some of us remember -- Senator McDonald remembers --

people were coming home from Vietnam and they spit on us. Even after the Korean War. And after Vietnam. Military people used to go to their office in civilian clothes because of the temperature out there against men in the armed forces.

But this hits the bottom line. And I don't care what religion they are that want to protest at -- I think it's a disgrace. I think the Supreme Court must have gone out and had a late lunch when they voted.

But what we're saying here now is to protect the families, protect the municipalities, and protect some incident from happening. There is nothing more that you can say when somebody that's brought back who served his country -- and in this day and age, these funerals are for men and women who are killed in combat, and they're volunteers. They weren't drafted. They offered themselves up. Don't we have any shame?

Everybody in this room should be standing up thanking Lee, thanking Joe Griffo for what he did the other day, because it's about time this country recognized, without the force of our armed forces, we would not be a free

nation.

I said on this floor the other day that I saw a T-shirt and it said "Home of the Free Because of the Brave." Ladies and gentlemen, this is a bill that everyone should stand up and say yes. And thank you, Senator, because you stood up and you knew that there were people out there, especially this Baptist church, they wrote all of us tense letters saying how terrible you were and these people should have died for what they did.

No, they shouldn't die for what they did. They died in defense of this country's position in the world. And they volunteered. And some of them were on their second and third. One of the Congressional Medal of Honor ones recently, before he was killed, it was his fourth trip.

Thank God that we have a great country. Let us not step, spit or turn our backs on those who have made the supreme sacrifice.

Thank you, Mr. President.

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

Senator McDonald to explain his

vote.

SENATOR MCDONALD: Yes, sir. Thank you, Mr. President. I vote yes.

I want to thank Senator Zeldin, Assemblyman Cusick, Senators Griffo, DeFrancisco, all the staff people involved.

I especially want to thank this body, all the Senators, both parties, both sides, all the Assembly representatives, unanimous, our Governor. Unlike the war I was in, it's a different era. People learn from it. You see nothing but affection for our soldiers, men and women coming back. And you see nothing but support for them.

That's amazing. If anything good can be taken out of a war like Vietnam, it's that people learned. Whether you like the war or not, they're our people, they're our soldiers, our men, our women, and their families are our families.

So I thank the Senator, the Assembly representatives for all what they've done for us. And unfortunately, sadly, we're going to have more funerals. It's inevitable. The cost of freedom is very high. But we are blessed to

have the men and women in this country, in this state -- and don't let anybody kid you, New York State is always there when America needs it. It's our soldiers, our men and women.

And we have a lot to be proud of, and they have a lot to be proud of in the New York State Senate, the New York State Assembly, and the Governor's office thank you.

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

Senator Nozzolio to explain his vote.

SENATOR NOZZOLIO: Thank you, Mr. President.

I proudly stand in this body to vote aye for this important legislative measure, an important protection, an important understanding of the contributions made by our veterans.

I thank Senator Zeldin for his leadership, for his service to our nation, for his understanding that the price of freedom in America is not free. That freedom is not free. That freedom is based on the foundation of the blood and sacrifice of our veterans throughout our history.

In less than a month we will be opening up a veterans cemetery at the site of the former Sampson Naval and Air Force Base, a place where over a million sailors and airmen trained in preparation for battle. Many of those sailors and airmen left their nation, left their homes, left America to fight in foreign lands and never returned.

This cemetery will be a tribute to those sacrifices. It will be a cemetery open to all veterans. But as I think about the opening of that cemetery, I often, during the debate and discussion today, felt that those brave men and women who are our veterans defended the very freedom that protest is all about. We're saying make that protest in good taste and in respect and in honor.

Because if we do not honor those sacrifices, if we do not honor those veterans, then our society does not deserve to be the freest land in the history of the world. We deserve that because of the sacrifices of our veterans.

And thank you, Senator Zeldin, for making this legislation possible.

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

Senator Ball to explain his vote.

SENATOR BALL: I served in the other chamber for four years, and I've got to say I was wrong. When this legislation -- when Senator Zeldin came to me on this piece of legislation, I really didn't think that it would pass the Assembly. I thought maybe it would get caught up. And I certainly never thought that it would pass unanimously. And I have never been happier to be so wrong.

What an important day. And I just ask that if it's -- you know, many times when legislation comes forward we say, well, if it can save one life. I got to tell you, just from a public-protection point of view, these horrific demonstrations that seek to use anger points to get extreme views in the media are no doubt one day going to be a flash point in a news story. And if this legislative body can pass it unanimously, what a great message to send.

So I'm very proud to be part of this. I was actually working at the local level with all the counties in my district and

throughout the Hudson Valley to pass local legislation. But what a testament to this Legislature and to this state that we were able to get it done beyond all the politics.

So I want to thank everybody who's been involved in this, and it's a very special day. Thank you.

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

Senator Farley to explain his vote.

SENATOR FARLEY: Thank you, Mr. President.

As a veteran of the Korean War, the forgotten war, I want to applaud Senator Zeldin, a brilliant young Senator and a new Senator, one that is addressing something.

The freedom of speech is not absolute. You can't yell "Fire" in a theater. And, Senator Duane, I can understand you being moved by this. Because this kind of behavior and language and demonstration is beyond the pale, beyond the pale. And I see no reason why the United States anywhere can allow this.

And I applaud my colleagues in this chamber for sending this message: New York State

is not going to allow this. And I think it's so significant. And I applaud my colleagues for supporting it. And I applaud you, Senator Zeldin, for bringing this forward.

And I vote aye.

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

Announce the results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 633, by Senator Flanagan, Senate Print 4167, an act to authorize the Selden Fire District.

ACTING PRESIDENT GRIFFO: Read the last section.

SENATOR BRESLIN: Explanation.

ACTING PRESIDENT GRIFFO: An explanation has been requested.

Senator Flanagan.

SENATOR FLANAGAN: Thank you, Mr. President.

This is a relatively simple bill. It's a tax-exemption bill retroactive for the

Selden Fire District in the Town of Brookhaven in Suffolk County.

SENATOR KRUEGER: Thank you, Mr. President. If the sponsor would please yield to a few questions.

ACTING PRESIDENT GRIFFO: Senator Flanagan, will you yield to a series of questions from Senator Krueger?

SENATOR FLANAGAN: Yes. Yes, I will, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Krueger.

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

This is in your district, Senator Flanagan?

SENATOR FLANAGAN: Actually, Senator Krueger, if the truth be told --

SENATOR KRUEGER: That would be good.

SENATOR FLANAGAN: That would probably be a good idea.

-- Senator LaValle and I happen to represent the Selden community. Senator LaValle's district office is in Selden. The

firehouse and the fire district is physically located actually right in his district. But he is so genteel and magnanimous, he allowed me to introduce this legislation.

SENATOR KRUEGER: Thank you very much.

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

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR FLANAGAN: Yes.

SENATOR KRUEGER: Thank you.

So this is a relatively late retroactive request. I think it goes back to the years 2004-2005. How has this property been determined to be used solely for charitable purposes?

SENATOR FLANAGAN: It's an exempt property and has been since after the time the Selden Fire District acquired it, and it is used by the fire district.

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

SENATOR FLANAGAN: Yes.

ACTING PRESIDENT GRIFFO: The

sponsor yields.

SENATOR KRUEGER: What purpose is it used for?

SENATOR FLANAGAN: Senator Krueger, I don't mean to be glib, but it's for fire district purposes for training, for housing their equipment, for servicing the needs of the Selden residents and businesses within the Selden Fire District.

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

SENATOR FLANAGAN: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

The reason I asked is because it appears to be a single-family home, and to my understanding it's not actually a firehouse. So I was wondering, it's a storage facility or a training facility, is that what we're -- what I'm -- I'm just double-checking. Is that what you said?

SENATOR FLANAGAN: Senator Krueger, I can tell you this. Every time I've been to the Selden Fire District for events, for community

meetings, I have seen nothing but fire-related activity, fire-related storage, fire-related equipment.

So I'm not aware of a single-family home. But apparently you've taken a burning interest in the Selden Fire District area and community, so you may be more informed than I.

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

SENATOR FLANAGAN: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

I have not been to the Selden Fire District, but I just want to know -- so you have actually been to this building and know that it's being used for this purpose?

SENATOR FLANAGAN: No, Senator Krueger, what I said is I have been to the property, all of the property that's owned by the Selden Fire District. They have a multiple number of buildings, they have parking lots.

One of the things you might not know is that the fire district is located on Route 25, state highway, which is an extraordinarily busy

area. And the Selden Fire District, while it covers residential properties, probably more so than many of the volunteer districts in the area, they cover a tremendous amount of commercial property. So they tend to have a bigger facility, more equipment, because their needs are, frankly, more acute given the fact that they have a lot more commercial property to protect.

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

SENATOR FLANAGAN: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

And I want to correct myself. I said it was for the 2004-2005 tax year. This is for the 2005-2006 tax year.

Was the sponsor aware that in 2007 five of the Selden fire commissioners were charged with felonies, that they stole more than $50,000 in taxpayer funds, and they made a plea deal with the Suffolk County DA and all five men admitted to lying on their expense vouchers?

SENATOR FLANAGAN: Yes.

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

SENATOR FLANAGAN: Yes, I will.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: And is the sponsor aware that a more recent audit of the Selden Fire District by the State Comptroller's office for 2008 and 2009 revealed the following mismanagement, that there were 35 wire transfers totaling $2 million without obtaining board authorization?

SENATOR FLANAGAN: Yes, I am aware of that.

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

SENATOR FLANAGAN: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

Is the sponsor also aware that this same state audit found, between 2008-2009, 15 payments totaling $93,000 were not

audited-approved by the board until after the payments were made and that they could not determine when the eight payments totaling $693,000 were tracked due to deficiencies in the documentation?

SENATOR FLANAGAN: Senator Krueger, as to the other two, I was acutely aware. You are reciting some facts that I can't say I'm a hundred percent familiar with.

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

SENATOR FLANAGAN: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

There's a series of other findings from the audit report that I'll skip. But is the sponsor aware that during 2008 the district paid 12 vendors a total of $2.6 million for purchase and public work contracts that were in excess of the bidding thresholds for this work?

SENATOR FLANAGAN: No, Senator Krueger.

SENATOR KRUEGER: Thank you.

On the bill, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Krueger on the bill.

SENATOR KRUEGER: Senator Flanagan pointed out that I did take a particular interest in this request for a tax exemption. And I did partly because it went so far back. And it is, I think, at least the pattern of this body not to go back more than three years with these requests.

But also, in fact, because several of my colleagues now have a pattern of always voting no on these nonprofit retroactive tax exemptions. And Senator Bonacic, who's one of them, and I had a fascinating debate earlier today about changing the state law to evaluate whether certain not-for-profits should automatically get tax exemptions to start with. And this one caught my eye because it wasn't for a traditional not-for-profit organization the way we usually think of them, but rather for a fire district.

And so I thought I would do a little homework. And I have to say it was disturbing to me to find out that there were so many different articles about this fire district and scandals

associated with it, grand jury probes, state audits, accusations, settlements with district attorneys -- quote, "Heat is on Fire Districts" -- that I think we ought to all look a little more carefully not only at when we approve tax exemptions but also to take a closer look when the State Legislature is involved with making determinations about state money vis-a-vis charitable organizations and volunteer quasi-governmental quasi-not-for-profit entities such as this Selden Fire District.

Clearly there are concerns. Clearly there's law enforcement that has been involved, and the State Comptroller's office. I'm just not comfortable voting for this bill tonight. Thank you, Mr. President. I'll be voting no.

ACTING PRESIDENT GRIFFO: Senator LaValle.

SENATOR LaVALLE: Thank you, Mr. President.

As Senator Flanagan indicated, we share the Selden community. In my own case, my history goes back a lot of years to the Selden community and the Selden Fire District. It has been in existence as the Selden Fire District for

well beyond 70 or more years.

It is a district -- just so the members know, out of this fire district in the 1970s came legislation that created the junior volunteer fire members. And so today throughout our state individuals are enjoying, young people are enjoying being part of a fire department and carrying on a tradition as their parents have.

We always tend to evaluate an entity, whether it be a school district, a city, a village, a town, by a particular incident that maybe that entity, municipal entity did not particularly distinguish itself. We have -- whenever we have incidents, we make, as a legislative body, changes so that there is greater scrutiny on our municipal entity.

As everyone knows, fire commissioners, volunteer firefighters are that, they are volunteers. Just as school board members are volunteers. And so in our world today, volunteers sometimes don't have the greatest guidance in how to move forward a -- how to proceed in a proper way.

We passed in the last number of days a bill that I sponsored that would allow a

volunteer firefighter to be validated in their appointment even though there was an error in appointing them because of some sort of paperwork. So these things happen, and we make changes.

Senator Krueger has gone through a litany and talked about the Comptroller's office. And so that is critically important to ensure that monies, that there's transparency and that we are ensuring that where there were prior problems that those problems are being ironed out.

I would tell that you this fire district has expanded, has been a premier fire district in their community as it grew immensely. And I fully understand the growth in the community because I was part of, as a teacher and a n administrator, in the school district contained -- at Middle Country School District, and Selden is part of that school district.

So, Senator Krueger, I can understand your questions. But I think when you look at what is happening locally, I think the picture of what is happening locally doesn't square with the numbers that you talked about.

And you have to understand how, in our local communities outside of the city, that they have grown to meet great demands. And it's all done voluntarily.

Our fire service and our commissioners literally save our taxpayers in the hundreds of millions of dollars because the volunteers, whether they be fire commissioners or volunteer firefighters, are providing service to their local community.

I'm going to vote in the affirmative, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Martins on the bill.

SENATOR MARTINS: Thank you, Mr. President.

I believe I heard someone refer to our fire districts are as quasi-governmental. They are government, if we consider a lot of the different entities and corporations that have been discussed in this body in the very same way over the last few days.

This is a fire district. It doesn't have any shareholders. It's not a corporation. The benefit of what we are discussing here today

is to the taxpayers of that fire district.

And although I want to compliment my colleague Senator Krueger on her due diligence and her doing her homework and coming up with all of those articles, in my view what we're discussing here today is whether or not the taxpayers of the Selden Fire District should have to bear the expense with regard to a piece of property which was acquired. Nothing more, nothing less.

Everything else is sensational. And it's great for us to sit here and discuss it. I love the fact that we're discussing these issues. I think it highlights some points that we do need to discuss. Certainly the Comptroller's office and the Comptroller's office's ability to audit different levels of government continues to be important. To the extent that there was any criminal activity, certainly the Suffolk County district attorney will be able to address that.

But what we're discussing here today and what we're being asked to vote on today is one simple point, should the taxpayers of the Selden Fire District have to bear the expense

associated with this tax year for this piece of property. And the answer is quite simple. And consistent with how this body has voted in the past, our vote should be very simple.

As our colleague Senator LaValle just mentioned, firefighters in our suburban communities are the backbone of our communities. The volunteer firefighters of our fire districts, and volunteer firefighters, are the backbones of our community. They volunteer to provide safety to our communities.

And to the extent we're considering a fire district and volunteers and we're considering the taxpayers of that district, I will vote in favor of this bill and I will vote for the taxpayers of the Selden Fire District.

ACTING PRESIDENT GRIFFO: Senator Flanagan.

SENATOR FLANAGAN: Thank you, Mr. President. I want to follow on the comments of both Senator LaValle and Senator Martins.

Senator Krueger, I agree with the concerns that you have raised, so I want to be clear about a couple of things. I agree with Senator Martins that some of the activities that

were reported are things that I do not appreciate, I do not agree with, do not support. And I am gratified to know that the Comptroller's office, by virtue of the fact that they have done audits, have ferreted out some wrongdoing and have allowed for some corrections to take place which will, as Senator Martins said, continue to protect the taxpayers.

So while negative things happened, good things came as a result of the due diligence that's continuing and routinely offered by the Comptroller's office not only for this fire district but for many fire districts as well as municipalities and local governments all throughout the state.

As to the criminal activity, while it certainly doesn't make any of us happy, whether it's the district that I happen to represent or anywhere else, in a weird way it shows that the system is working. Because bad things were done, people got caught, they got indicted, and they were criminally charged and they were convicted or pled to certain deals.

But I would also focus very clearly on what Senator Martins said, that this is about

the taxpayers within the Selden Fire District. And that's where my focus and primary focus is going to continue to be.

And, Senator Krueger, since you raised some things that were salient facts, there are some things I think you should know about the Selden Fire District. Because if you want the full picture, I can tell you that my interaction, along with Senator LaValle, I have met hundreds of dedicated people throughout the years. I would strongly tell you that they have an impeccable reputation for protecting and serving the community, whether it's for the residential side or the commercial side.

And I did a little bit of my own homework in terms of some of their activities. There's a not-for-profit called Angela's House, which is one of the charities that they work with, the volunteers. And again, I'll stress the word "volunteers," nonpaid people who give of their time not only for the fire district but in supporting, in this example, one endeavor that is for children who are medically frail with developmental disabilities. I know because Angela's House happens to be right in my

district.

And just as a way of a reminder of what the community and sense of service is of the overwhelming majority of volunteers -- and this is unfortunate, but indicative of the value of the volunteer service -- one of their members is a gentleman named Geoffrey Breitkopf, who happened to be a Nassau County police officer who was recently killed, but was a Selden resident and was a very active member in the Selden Fire District.

I can tell you without hesitation that the people in that district, not only the community and the taxpayers but everybody who works in that fire district, has rallied around the Breitkopf family and stood for many of the positive values that we would hope to see in every community in the State of New York.

So while it is fair and legitimate to raise things that have created problems, I would be remiss I didn't share with you properly some of the many wonderful things that get done by this fire district.

And I will close by saying again this is about protecting the taxpayers. And in

advancing this bill, I believe that we're doing that.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Adams.

SENATOR ADAMS: Would the sponsor yield for one question, please.

ACTING PRESIDENT GRIFFO: Senator Flanagan, do you yield?

SENATOR FLANAGAN: Yes.

SENATOR ADAMS: Senator Flanagan, you stated that the individuals who were involved, they were arrested and indicted and some was convicted or pleaded. Did any of them go to jail?

SENATOR FLANAGAN: Senator Adams, I believe so, but I'm not a hundred percent sure. I think one of the aspects that was -- there was some restitution involved.

But I can say this. And this might sound gratuitous; I have very, very strong faith in our district attorney, Tom Spoda. He has an impeccable reputation. And I tell you that while I may not know every detail of what their arrangements were, or their conviction, I have

great confidence that the district attorney did everything conceivable to protect the taxpayers.

SENATOR ADAMS: Thank you.

On the bill.

ACTING PRESIDENT GRIFFO: Senator Adams on the bill.

SENATOR ADAMS: First of all, I don't think that Senator Flanagan or any of the other Senators will in any way attempt to pass any legislation that would help anyone that's involved in any criminal wrongdoing. I think they're doing it out of the good faith of the volunteer firefighters' service.

And those institutions are important, particularly where you don't have, you know, paid firefighters. And many of my colleagues in my other life were volunteer firefighters.

But we can't overlook two pieces I want to touch on. One, I want to thank Senator Krueger for the information she brought forward. And you don't sugarcoat and dismiss millions of dollars being stolen, and don't dismiss it as a rounding error.

And then it also just bring to life,

as I say to Senator Montgomery, Perkins, and others, here we are talking about putting young people in jail for five misdemeanors, but we got millions of dollars that are being stolen and district attorneys creatively find restitution programs to slap individuals on the wrist. This is the dual system of justice that I talk about over and over again. This is what happens.

ACTING PRESIDENT GRIFFO: Senator Ball, why do you rise?

SENATOR BALL: I'd just like to see if the speaker would yield for a quick question.

SENATOR ADAMS: Yes. As always, as always, when I finish my thought.

ACTING PRESIDENT GRIFFO: He will yield after he finishes his point, Senator Ball.

Senator Adams.

SENATOR ADAMS: And so I think that when you have a system such as this institution of the volunteer fire service and millions of dollars is caught into what Senator Liz Krueger just raised, it raises a question on how do we properly address that matter. How do we properly ensure that they don't continue to use taxpayers' dollars -- when there already is a struggling

public school system out in the particular area, how do we ensure that that money is not wasted and properly protect taxpayers' dollars? And I wanted to raise that.

And if a Senator Ball has a question, I will be more than happy to answer it from my good friend Senator Ball.

ACTING PRESIDENT GRIFFO: Senator Ball.

SENATOR BALL: Senator Adams, just one quick question. What is the status of the investigation into the Aqueduct gaming scandal and the multi-billion-dollar bid-rigging scheme? On the topic, the multi-billion-dollar bid-rigging scheme in the Aqueduct scandal that still is unresolved, just a quick status update on that. Because I see tonight that you raised your interest in corruption.

SENATOR ADAMS: First of all, Senator Ball, that's not germ -- Senator Ball, that's not --

ACTING PRESIDENT GRIFFO: Senator Breslin, why do you rise?

SENATOR BRESLIN: Point of order.

ACTING PRESIDENT GRIFFO: What is

your point of order?

SENATOR BRESLIN: Yes, this discussion is not relevant to this particular --

ACTING PRESIDENT GRIFFO: Your point is well-taken and the question is nongermane.

Senator Adams, have you completed?

SENATOR ADAMS: Yes, I have, sir.

ACTING PRESIDENT GRIFFO: Thank you, Senator Adams.

Is there any other Senator wishing to be heard?

Senator Krueger.

SENATOR KRUEGER: Thank you very much.

ACTING PRESIDENT GRIFFO: I'm going to ask for order in the chamber, please.

SENATOR KRUEGER: Thank you.

I appreciated Senator Flanagan and Senator Martins --

ACTING PRESIDENT GRIFFO: I'm going caution all members to stick to the subject of the legislation also, please.

SENATOR KRUEGER: I'll absolutely be on the legislation. Thank you so much,

Mr. President.

This was not an attempt to disrespect the fire district or the excellent volunteers and I'm sure the majority of volunteers in the Selden Fire District.

Experience with volunteer firemen is not unique to Long Island. My husband has been a volunteer fireman with the FDNY for over 30 years. He is an honorary fire chief still working each week with the fire department and with the firehouse nearest to our home. And I know of the amazing, brave work of volunteer firefighters throughout the country.

This wasn't even an issue of the past findings of the Comptroller. It was to highlight that I'm not sure we do our due diligence in this house.

Now, it is possible that approving this tax exemption doesn't actually save the taxpayers money. Because remember, when an individual piece of property is taken off the tax rolls, the community loses the tax money from that building. And yes, since it's a volunteer fire department as opposed to a church, one can make the argument that the community, if the

taxes were weren't exempted, would have to contribute in some way. But the community is either losing the tax revenue on the house or not having to pay the taxes on the house. I actually think it's probably a wash in this situation to argue it's saving the taxpayers money.

But my point in highlighting this tonight was to make the argument that we ought to do due diligence before we go ahead and approve these items.

Again, this is listed as a private home that last sold for $350,000 but was assessed in 2009 at $1.775 million. So I think it is incumbent on us to ensure that this single-family home that is in fact owned by the Selden Fire District is being used for justifiable purposes of the fire department.

And I think that it's a relevant question because the dates in which it was purchased was when people were running that department who have now admitted criminal acts and taking money -- and I am sure are not part of the district department now, but they were in control when that house was purchased.

And so I think it's an excellent

example for us as Senators to rethink whether there should be a more formalized review process for all tax-exemption requests that come through us. The Assembly, it's my understanding, has a much more -- has a stricter timeline by which they will go backwards and has a stricter set of requirements for these applications before they come to the floor of the Assembly. That they require a copy of the approved application for exemption from the organization showing it's been filed with the assessor, a copy of the deed and/or conveyance which aptly provides a description and the date of purchase of all parcels to which a retroactive nonprofit exemption has been requested, a copy of all the tax bills, a statement from the local assessor and local legislative representative acknowledging the accuracy of the current legislation, which includes a statement that the local governing body will grant the retroactive exemption once appropriate state authority is obtained.

I think it's a good model. I think it's a model we should follow in this house. And I think it was reasonable for me to ask the

sponsor had he been to this house and did he know that it was being used for the purposes that the request is being made for. Again, particularly because of the history with this fire district, with the people who were in charge at the time this building was purchased, and the findings after the fact of criminal activity by them.

So again, it's not meant as disrespect in any way for fire districts, volunteer firemen, but simply to point out our perhaps failure in not doing enough due diligence in our chamber. And the fact that many, many of these come through. Even today I lost count of how many came through.

And so I will continue to vote no tonight on this bill. But I think it is a constructive lesson perhaps for all of us.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Is there any other Senator wishing to be heard?

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

Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Andrea Stewart-Cousins to explain her vote.

Can I have some order in the chamber, please. And I'm going to remind the members that you're on a two-minute explanation. Again, order, please.

Senator Andrea Stewart-Cousins.

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

I certainly raise some of those concerns and, by the same token, realize the importance of the voluntary firefighters and the services that they bring to the community.

But I will have to be consistent in what I have practiced, which is very similar to what the Assembly practiced when I was chair of the Local Governments, and even now, as a member. I don't go beyond three years. I think that there's an opportunity to keep up with your paperwork. And when you go as many years as this, I think it poses several problems.

So I will be voting in the negative.

ACTING PRESIDENT GRIFFO: Senator Stewart-Cousins to be recorded in the negative.

Senator LaValle to explain his vote.

SENATOR LaVALLE: Thank you, Mr. President.

I just want to simply say that we've been voting on bills like this all afternoon. This is a filing question, not an exemption question, because a fire district is exempt. But they didn't put their papers in on time. They really, again, fumbled the ball.

So that means that the fire district is paying full taxes on a house that should be exempt, but because they didn't file in time for their exemption, that means the district is being punished, and its taxpayers that pay fire district taxes.

I vote aye.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 633 are Senators Adams, Avella, Espaillat,

Hassell-Thompson, Kennedy, L. Krueger, Montgomery, Parker, Peralta, Perkins, Rivera, Serrano, Stavisky, and Stewart-Cousins.

Absent from voting: Senator Huntley.

Ayes, 47. Nays, 14.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Libous.

SENATOR LIBOUS: Mr. President, can we return to motions, please.

ACTING PRESIDENT GRIFFO: We'll return to motions.

Senator Libous.

SENATOR LIBOUS: On behalf of Senator Young, I wish to call up her bill, Senate Print 2835, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 427, by Senator Young, Senate Print 2835, an act to amend the Criminal Procedure 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 now offer up the following amendments.

ACTING PRESIDENT GRIFFO: The amendments are received.

Senator Libous.

SENATOR LIBOUS: Mr. President, after consultation with my friend Senator Breslin --

ACTING PRESIDENT GRIFFO: Senator Libous, one second, please.

Please, can we have some quiet in the chamber. Thank you.

Senator Libous.

SENATOR LIBOUS: As I was saying, after some consultation with my good friend Senator Breslin, at this time we would like to bring up the Supplemental Calendar 54A and go to the controversial reading of that calendar.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 1322, by Senator Ball, Senate Print 5267, an act to amend the Executive Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. 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 1334, by Senator Robach, Senate Print 5715, an act to amend the City of Rochester.

SENATOR BRESLIN: Explanation.

ACTING PRESIDENT GRIFFO: Senator Robach, Senator Breslin has requested an explanation.

SENATOR ROBACH: Yes, Mr. President.

This bill is a bill that would allow the Rochester City School District to go ahead with its modernization plans. There's been a lot

of dialogue on this. There's been several different versions.

This bill, by locking in the commitment of the city of Rochester to operating funds, yet removing them from obligation for debt service on the building side, has built consensus with the education community, the construction industry, the building trades, the education folks, teachers, and certainly accomplishes what the mayor of the city of Rochester wanted, no additional debt service given to them.

This bill should allow building to move forward and modernize in a green way, in a modern way, these school buildings of the Rochester School District, some of which are very old, similar to the plans that have already transpired in Syracuse and Buffalo.

ACTING PRESIDENT GRIFFO: Senator Krueger.

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

ACTING PRESIDENT GRIFFO: Senator Robach, do you yield?

SENATOR ROBACH: I will.

ACTING PRESIDENT GRIFFO: Senator

Krueger.

SENATOR KRUEGER: Thank you.

So the Assembly has passed a different bill. Can you explain to me what your bill is as compared to the Assembly version that's passed their house?

SENATOR ROBACH: Yes. There's really one major difference, in my opinion, and that is our bill locks in the commitment of the City of Rochester to the current level of operating aid. Unlike the Assembly bill, which I believe leaves it in a gray area.

But both bills now do not add to the debt service of the city. That will be given to the school district.

And again, as I said earlier in my explanation, this bill has got a little bit more public vetting and has the support of the building trades, teachers, the education community, and I think protects what many people in my community asked about the Assembly version. While we want to build new schools, we don't want our new schools but have our class size for our kids go from 20 to 40.

So I think the important difference,

albeit one thing, is this really does codify and clarify that commitment to the operating aid of the city moving forward. And I think that's very important.

SENATOR KRUEGER: If the sponsor would continue to yield, please.

SENATOR ROBACH: I will.

SENATOR KRUEGER: Thank you.

You mentioned the teachers, the building trades. Does the mayor and the city council support this bill?

SENATOR ROBACH: The mayor said to me -- I believe they do. The mayor said that his goal was to get a bill -- and for full disclosure, the original bill that I had put in would have put the debt service on the City of Rochester. He requested that piece be taken out, and we did that. So I do believe he supports it.

And throughout the dialogue and debate, even some of his public statements in the newspaper, he had indicated that in no way, shape or form did he want to lower his obligation to the city school district, he just did not want it to rise. This bill not only accomplishes that,

but in a somewhat challenging situation also brought all the parties concerned together and has that support, differing from the Assembly Bill.

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

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR ROBACH: I relish the opportunity.

SENATOR KRUEGER: Thank you.

So you think the mayor and the city council support. Do we have a home-rule message or any document from them saying they want this bill?

SENATOR ROBACH: There's no home-rule message for any of these. As a matter of fact, Senator Krueger, ironically enough, we don't really have to do any bill in the city school district and the City of Rochester could move forward and build like other communities. Only our city said and our mayor said he will not do that without relief, because he doesn't want to give the city school district any additional

funds.

So there is no home-rule message. Nor does there even need to be a bill, technically, for them to move forward and build. But because the mayor said he would not move forward without a bill that would allow him not to add any debt, that's why we have this legislation.

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

SENATOR ROBACH: I will.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: If we pass this legislation and it became the law, versus the Assembly version becoming the law, who is responsible for paying the debt service on these bonds for school construction?

SENATOR ROBACH: The school district. That was the difference between the first bill and this bill. And this is why I believe the mayor would support that, because his statement to me directly was "I will support any bill that allows us to build these buildings but

not have my debt service or obligation increase."

My concern with the Assembly bill, in all candor, is I think it makes a little bit of a gray area with the language they've chosen is they do have to protect that hundred, just not the $19 million in debt service.

And I'm hoping -- I don't mean to cut you off --

SENATOR KRUEGER: No.

SENATOR ROBACH: I'm hoping, I really am, given the fact this is very important and so many people have rallied around this bill, I really do hope the Assembly will do the logical thing and get this done.

Normally when I do legislation, if I could have somebody who I'm sponsoring the bill or trying to get something accomplished in the other house, build some consensus, I'm the happiest guy in the world. Hopefully they will be too. It should really not be about an individual or anybody else, it should be about getting it done with the community and the greater -- all the affected groups at large as a whole.

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

SENATOR ROBACH: Certainly.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Okay, this has been very helpful. I'm learning a lot.

So the mayor and the city council of Rochester are not, quote, unquote, on the hook for the debt on the new bonds for the new schools, it's the school district. So has the school district sent us something saying they want this legislation?

SENATOR ROBACH: Yes. As a matter of fact, the president of the school board, Malik Evans, not only supports it but also had given me a state and a quote for the press release when we came together with all the groups to try and come to some consensus on moving forward.

SENATOR KRUEGER: Through you, Mr. President, if the sponsor would please yield for an additional question.

SENATOR ROBACH: Certainly.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: So it sounds like all the ducks are in a row. What is the reason why the Assembly wouldn't have a same-as with your version at this point in time?

SENATOR ROBACH: That I'm unclear of. You'd really have to ask them why they don't have a same-as bill. I've certainly sent it to my colleagues in the Assembly. I think they're aware of the support from the community at large. And I'm hoping by the end of the process they will do that.

I clearly think that this is the best way to go. Again, I love it when we get consensus, not division. And originally there was a lot of people that were concerned with some of the earlier versions of the bill in the Assembly. Hopefully, I sincerely hope this will get done.

But I can't answer the question why they wouldn't -- going back to my earlier comments, whenever I'm doing anything, the more people I can have supporting it, I want to get almost everybody who's an impacted and affected party supporting something. That's usually something I jump on and want to support.

Hopefully the Assembly will come to the same conclusion, or the sponsor of the bill over there. I'm hopeful that will happen.

SENATOR KRUEGER: Thank you.

On the bill, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Krueger on the bill.

SENATOR KRUEGER: Thank you. I very much appreciate the sponsor's responses. It has been contentious. Apparently it has changed multiple times.

As he explains it to me right here on the floor for the record, the parties who should care one way or the other all seem to be in consensus about it. I'm hoping that is in fact the story and an actual bill can get passed to address this issue for Rochester, and I see no reason why I should not vote for this bill tonight.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Any other Senator wishing to be heard on this?

All right, 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 GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Announce the results.

If you voted negatively, please raise your hand.

THE SECRETARY: Those recorded in the negative on Calendar 1334: Senator Smith.

Absent from voting: Senators Huntley and Parker.

Ayes, 59. Nays, 1.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Libous.

SENATOR LIBOUS: Mr. President, can we return to motions, please.

ACTING PRESIDENT GRIFFO: We will return to motions.

SENATOR LIBOUS: On behalf of Senator Young, on page 27 I offer the following amendments to Calendar Number 764, Senate Print 4758A, and ask that said bill retain its place on

the Third Reading Calendar.

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

SENATOR LIBOUS: On behalf of Senator Bonacic, on page 12 I offer the following amendments to Calendar Number 326, Senate Print 3949A, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Libous.

SENATOR LIBOUS: Would you call on Senator Breslin, please.

ACTING PRESIDENT GRIFFO: Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President.

There will be an immediate meeting of the Senate Democratic Conference in Room 314.

ACTING PRESIDENT GRIFFO: There will be an immediate meeting of the Senate Democrat Conference in Room 314.

SENATOR LIBOUS: Mr. President, the

Senate will recess for about 20 minutes and then return promptly at the end of their conference.

ACTING PRESIDENT GRIFFO: The Senate stands at ease for 20 minutes.

(Whereupon, the Senate stood at ease at 9:32 p.m.)

(Whereupon, the Senate reconvened at 10:33 p.m.)

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator Libous.

SENATOR LIBOUS: Mr. President, can we go to motions?

ACTING PRESIDENT GRIFFO: We are on motions.

I'm going to ask for some order in the chamber, please.

Senator Libous.

SENATOR LIBOUS: On behalf of Senator Seward, on page 9 I offer the following amendments to Calendar Number 239, Senate Print 2713, and I 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.

SENATOR LIBOUS: Mr. President, at this time could we take up the supplemental active list. It would be the page with the one bill on it by Senator Squadron, Calendar Number 1014.

ACTING PRESIDENT GRIFFO: The Secretary will read.

SENATOR LIBOUS: Noncontroversial.

THE SECRETARY: Calendar Number 1014, by Senator Squadron, Senate Print 79A, an act to amend the General Construction Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 60th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Squadron to explain his vote.

SENATOR SQUADRON: Thank you, Mr. President, to explain my vote.

I just want to take a moment to

thank Senator Larkin for his work on this bill. He and I have been partnering on this bill for two terms now.

And it's a critically important bill. It's going to open it up to $120 billion in investment for New York for socially impactful investment. So it's a great bill for business in New York State, it brings a whole new corporate form, and it was done in a bipartisan way.

So thank you to Senator Larkin, Senator Smith, and Senator Bonacic, the other colleague with whom I worked on this bill. I vote aye.

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

Senator Grisanti to explain his vote.

SENATOR GRISANTI: Mr. President, I just want to thank Senator Squadron for bringing this bill to the floor. It's a very good bill.

It helps out the area of the City of Buffalo, as you can see. It has support from Guardians of Buffalo, which is basically an organization that takes -- basically what he's trying to do is a corporation that does good.

This is a corporation that takes vacant lots, turns them into community gardens that grow fruits and vegetables and sells them at farmer's markets. It's going to help them as far as retain as much money as they can.

Appreciate the bill, and I vote aye.

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

Announce the results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Libous.

SENATOR LIBOUS: Mr. President, can we now take up the noncontroversial reading of the supplemental calendar, starting with Senator McDonald's bill, Calendar Number 101.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 101, by Senator McDonald, Senate Print 2152A, an act to amend Chapter 542 of the Laws of 1997.

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: On page 9, Senator Grisanti moves to discharge, from the Committee on Rules, Assembly Bill Number 766A and substitute it for the identical Senate Bill Number 1737B, Third Reading Calendar 234.

ACTING PRESIDENT GRIFFO: Substitution so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 234, by Member of the Assembly Gantt, Assembly Print 766A, an act to amend Chapter 616 of the Laws of 1992.

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 269, by Senator Seward, Senate Print 2382A, Concurrent Resolution of the Senate and Assembly.

ACTING PRESIDENT GRIFFO: Call the roll on the concurrent resolution.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Krueger to explain her vote.

SENATOR KRUEGER: Thank you, Mr. President.

I'll be voting no on this constitutional amendment tonight. While there seems to be some different interpretations of the gray area of whether this constitutional amendment establishing the right to hunt, fish, and trap would in fact force legal challenges to local gun laws, local laws saying that you cannot hunt in specific parks, I am very concerned that a constitutional amendment would open us up to years of litigation on different DEC -- a current

DEC law, on New York City gun permit laws, on any number of other local ordinances putting, in fact, limitations on hunting, fishing, trapping and the carrying of weapons.

So I think we'd be better off as a state not opening ourselves up to all these legal disputes by changing our constitution.

I'll be voting no. Thank you.

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

Announce the results.

THE SECRETARY: In relation to Calendar 269, those recorded in the negative are Senators Adams, Avella, Duane, Gianaris, Hassell-Thompson, L. Krueger, Montgomery, Parker, Perkins and Rivera. Also Senator Stavisky.

Ayes, 51. Nays, 11.

ACTING PRESIDENT GRIFFO: The resolution is adopted.

THE SECRETARY: Calendar Number 297, by Senator Hannon, Senate Print 1924, 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, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: On page 11, Senator Lanza moves to discharge, from the Committee on Rules, Assembly Bill Number 7463A and substitute it for the identical Senate Bill Number 4377A, Third Reading Calendar 315.

ACTING PRESIDENT GRIFFO: Substitution so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 315, by Member of the Assembly Cusick, Assembly Print Number 7463A, an act to authorize owners of residential real property.

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 378, by Senator Golden, Senate Print 4496B, an act to amend the Vehicle and Traffic Law.

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

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

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

Announce the results.

THE SECRETARY: In relation to Calendar Number 378, those recorded in the negative are Senators Duane, C. Kruger, Lanza, LaValle, Marcellino, Montgomery, Ranzenhofer, Saland and Zeldin. Also Senator Griffo.

Ayes, 52. Nays, 10.

ACTING PRESIDENT GRIFFO: The bill

is passed.

THE SECRETARY: Calendar Number 384, by Senator Maziarz, Senate Print 3755B, 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, 61. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: On page 15, Senator Fuschillo moves to discharge, from the Committee on Rules, Assembly Bill Number 5516C and substitute it for the identical Senate Bill Number 3461C, Third Reading Calendar 387.

ACTING PRESIDENT GRIFFO: Substitution so ordered, and the Secretary will read.

THE SECRETARY: Calendar Number 387, by Member of the Assembly Jaffee, Assembly

Print Number 5516C, 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 90th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 518, by Senator Flanagan, Senate Print 4670, an act to amend the Highway Law.

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

The Secretary will 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 519, by Senator Flanagan, Senate Print 4686, an act to amend the Highway Law.

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

The Secretary will 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 520, by Senator Flanagan, Senate Print 4765, 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 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 19, Senator Griffo moves to discharge, from the Committee on Rules, Assembly Bill Number 6726A and substitute it for the identical Senate Bill Number 4521A, Third Reading Calendar 547.

ACTING PRESIDENT GRIFFO: Substitution so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 547, by Member of the Assembly Russell, Assembly Print 6726A, 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: On page 20, Senator Maziarz moves to discharge, from the Committee on Rules --

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

ACTING PRESIDENT GRIFFO: We're going to do the substitution first, Senator Maziarz.

THE SECRETARY: On page 20, Senator Maziarz moves to discharge, from the Committee on Rules, Assembly Bill Number 353C and substitute it for the identical Senate Bill Number 519C, Third Reading Calendar 576.

ACTING PRESIDENT GRIFFO: The substitution is so ordered, and the bill is laid aside for the day.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 602, by Senator McDonald, Senate Print 2153B, 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: On page 22, Senator Savino moves to discharge, from the Committee on Rules, Assembly Bill Number 6599 and substitute it for the identical Senate Bill Number 1610, Third Reading Calendar 611.

ACTING PRESIDENT GRIFFO: The substitution is so ordered.

There is a home-rule message at the desk.

The Secretary will read.

THE SECRETARY: Calendar Number 611, by Member of the Assembly Brook-Krasny, Assembly Print Number 6599, an act to authorize the City of New York.

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 619, by Senator Ritchie, Senate Print 5159, an act to amend the Agriculture and Markets 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 639, by Senator Zeldin, Senate Print 4600B, an act to authorize the assessor of the Town of Islip.

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 Bonacic recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 656, by Senator Larkin, Senate Print 1727, 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 657, by Senator Golden, Senate Print 1744, an act

to amend the Executive 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: On page 24, Senator O'Mara moves to discharge, from the Committee on Rules, Assembly Bill Number 7280 and substitute it for the identical Senate Bill Number 5133, Third Reading Calendar 677.

ACTING PRESIDENT GRIFFO: The substitution is so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 677, by Member of the Assembly Englebright, Assembly Print Number 7280, 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: Senator Oppenheimer moves to discharge, from the Committee on Rules, Assembly Bill Number 340A and substitute it for the identical Senate Bill Number 1846A, Third Reading Calendar 825.

ACTING PRESIDENT GRIFFO: The substitution is so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 825, by Member of the Assembly Paulin, Assembly Print 340A, an act to authorize the lease of lands located at the State University of New York at Purchase.

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 Ranzenhofer recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 847, by Senator Maziarz, Senate Print 5407, an act to amend the Economic Development 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 855, by Senator LaValle, Senate Print 3834A, an act to amend the New York State Urban Development Corporation Act.

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 Stavisky to explain her vote.

SENATOR STAVISKY: To explain my vote.

I have been assured by Senator LaValle that the section that deals with the biosciences research institutions and organizations does not include the State University of New York Research Foundation. And therefore I will vote aye.

Thank you, Mr. President.

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

Announce the results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 863, by Senator McDonald, Senate Print 5109, an

act to amend the Public Officers 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: On page 32, Senator Bonacic moves to discharge, from the Committee on Rules, Assembly Bill Number 6935 and substitute it for the identical Senate Bill Number 4874, Third Reading Calendar 867.

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

The Secretary will read.

THE SECRETARY: Calendar Number 867, by Member of the Assembly Gunther, Assembly Print Number 6935, 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 873, by Senator Zeldin, Senate Print 4545A, an act to authorize.

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 873, those recorded in the negative are Senators Bonacic and Larkin.

Ayes, 60. Nays, 2.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number

900, by Senator Seward, Senate Print 5040, an act to amend the Insurance Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 922, by Senator Ranzenhofer, Senate Print 3224, 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, 62.

ACTING PRESIDENT GRIFFO: The bill

is passed.

THE SECRETARY: On page 38, Senator Little moves to discharge, from the Committee on Rules, Assembly Bill Number 7933 and substitute it for the identical Senate Bill Number 5475, Third Reading Calendar 995.

ACTING PRESIDENT GRIFFO: Substitution so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 995, by Member of the Assembly Sayward, Assembly Print Number 7933, 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: On page 48, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 8012 and substitute

it for the identical Senate Bill Number 5485, Third Reading Calendar 1131.

ACTING PRESIDENT GRIFFO: Substitution so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1131, by Member of the Assembly Abbate, Assembly Print Number 8012, an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 5. This act shall take effect July 1, 2011.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: On page 50, Senator Lanza moves to discharge, from the Committee on Local Government, Assembly Bill Number 7735 and substitute it for the identical Senate Bill Number 5486, Third Reading Calendar 1163.

ACTING PRESIDENT GRIFFO: Substitution so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1163, by Member of the Assembly Farrell, Assembly Print Number 7735, an act to amend Chapter 130 of the Laws of 1998.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall 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 1186, by Senator Grisanti, Senate Print 2352, 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, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: On page 52, Senator DeFrancisco moves to discharge, from the Committee on Rules, Assembly Bill Number 8235 and substitute it for the identical Senate Bill Number 5665, Third Reading Calendar 1198.

ACTING PRESIDENT GRIFFO: Substitution so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1198, by Member of the Assembly Farrell, Assembly Print Number 8235, an act to amend Part RR of Chapter 57 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.

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

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

There will be an immediate meeting of the Rules Committee in Room 332. After the meeting of the Rules Committee, we will reconvene here to accept the report of the Rules Committee, and after that the Senate will adjourn until tomorrow -- Adam doesn't have the time yet. But if you all come back, Adam will tell me and I will you what time we're meeting tomorrow.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: There's an immediate meeting of the Rules Committee in Room 332.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 10:54 p.m.)

(Whereupon, the Senate reconvened at 11:18 p.m.)

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Libous.

SENATOR LIBOUS: Mr. President, before we have a reading of the Rules report, I want to go to motions for a moment, please.

ACTING PRESIDENT MAZIARZ: Motions and resolutions.

Senator Libous.

SENATOR LIBOUS: On behalf of Senator Fuschillo, on page 39 I offer the following amendments to Calendar Number 999, Senate Print 5545A, and ask that said bill retain its place on the Third Reading Calendar.

Mr. President, at this time I believe, if we go to reports of standing committees, there is a report of the Rules Committee at the desk.

ACTING PRESIDENT MAZIARZ: Reports of standing committees.

There is a report of the Rules Committee at the desk.

The Secretary will read.

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

Senate Print 230, by Senator Montgomery, an act to amend the Correction Law;

333, by Senator Diaz, an act to authorizing the City of New York;

357A, by Senator Robach, Concurrent Resolution of the Senate and Assembly;

1408, by Senator Hannon, an act to amend the Public Health Law;

2357B, by Senator Oppenheimer, an act to amend the Education Law;

4005A, by Senator Fuschillo, an act to amend the Insurance Law;

4101A, by Senator Farley, an act to amend the Education Law;

4384B, by Senator Ranzenhofer, an act to amend the Public Health Law;

4725, by Senator Kennedy, an act to amend the Penal Law;

4770, by the Committee on Rules, an act authorizing the assessor of the Town of Rockland;

5577A, by Senator Golden, an act to amend the Tax Law;

5591, by Senator Little, an act to amend the Public Health Law;

5623, by Senator Peralta, an act to amend the Penal Law;

5644, by Senator Hannon, an act to amend Chapter 474 of the Laws of 1996;

5653, by the Senate Committee on Rules, an act to amend the Administrative Code of the City of New York;

5663, by Senator LaValle, an act to amend the Environmental Conservation Law;

5667, by Senator Bonacic, an act to amend the General Municipal Law;

5695, by Senator Klein, an act to amend the Insurance Law;

5706A, by the Senate Committee on Rules, an act to authorize the City of New York;

And 5713, by Senator Johnson, an act to amend the Education Law.

All bills ordered direct to third reading.

ACTING PRESIDENT MAZIARZ: Senator Libous.

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

ACTING PRESIDENT MAZIARZ: Senator, I'm sorry, we have to move to accept the report

of the Rules Committee.

SENATOR LIBOUS: Mr. President, Thank you. That's very important.

Can we move to accept the report of the Rules Committee.

ACTING PRESIDENT MAZIARZ: All those in favor of accepting the report of the Rules Committee signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(No response.)

ACTING PRESIDENT MAZIARZ: The Rules Committee report is accepted.

Senator Libous.

SENATOR LIBOUS: We'll try this again, Mr. President. Is there any further business at the desk?

ACTING PRESIDENT MAZIARZ: No, no further business at the desk.

SENATOR LIBOUS: Well, Mr. President, since there's no further business at the desk, at this time I will announce that the Republican Conference will meet tomorrow morning in Room 332 at 10:00 a.m. That's a

Republican conference tomorrow morning in Room 332 at 10:00 a.m.

And, Mr. President, there being no further business at this time before the Senate, we will adjourn until Friday, June 17th, at 11:00 a.m.

Oh, oh -- we haven't adjourned yet, have we?

ACTING PRESIDENT MAZIARZ: No.

SENATOR LIBOUS: Senator Breslin would like to be recognized.

ACTING PRESIDENT MAZIARZ: Senator Breslin.

SENATOR BRESLIN: The Democratic Conference will meet at --

SENATOR LIBOUS: Oh, there's Senator Hassell-Thompson.

ACTING PRESIDENT MAZIARZ: There will be a Democratic conference at 7:30 a.m. tomorrow morning.

(Laughter.)

SENATOR LIBOUS: Mr. President, I think if you would please call on Senator Hassell-Thompson you'll get the correct scoop.

ACTING PRESIDENT MAZIARZ: Senator

Hassell-Thompson.

SENATOR HASSELL-THOMPSON: There will be a Democratic conference at 10:30 a.m. in the Democratic Conference Room. Thank you.

ACTING PRESIDENT MAZIARZ: There will be a Democratic conference tomorrow morning at 10:30 a.m., and a Republican conference at 10:00 a.m.

Senator Libous.

SENATOR LIBOUS: That's correct, Mr. President.

And there being no further business before the Senate, I move that we adjourn until June 17th, Friday, at 11:00 a.m.

ACTING PRESIDENT MAZIARZ: On motion, the Senate stands adjourned until Friday, June 17th, at 11:00 a.m.

(Whereupon, at 11:23 p.m., the Senate adjourned.)