

1 NEW YORK STATE SENATE

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3
4 THE STENOGRAPHIC RECORD

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8
9 ALBANY, NEW YORK

10 June 16, 2011

11 11:29 a.m.

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13
14 REGULAR SESSION

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18 SENATOR JOSEPH E. ROBACH, Acting President

19 FRANCIS W. PATIENCE, Secretary

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

2 ACTING PRESIDENT ROBACH: The
3 Senate will come to order.

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

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

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

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

14 ACTING PRESIDENT ROBACH: The
15 reading of the Journal.

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

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

24 Presentation of petitions.

25 Messages from the Assembly.

1 The Secretary will read.

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

8 ACTING PRESIDENT ROBACH:
9 Substitution ordered.

10 THE SECRETARY: On page 8,
11 Senator Bonacic moves to discharge, from the
12 Committee on Rules, Assembly Bill Number 409D
13 and substitute it for the identical Senate
14 Bill Number 2143D, Third Reading Calendar
15 225.

16 ACTING PRESIDENT ROBACH:
17 Substitution ordered.

18 THE SECRETARY: On page 10,
19 Senator Oppenheimer moves to discharge, from
20 the Committee on Rules, Assembly Bill Number
21 777A and substitute it for the identical
22 Senate Bill Number 3842A, Third Reading
23 Calendar 254.

24 ACTING PRESIDENT ROBACH:
25 Substitution ordered.

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

6 ACTING PRESIDENT ROBACH:
7 Substitution ordered.

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

13 ACTING PRESIDENT ROBACH:
14 Substitution ordered.

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

20 ACTING PRESIDENT ROBACH:
21 Substitution ordered.

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

1 Third Reading Calendar 623.

2 ACTING PRESIDENT ROBACH:

3 Substitution ordered.

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

9 ACTING PRESIDENT ROBACH:

10 Substitution ordered.

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

17 ACTING PRESIDENT ROBACH:

18 Substitution ordered.

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

24 ACTING PRESIDENT ROBACH:

25 Substitution ordered.

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

6 ACTING PRESIDENT ROBACH:
7 Substitution ordered.

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

13 ACTING PRESIDENT ROBACH:
14 Substitution ordered.

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

20 ACTING PRESIDENT ROBACH:
21 Substitution ordered.

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

25 THE SECRETARY: On page 33, Senator

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

5 ACTING PRESIDENT ROBACH:
6 Substitution ordered.

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

12 ACTING PRESIDENT ROBACH:
13 Substitution ordered.

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

19 ACTING PRESIDENT ROBACH:
20 Substitution ordered.

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

1 ACTING PRESIDENT ROBACH:

2 Substitution ordered.

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

8 ACTING PRESIDENT ROBACH:

9 Substitution ordered.

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

15 ACTING PRESIDENT ROBACH:

16 Substitution ordered.

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

22 ACTING PRESIDENT ROBACH:

23 Substitution ordered.

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

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

4 ACTING PRESIDENT ROBACH:
5 Substitution ordered.

6 Messages from the Governor.

7 Reports of standing committees.

8 Reports of select committees.

9 Communications and reports from
10 state officers.

11 Motions and resolutions.

12 Senator Libous.

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

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

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

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

1 a sponsor star on 811.

2 ACTING PRESIDENT ROBACH: So
3 ordered.

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

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

12 THE SECRETARY: Calendar Number
13 526, by Senator Maziarz, Senate Print 508A --

14 SENATOR LIBOUS: Lay that aside for
15 the day.

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

18 THE SECRETARY: Calendar Number
19 533, by Senator Nozzolio, Senate Print 3747, an
20 act to amend the Correction Law.

21 SENATOR BRESLIN: Explanation.

22 ACTING PRESIDENT ROBACH: An
23 explanation has been requested.

24 Senator Nozzolio.

25 SENATOR NOZZOLIO: Mr. President

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

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

6 Oh, I'm sorry. Senator Rivera.

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

9 ACTING PRESIDENT ROBACH: You're
10 hard to miss.

11 (Laughter.)

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

15 ACTING PRESIDENT ROBACH: Will you
16 yield, Senator Nozzolio?

17 SENATOR NOZZOLIO: Yes,
18 Mr. President.

19 SENATOR RIVERA: Thank you,
20 Mr. President.

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

1 this program each year?

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

5 SENATOR RIVERA: Thank you.

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

8 ACTING PRESIDENT ROBACH: Senator
9 Nozzolio, do you yield?

10 SENATOR NOZZOLIO: Yes,
11 Mr. President.

12 ACTING PRESIDENT ROBACH:
13 Continue.

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

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

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

1 to the taxpayers of this state.

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

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

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

16 ACTING PRESIDENT ROBACH: Senator
17 Nozzolio?

18 SENATOR NOZZOLIO: Yes,
19 Mr. President.

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

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

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

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

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

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

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

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

22 SENATOR NOZZOLIO: Yes,
23 Mr. President.

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

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

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

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

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

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

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

3 SENATOR NOZZOLIO: Yes,
4 Mr. President.

5 ACTING PRESIDENT ROBACH: Continue.

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

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

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

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

22 ACTING PRESIDENT ROBACH: On the
23 bill, Senator Rivera.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 Thank you, Mr. President.

13 ACTING PRESIDENT ROBACH: Thank
14 you, Senator Rivera.

15 Is there any other Senator wishing
16 to be heard?

17 Senator Krueger.

18 SENATOR KRUEGER: Thank you very
19 much.

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

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

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

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

14 ACTING PRESIDENT ROBACH: Thank
15 you, Senator Krueger.

16 Senator Perkins.

17 SENATOR PERKINS: Thank you very
18 much.

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

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

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

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

22 So in that regard, I'm voting no.

23 ACTING PRESIDENT ROBACH: Thank
24 you, Senator Perkins.

25 If there are no other Senators

1 wishing to be heard, Senator Nozzolio to close.

2 SENATOR NOZZOLIO: Thank you,
3 Mr. President.

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

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

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

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

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

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

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

5 ACTING PRESIDENT ROBACH: Thank
6 you, Senator Nozzolio.

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

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

14 SENATOR LIBOUS: Mr. President.

15 ACTING PRESIDENT ROBACH: Senator
16 Libous.

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

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

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

5 ACTING PRESIDENT ROBACH: Thank
6 you, Senator Libous.

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

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

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

15 Read the last section.

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

18 ACTING PRESIDENT ROBACH: Call the
19 roll.

20 (The Secretary called the roll.)

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

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

25 I rise to continue to vote no on

1 this bill.

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

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

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

21 Continue, Senator Thompson.

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

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

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

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

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

14 ACTING PRESIDENT ROBACH: Thank
15 you, Senator.

16 Senator Adams to explain his vote.

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

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

1 they did not commit the felonious assaults.

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

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

24 I will be voting no on this bill.

25 ACTING PRESIDENT ROBACH: Senator

1 Adams to be recorded in the negative.

2 Announce the results.

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

11 Absent from voting: Senators
12 Fuschillo and Smith.

13 Ayes, 38. Nays, 22.

14 ACTING PRESIDENT ROBACH: The bill
15 is passed.

16 Senator Libous.

17 SENATOR LIBOUS: Mr. President,
18 thank you.

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

24 ACTING PRESIDENT ROBACH: Without
25 objection, Senator Parker.

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

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

7 As you know, I represent the
8 21st Senatorial District in Brooklyn, Flatbush
9 and East Flatbush, Midwood, Ditmas Park,
10 Kensington and Boro Park. And as such, probably
11 along with Senator Adams and Senator John
12 Sampson, I represent probably the largest
13 concentration of Jamaican immigrants outside of
14 Jamaica in the world.

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

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

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

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

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

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

25 ACTING PRESIDENT ROBACH: Thank

1 you, Senator Parker.

2 Senator Hassell-Thompson.

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

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

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

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

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

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

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

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

16 (Extended applause.)

17 ACTING PRESIDENT ROBACH: The
18 Secretary will read.

19 THE SECRETARY: Calendar Number
20 725, by Senator Saland, Senate Print --

21 SENATOR LIBOUS: Lay it aside for
22 the day.

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

25 THE SECRETARY: Calendar Number

1 802, by Senator Golden, Senate Print 643, an act
2 to amend the Penal Law.

3 SENATOR KRUEGER: Explanation.

4 ACTING PRESIDENT ROBACH: An
5 explanation has been requested.

6 Senator Golden.

7 SENATOR GOLDEN: Thank you,
8 Mr. President.

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

20 ACTING PRESIDENT ROBACH: Senator
21 Krueger.

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

24 ACTING PRESIDENT ROBACH: Senator
25 Golden, will you yield?

1 SENATOR GOLDEN: Yes, I will.

2 Thank you, Mr. President.

3 SENATOR KRUEGER: Thank you.

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

11 SENATOR GOLDEN: Through you,
12 Mr. President, there would be no reason for the
13 bill if we did that. The reason for the bill is
14 to a persistent person that commits five crimes
15 within a five-year period to go to jail for a
16 30-days minimum to a year maximum.

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

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

21 SENATOR GOLDEN: I do indeed,
22 Mr. President.

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

1 SENATOR GOLDEN: All misdemeanors,
2 Mr. President.

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

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

8 SENATOR GOLDEN: Yes,
9 Mr. President.

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

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

17 SENATOR KRUEGER: One second.

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

20 (Laughter.)

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

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

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

3 SENATOR GOLDEN: Yes,
4 Mr. President.

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

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

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

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

22 ACTING PRESIDENT ROBACH: Senator
23 Golden?

24 SENATOR GOLDEN: Yes,
25 Mr. President.

1 SENATOR KRUEGER: So we're doing
2 this statewide. But again, for the record, it's
3 not a state cost because none of these people
4 would be sentenced to state jail, they would be
5 sentenced to their local or municipal or county
6 jail. And my understanding is that ranges up to
7 \$30,000 to \$40,000 per year per inmate.

8 The sponsor believes that a
9 mandatory jail sentence for someone convicted of
10 five misdemeanors in a five-year period is a
11 greater cost to a locality than \$30,000 or
12 \$40,000 annually?

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

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

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

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

7 SENATOR GOLDEN: Yes,
8 Mr. President.

9 SENATOR KRUEGER: Thank you.
10 You know, I can't speak for the
11 population leaving by the droves in upstate
12 New York because the population's been going
13 down. The population in our city, where Senator
14 Golden and I come from, is actually going up. So
15 people aren't leaving in droves, certainly not
16 because of our crime rate. But I do recognize
17 there are regional differences.

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

25 So, Senator Golden, five marijuana

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

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

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

8 ACTING PRESIDENT ROBACH: Senator
9 Golden, will you --

10 SENATOR GOLDEN: Yes,
11 Mr. President.

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

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

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

19 ACTING PRESIDENT ROBACH: Senator
20 Golden?

21 SENATOR GOLDEN: Yes,
22 Mr. President.

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

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

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

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

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

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

8 Thank you, Mr. President.

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

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

13 SENATOR GOLDEN: I do,
14 Mr. President.

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

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

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

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

8 ACTING PRESIDENT ROBACH: Senator
9 Golden?

10 SENATOR GOLDEN: Yes,
11 Mr. President.

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

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

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

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

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

1 not the tens of thousands?

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

4 SENATOR KRUEGER: If the sponsor
5 would continue to yield.

6 SENATOR GOLDEN: Yes,
7 Mr. President.

8 SENATOR KRUEGER: Thank you.

9 ACTING PRESIDENT ROBACH: He
10 continues.

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

19 So this could include misdemeanor
20 criminal convictions for adultery?

21 (Laughter.)

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

1 SENATOR KRUEGER: Mr. President, on
2 the bill.

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

5 ACTING PRESIDENT ROBACH: Senator
6 Krueger on the bill.

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

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

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

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

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

25 An enormous expense to our local

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

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

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

19 Thank you, Mr. President.

20 ACTING PRESIDENT ROBACH: Thank
21 you, Senator Krueger.

22 Senator Rivera.

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

25 It seems to be a repeating pattern

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

11 I believe in public safety. And I
12 am concerned about state spending. And
13 therefore, I oppose this bill. I am concerned
14 about state spending when we are saying that we
15 are going to ask localities, municipalities all
16 across the state to put individuals in their
17 local jails or prisons at a cost of \$30,000 or
18 \$40,000; I don't remember the exact number that
19 my colleague said.

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

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

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

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

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

20 Thank you, Mr. President.

21 ACTING PRESIDENT ROBACH: Thank
22 you, Senator Rivera.

23 Senator Saland.

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

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

4 Yes, my concern is public safety and
5 the reality is in most jurisdictions outside the
6 City of New York, you're going to be serving time
7 before you get to the fifth misdemeanor. In all
8 likelihood, if you're a two-or-three-time loser,
9 you're going to serve time, somewhere between
10 30 days and a year.

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

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

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

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

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

20 Senator Golden, thank you.

21 SENATOR GOLDEN: Thank you,
22 Senator.

23 ACTING PRESIDENT ROBACH: Thank
24 you, Senator Saland.

25 Senator Adams.

1 SENATOR ADAMS: Thank you,
2 Mr. President.

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

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

13 But let me bring you into the
14 universe of reality. In New York City, we had
15 600,000 young men who were stopped, questioned,
16 and frisked. Former Attorney General Eliot
17 Spitzer stated for every one documented incident
18 of stop, question and frisk, four went
19 unreported. So that's over 2 million young
20 people were stopped, questioned and frisked.

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

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

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

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

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

16 ACTING PRESIDENT ROBACH:
17 Momentarily.

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

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

6 But we have a problem here when you
7 have large volumes of young people -- over
8 2 million, potentially, in New York City, 600,000
9 documented -- that are being stopped, questioned
10 and in many of those cases are being led to
11 arrests based on petty offenses that are taking
12 place.

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

25 I say no, they're college students,

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

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

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

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

25 SENATOR O'MARA: Yes,

1 Mr. President. Thank you, Senator Adams.

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

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

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

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

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

25 SENATOR ADAMS: Yes, I will.

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

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

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

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

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

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

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

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

3 SENATOR O'MARA: Yes.

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

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

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

25 And maybe if there's some

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

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

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

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

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

17 SENATOR LIBOUS: Senator Adams has
18 the floor.

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

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

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

3 Would Senator O'Mara --

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

6 (Laughter.)

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

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

12 SENATOR O'MARA: I will.

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

18 SENATOR O'MARA: Yes.

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

1 conviction? Is that what you're telling me?

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

9 SENATOR ADAMS: Okay. And again --

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

14 SENATOR ADAMS: Thank you,
15 Senator.

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

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

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

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

23 Thank you, Mr. President.

24 ACTING PRESIDENT ROBACH: Thank
25 you, Senator Adams.

1 Senator Espaillet, you wanted to ask
2 Senator O'Mara a question?

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

5 SENATOR O'MARA: Yes.

6 ACTING PRESIDENT ROBACH:
7 Senator -- he will yield.

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

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

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

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

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

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

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

5 Mr. President, if I may.

6 ACTING PRESIDENT ROBACH: Senator
7 Espaillat on the bill.

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

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

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

1 criminal court.

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

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

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

1 Thank you, Mr. President.

2 ACTING PRESIDENT ROBACH: Thank
3 you, Senator Espaillat.

4 Senator Montgomery.

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

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

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

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

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

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

16 Read the last section.

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

19 ACTING PRESIDENT ROBACH: Call the
20 roll.

21 (The Secretary called the roll.)

22 ACTING PRESIDENT ROBACH: Senator
23 Golden to explain his vote.

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

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

7 Thank you, Mr. President.

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

10 Announce the results.

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

17 Absent from voting: Senators
18 Fuschillo and Smith.

19 Ayes, 47. Nays, 13.

20 ACTING PRESIDENT O'MARA: The bill
21 is passed.

22 THE SECRETARY: Senator Little.

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

1 ACTING PRESIDENT O'MARA: Motions
2 and resolutions.

3 Senator Little.

4 SENATOR LITTLE: Thank you.

5 Mr. President, on behalf of Senator
6 Johnson, on page 35 I offer the following
7 amendments to Calendar Number 931, Senate Print
8 Number 4935A, and ask that said bill retain its
9 place on the Third Reading Calendar.

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

13 SENATOR LITTLE: Thank you.

14 May we return to the reading of
15 controversial calendar.

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

18 THE SECRETARY: Calendar Number
19 853, by Senator Nozzolio, Senate Print 3537, an
20 act to amend the Executive Law.

21 SENATOR RIVERA: Explanation.

22 SENATOR LITTLE: Lay the bill aside
23 for the day.

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

1 THE SECRETARY: Calendar Number
2 1046, by Senator Grisanti, Senate Print 5418A, an
3 act to amend the Navigation Law.

4 SENATOR SQUADRON: Explanation.

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

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

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

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

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

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

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

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

1 ACTING PRESIDENT O'MARA: Senator
2 Squadron.

3 SENATOR SQUADRON: Would the
4 sponsor yield for a question.

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

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

9 SENATOR SQUADRON: Thank you very
10 much.

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

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

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

25 What this is doing is actually

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

11 SENATOR SQUADRON: If the sponsor
12 would continue to yield.

13 SENATOR GRISANTI: Yes.

14 SENATOR SQUADRON: Isn't it true
15 that in fact what would happen is there's a
16 30-day window in which the polluter tries to pass
17 off responsibility to another party, DEC has the
18 requirement under a pretty low standard of proof,
19 preponderance of evidence, to find another party
20 responsible within that small window, and if they
21 don't and the polluter doesn't like the answer,
22 the polluter can file an Article 78 proceeding
23 and because of all the requirements in this bill
24 will suddenly have a much stronger case and
25 vastly increase the likelihood that the polluter

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

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

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

19 SENATOR SQUADRON: If the sponsor
20 would continue to yield.

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

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

1 bill creates, I think we would agree on that,
2 that don't currently exist. They're in a very,
3 very tight time frame. The standard of proof
4 that the polluter needs to meet is a pretty low
5 one. And definitionally, if the polluter doesn't
6 like DEC's answer, they could pursue an Article
7 78, in addition to the current remedy, which is
8 to go to a court of law. So I think that's
9 concerning.

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

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

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

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

1 prepared.

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

8 SENATOR SQUADRON: If the sponsor
9 would continue to yield.

10 SENATOR GRISANTI: I will.

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

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

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

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

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

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

10 SENATOR SQUADRON: I'd be happy to.

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

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

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

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

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

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

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

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

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

6 SENATOR GRISANTI: Yes.

7 SENATOR SQUADRON: Thank you.

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

15 I think another concern has to do
16 with the ongoing liability after an agreement is
17 made. And I ask, under this bill, in a
18 hypothetical, if someone has a gas station that
19 has polluted, they do somehow, despite this
20 30-day window, take responsibility, make a deal
21 with DEC, and then two years later an additional
22 extent of the spill is discovered. It's
23 discovered that it actually extends a hundred
24 yards further than it did.

25 Under this bill, would the polluter

1 have to pay for that additional discovery?

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

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

25 So that 30-day window that you seem

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

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

15 If you would continue to yield.

16 SENATOR GRISANTI: I do.

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

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

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

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

21 SENATOR SQUADRON: I thank the
22 sponsor very much.

23 On the bill, Mr. President.

24 SENATOR GRISANTI: Thank you.

25 ACTING PRESIDENT O'MARA: On the

1 bill, Senator Squadron.

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

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

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

25 That part of the process works

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

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

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

23 Thank you, Mr. President.

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

1 Senator Oppenheimer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 SENATOR GRISANTI: Thank you,
19 Senator.

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

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

1 people interested in once again developing these
2 sites.

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

12 I'd like to speak on the bill.

13 SENATOR GRISANTI: Thank you,
14 Senator.

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

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

25 And if the DEC cannot determine who

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

4 As background, in any given week
5 there can be up to 400 oil spills in New York
6 State. Over the last four years, DEC staff
7 levels have been reduced, as we all know, by
8 20 percent. And the amount of resources
9 available to do this investigating and cleanup of
10 oil spills has been cut in half. By removing a
11 polluter's responsibility to pay for an oil
12 spill, the DEC and the New York taxpayers are the
13 ones who are going to be left to shoulder the
14 bill of the cleanup costs.

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

25 In the past, spills have leaked from

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

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

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

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

15 Any other Senator wish to be heard?

16 Senator Kennedy.

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

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

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

25 SENATOR KENNEDY: Thank you,

1 Senator Grisanti.

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

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

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

12 SENATOR GRISANTI: Yes, I will.

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

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

20 SENATOR KENNEDY: On the bill,
21 Mr. President.

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

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

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

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

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

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

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

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

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

15 Would Senator Kennedy just yield for
16 one question?

17 SENATOR KENNEDY: Certainly.

18 ACTING PRESIDENT O'MARA: Proceed.

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

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

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

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

18 SENATOR GRISANTI: Thank you.
19 Absolutely.

20 ACTING PRESIDENT O'MARA: Senator
21 Kennedy.

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

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

1 SENATOR GRISANTI: Yes. Yes, I
2 will.

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

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

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

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

18 SENATOR GRISANTI: I do.

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

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

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

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

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

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

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

14 SENATOR KENNEDY: Thank you.

15 If the sponsor will continue to
16 yield.

17 SENATOR GRISANTI: I will.

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

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

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

6 SENATOR KENNEDY: If the sponsor
7 will continue to yield.

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

10 SENATOR GRISANTI: I will.

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

15 SENATOR GRISANTI: Yes, absolutely.

16 SENATOR KENNEDY: If the sponsor
17 will continue to yield.

18 SENATOR GRISANTI: I will.

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

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

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

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

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

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

25 So we want to create an atmosphere

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

12 Thank you.

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

15 Senator Breslin.

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

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

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

6 I intend to vote in the affirmative.

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

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

11 Read the last section.

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

14 ACTING PRESIDENT O'MARA: Call the
15 roll.

16 (The Secretary called the roll.)

17 ACTING PRESIDENT O'MARA: Announce
18 the results.

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

1 Stewart-Cousins. Also Senator Sampson.

2 Ayes, 40. Nays, 22.

3 ACTING PRESIDENT O'MARA: The bill
4 is passed.

5 THE SECRETARY: Calendar Number
6 1111, by Senator Saland, Senate Print 5560, an
7 act to amend the Executive Law.

8 SENATOR BRESLIN: Explanation.

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

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

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

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

25 ACTING PRESIDENT O'MARA: Excuse

1 me, Senator Saland {gaveling}.

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

5 SENATOR SALAND: Thank you,
6 Mr. President.

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

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

1 went on to commit yet further violent felonies.

2 There's certainly readily half a
3 dozen to 10 cases that have attained much public
4 attention. And I would simply point out that
5 there have been, just on the misdemeanor petit
6 larceny, there have been 845 hits on offenders,
7 and those offenders have been linked to 41
8 murders, 202 sexual assaults, 100 robberies, and
9 360 burglaries.

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

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

25 Thank you, Mr. President.

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

3 Senator Hassell-Thompson.

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

6 ACTING PRESIDENT O'MARA: On the
7 bill.

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

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

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

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

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

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

1 crime scene are being destroyed.

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

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

1 allowed to keep the sample?

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

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

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

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

6 Because one of the things that needs
7 to be negotiated is that this is not just about
8 prosecution. Justice is not about one
9 side versus another. Justice is about access by
10 both sides to the same amount of evidence and to
11 ensure that we reduce the numbers of people who
12 end up in prison innocently and who spend 26 to
13 30 years of their lives convicted of crimes that
14 they never committed.

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

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

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

10 ACTING PRESIDENT O'MARA: Thank
11 you, Senator.

12 Senator Klein is next on the list.

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

15 Senator Klein.

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

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

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

1 State but also those for serious felony arrests
2 as well.

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

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

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

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

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

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

22 I vote yes, Mr. President.

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

25 Senator Duane.

1 SENATOR DUANE: Thank you,
2 Mr. President.

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

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

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

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

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

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

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

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

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

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

23 Thank you, Mr. President.

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

1 closed. The Secretary will ring the bell.

2 Oh, excuse me. Back up a second.

3 Senator Saland.

4 SENATOR SALAND: Briefly to close.

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

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

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

25 So while certainly there are issues

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

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

13 Thank you, Mr. President.

14 ACTING PRESIDENT O'MARA: Thank
15 you, Senator.

16 Debate is closed. The Secretary
17 will ring the bell.

18 Read the last section.

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

21 ACTING PRESIDENT O'MARA: Call the
22 roll.

23 (The Secretary called the roll.)

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

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

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

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

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

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

21 Senator Perkins to explain your
22 vote.

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

25 I want to make reference to a

1 wrongly convicted man who was recently released
2 from prison after -- his name was Newton, Alan
3 Newton. He was a constituent of mine and spent
4 18 years in -- 20 years in jail because they
5 could not find his DNA after his lawyers had
6 requested it. And it just seems to me that this
7 type of mistake that extended his time in jail,
8 even though he was innocent, gives me pause to
9 realize that this type of legislation needs to
10 have some additional improvements before I can
11 actually be able to support it.

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

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

17 Senator Stavisky to explain your
18 vote.

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

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

1 fingerprints. And for these reasons I vote aye.

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

4 Senator DeFrancisco to explain your
5 vote.

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

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

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

21 I vote aye.

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

24 Senator Grisanti to explain your
25 vote.

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

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

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

16 Thank you, Mr. President.

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

19 Announce the results.

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

25 Absent from voting: Senator

1 Fuschillo.

2 Ayes, 53. Nays, 8.

3 ACTING PRESIDENT O'MARA: The bill
4 is passed.

5 THE SECRETARY: Calendar Number
6 1142, by Senator DeFrancisco, Senate Print 4749,
7 an act to amend the Social Services Law.

8 SENATOR BRESLIN: Explanation.

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

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

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

25 ACTING PRESIDENT O'MARA: Senator

1 Liz Krueger.

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

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

6 SENATOR DeFRANCISCO: Yes, I would.

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

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

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

21 SENATOR DeFRANCISCO: Yes.

22 SENATOR KRUEGER: Thank you.

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

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

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

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

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

22 SENATOR DeFRANCISCO: Yes.

23 ACTING PRESIDENT O'MARA: He
24 continues to yield.

25 SENATOR KRUEGER: I'll answer my

1 question and then follow up the question.

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

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

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

1 need these drugs, your child needs these drugs,
2 your disabled elderly mother needs these drugs.
3 But you don't have perhaps the \$3, the \$6, or the
4 \$30 if it's five other six prescriptions at the
5 same time.

6 What would the sponsor have these
7 people do?

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

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

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

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

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

12 Now, you can give the most
13 heart-wrenching stories about people, but there
14 are many people under those circumstances that
15 have the wherewithal to pay their \$1, \$3 or \$6
16 copay. And it's so bad, it's so epidemic that in
17 New York City 90 percent, 90 percent of the
18 people don't pay their copay for prescription
19 drugs. Overall in the State of New York,
20 50 percent overall. So obviously upstate has
21 less poor people, apparently, because there's
22 only about 25 percent that don't pay the copay
23 upstate. But in New York City, 90 percent. It's
24 amazing, when the economy is so much better in
25 New York City, that more people, almost all

1 people don't have the money for their copay.

2 Well, let me tell you some numbers.
3 The \$4 million, there were 4 million people that
4 we're talking about, let's suppose they just
5 didn't pay their \$1 copay for their monthly
6 prescription for 12 months. That's \$12 for these
7 4 million people. That comes out to
8 \$48 million. If 50 percent don't pay those
9 \$48 million copay, \$24 million is not being paid
10 because the people in the State of New York, the
11 pharmacists, are not allowed to demand the
12 copay. Whereas someone who paid for their
13 insurance has to pay that copay before they get
14 their drugs.

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

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

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

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

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

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

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

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

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

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

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

19 Senator DeFrancisco, why do you
20 rise?

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

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

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

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

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

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

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

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

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

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

1 getting the federal breakfast and lunch program
2 every day.

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

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

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

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

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

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

25 SENATOR DeFRANCISCO:

1 Conservatively.

2 SENATOR KRUEGER: Conservatively
3 \$24 million annually. It doesn't take that long
4 to spend way more than that in hospital care for
5 patients who, without the drugs, don't have their
6 healthcare problems addressed at the beginning of
7 a sickness stage. They don't end up having, for
8 example, to rush to the emergency room because
9 their child has an asthma attack, while if they
10 had been able to get the asthma drug, it would
11 have been much less likely that the child ever
12 would have ended up in the emergency room,
13 perhaps much less likely that the older person
14 with a heart problem ended up in the emergency
15 room with a heart attack.

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

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

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

6 I would urge a no vote. Thank you.

7 ACTING PRESIDENT O'MARA: Senator
8 DeFrancisco.

9 SENATOR DeFRANCISCO: The copay
10 requirement would not apply to individuals under
11 21 years of age. So the heart-wrenching
12 discussion about the child being brought to the
13 emergency room, children's drugs are going to be
14 provided.

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

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

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

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

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

1 State of New York.

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

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

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

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

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

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

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

7 ACTING PRESIDENT MARTINS: Read the
8 last section.

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

11 ACTING PRESIDENT MARTINS: Call the
12 roll.

13 (The Secretary called the roll.)

14 ACTING PRESIDENT MARTINS: Announce
15 the results.

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

23 Absent from voting: Senator
24 Fuschillo.

25 Ayes, 42. Nays, 19.

1 ACTING PRESIDENT MARTINS: The bill
2 is passed.

3 THE SECRETARY: Calendar Number
4 1206, by Senator Libous, Senate Print 2466A, an
5 act to amend the Highway Law.

6 ACTING PRESIDENT MARTINS: Read the
7 last section.

8 SENATOR BRESLIN: Explanation.

9 SENATOR LIBOUS: Thank you,
10 Mr. President.

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

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

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

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

1 Please continue.

2 SENATOR LIBOUS: Thank you, sir.

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

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

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

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

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

11 ACTING PRESIDENT MARTINS: Thank
12 you, Senator.

13 Senator Farley.

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

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

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

3 ACTING PRESIDENT MARTINS: Thank
4 you, Senator Farley.

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

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

10 ACTING PRESIDENT MARTINS: Thank
11 you.

12 SENATOR KRUEGER: If the sponsor
13 would yield, please.

14 SENATOR LIBOUS: Yes,
15 Mr. President.

16 SENATOR KRUEGER: Thank you.

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

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

25 SENATOR LIBOUS: Mr. President,

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

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

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

16 SENATOR LIBOUS: I certainly would.

17 SENATOR KRUEGER: Thank you.

18 So if I got on at what was 14 and
19 now might be 45, and I was coming to Albany, so I
20 got off at what is now Exit 23, it could now be
21 45 plus 120 miles?

22 SENATOR LIBOUS: It could be
23 Exit 196.

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

1 Mr. President.

2 ACTING PRESIDENT MARTINS: Would
3 you continue to yield?

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

6 SENATOR KRUEGER: Thank you.

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

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

16 Senator Libous, did you hear the
17 question?

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

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

1 doesn't go to road and bridge repair.

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

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

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

22 Thank you, Mr. President.

23 ACTING PRESIDENT MARTINS: Thank
24 you, Senator Krueger.

25 Any other Senator wishing to be

1 heard?

2 Seeing none, the debate is closed.

3 The Secretary will ring the bell.

4 Read the last section.

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

7 ACTING PRESIDENT MARTINS: Call the
8 roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT MARTINS: Senator
11 Squadron to explain his vote.

12 SENATOR SQUADRON: Thank you,
13 Mr. President.

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

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

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

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

4 So I vote yes, Mr. President.

5 ACTING PRESIDENT MARTINS: Thank
6 you, Senator.

7 Senator Rivera.

8 SENATOR RIVERA: Thank you,
9 Mr. President.

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

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

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

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

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

23 ACTING PRESIDENT MARTINS: The bill
24 is passed.

25 THE SECRETARY: Calendar Number

1 1207, by Senator Bonacic, Senate Print 2544, an
2 act to amend the Real Property Tax Law.

3 SENATOR BRESLIN: Explanation.

4 ACTING PRESIDENT MARTINS: An
5 explanation has been requested.

6 SENATOR BONACIC: Thank you,
7 Mr. President.

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

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

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

1 2000. In 2009, that is now over \$8 billion. It
2 is not sustainable.

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

12 ACTING PRESIDENT MARTINS: Thank
13 you, Senator.

14 Senator Krueger.

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

17 ACTING PRESIDENT MARTINS: Do you
18 yield, Senator?

19 SENATOR BONACIC: I do.

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

25 ACTING PRESIDENT MARTINS: Thank

1 you. The Senator yields, Senator Krueger.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (Laughter.)

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

19 SENATOR KRUEGER: Thank you so
20 much.

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

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

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

1 there some mechanism to address that possibility?

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

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

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

24 SENATOR BONACIC: I do.

25 SENATOR KRUEGER: Thank you.

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

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

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

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

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

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

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

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

24 SENATOR BONACIC: I do.

25 SENATOR KRUEGER: Thank you.

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

4 SENATOR BONACIC: Like the Open
5 Space Institute?

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

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

24 The -- I think you mentioned a
25 camp?

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

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

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

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

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

25 ACTING PRESIDENT MARTINS: Would

1 the sponsor yield?

2 SENATOR BONACIC: Of course.

3 SENATOR KRUEGER: Thank you.

4 ACTING PRESIDENT MARTINS: Thank
5 you, Senator Krueger.

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

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

1 do on land they own?

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

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

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

16 But, you know, if I have a clergy of
17 50 living there and I have 2,000 acres, do I make
18 2,000 acres of farming for some jelly for
19 50 people, then you got a question of
20 reasonableness, it's got to be clear and
21 convincing evidence.

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

25 SENATOR KRUEGER: Mr. President, on

1 the bill.

2 ACTING PRESIDENT MARTINS: Senator
3 Krueger on the bill.

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

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

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

1 policy. And I know Senator Bonacic knows that I
2 feel it's very important for the state to reopen
3 and constantly discuss whether we have a
4 21st-century model of tax policy or a
5 19th-century model. Too often I think we have a
6 19th-century model.

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

14 Thank you, Mr. President.

15 ACTING PRESIDENT MARTINS: Thank
16 you, Senator Krueger.

17 Any other Senator wishing to be
18 heard?

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

21 The Secretary will read the last
22 section.

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

25 ACTING PRESIDENT MARTINS: Call the

1 roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT MARTINS: Announce
4 the results.

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

13 Absent from voting: Senator
14 Fuschillo.

15 Ayes, 40. Nays, 21.

16 ACTING PRESIDENT MARTINS: The bill
17 is passed.

18 SENATOR LaVALLE: Mr. President.

19 ACTING PRESIDENT MARTINS: Senator
20 LaValle.

21 SENATOR LaVALLE: Can we return to
22 motions and resolutions.

23 ACTING PRESIDENT MARTINS:

24 Returning to motions and resolutions.

25 Senator LaValle.

1 SENATOR LaVALLE: Thank you,
2 Mr. President.

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

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

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

13 ACTING PRESIDENT MARTINS: Thank
14 you, Senator LaValle.

15 The Secretary will please continue
16 to read the controversial calendar.

17 THE SECRETARY: Calendar Number
18 1218, by Senator Gallivan, Senate Print 3649A, an
19 act to amend the Tax Law.

20 ACTING PRESIDENT MARTINS: Read the
21 last section.

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

24 ACTING PRESIDENT MARTINS: Call the
25 roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 61.

3 Absent from voting: Senator
4 Fuschillo.

5 ACTING PRESIDENT MARTINS: The bill
6 is passed.

7 THE SECRETARY: Calendar Number
8 1225, by Senator Larkin, Senate Print 4223, an
9 act to amend the General Municipal Law.

10 SENATOR BRESLIN: Explanation.

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

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

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

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

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

23 Please continue.

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

1 have too many elements of government. You know,
2 we have 935 towns, we have 472 villages, we have
3 742 school districts, we have 56 small cities,
4 five large cities.

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

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

14 Senator Larkin, please accept our
15 apologies. Please continue.

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

25 What we have in front of us today is

1 a town and a village who a few years ago thought
2 they should become a village and a town, not just
3 a town. Well, they've experienced this for over
4 3½ years, and they find out that the costs are
5 exorbitant. They're telling us that -- without
6 an audit -- that they'll save at least \$300,000,
7 maybe \$350,000 a year. In a small town in
8 upstate, that's a lot of money.

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

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

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

3 So if we don't want these increased
4 costs, we've got a Governor who's campaigned and
5 wants to do the consolidation, the public in
6 these two elements, the village and the town,
7 express support -- both boards unanimously voted
8 for it. They sent us a home-rule message and
9 they're saying, Please, Albany, listen to us, the
10 people that are paying the taxes for this. We
11 want to become one government like we've been for
12 170 years.

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

17 ACTING PRESIDENT ROBACH: Thank
18 you, Senator Larkin.

19 Senator Stewart-Cousins.

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

23 SENATOR LARKIN: Yes,
24 Mr. President.

25 SENATOR STEWART-COUSINS: Senator

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

5 And the reason why it was such a big
6 deal is because, as we know, there are over
7 10,000 different taxing entities and districts
8 and so on and so forth. And what happened is
9 that everybody had its own version of how to do
10 what had to be done, which made things
11 inconsistent, untenable, unaccountable. And
12 there was not, for the most part, the type of
13 citizen involvement that is required in order to
14 make sure that what gets done gets done.

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

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

25 Because -- and I think you would

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

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

11 SENATOR LARKIN: Yes.

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

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

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

1 And to get people even to run for public
2 office -- in these municipalities, the two of
3 them put together, I think only two out of about
4 11 candidates have challenges for this coming
5 year. And it's because people don't have the
6 time.

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

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

1 then we will have one sensitive government.

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

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

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

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

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

2 SENATOR STEWART-COUSINS: Well --

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

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

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

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

16 SENATOR LARKIN: Yes,
17 Mr. President.

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

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

24 (Laughter.)

25 SENATOR STEWART-COUSINS: Senator

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

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

18 SENATOR LARKIN: Yes.

19 SENATOR STEWART-COUSINS: Okay.

20 And so then there was a final agreement approved?

21 SENATOR LARKIN: Yes.

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

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

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

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

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

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

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

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

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

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

1 best thing for this municipality.

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

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

7 SENATOR LARKIN: Yes. Yes, ma'am.

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

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

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

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

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

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

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

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

1 you know, they don't.

2 But what I took out of this in
3 discussing this with their attorneys was very
4 clear. One of the attorneys kept saying, The
5 Governor said it. And I talked to people in the
6 Governor's office, he doesn't want to -- he wants
7 to start closing down. And you know, if you
8 start to look at the number of entities, over
9 10,000. And I know in this chamber there's some
10 here when Senator Cook was here, he was the
11 leader of all of the consolidations. Some of the
12 stuff that's in that bill were the late Senator
13 Cook's thing.

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

25 I don't run Woodbury. I know them.

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

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

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

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

3 SENATOR STEWART-COUSINS: I
4 understand.

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

9 SENATOR STEWART-COUSINS: I
10 understand.

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

15 SENATOR STEWART-COUSINS: Thank
16 you, Senator Larkin.

17 On the bill.

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

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

25 I think that what Senator Larkin

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 The Secretary will ring the bell.

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

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

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

7 ACTING PRESIDENT ROBACH: Call the
8 roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT ROBACH: Senator
11 Martins to explain his vote.

12 SENATOR MARTINS: Thank you,
13 Mr. President.

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

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

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

4 ACTING PRESIDENT ROBACH: Excuse
5 me, Senator Martins.

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

9 Please continue, Senator Martins.

10 SENATOR MARTINS: Thank you,
11 Mr. President.

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

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

1 cannot be formed. Not today, not ever.

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

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

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

13 Announce the results.

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

20 Absent from voting: Senator
21 Fuschillo.

22 Ayes, 47. Nays, 14.

23 ACTING PRESIDENT ROBACH: The bill
24 is passed.

25 Senator Libous.

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

3 ACTING PRESIDENT ROBACH: Motions
4 and resolutions.

5 SENATOR LIBOUS: Thank you,
6 Mr. President.

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

10 ACTING PRESIDENT ROBACH: The
11 Secretary will read.

12 THE SECRETARY: Calendar Number
13 347, by Senator LaValle, Senate Print 3237, an
14 act to amend the Agriculture and Markets Law.

15 SENATOR LIBOUS: Mr. President, I
16 now wish to reconsider the vote by which this
17 bill was passed.

18 ACTING PRESIDENT ROBACH: Call the
19 roll on reconsideration.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 62.

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

24 ACTING PRESIDENT ROBACH: The
25 amendments are received.

1 SENATOR LIBOUS: Mr. President, on
2 behalf of Senator Golden, on page 54 I offer the
3 following amendments to Calendar Number 1270,
4 Senate Print 1748, and ask that said bill retain
5 its place on the Third Reading Calendar.

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

9 SENATOR LIBOUS: Mr. President, can
10 we continue the controversial calendar, please.

11 ACTING PRESIDENT ROBACH: The
12 Secretary will read.

13 THE SECRETARY: Calendar Number
14 1239, by Senator Saland, Senate Print 4851A, an
15 act relating to authorizing the establishment of
16 a long term care community.

17 ACTING PRESIDENT ROBACH: Read the
18 last section.

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

21 ACTING PRESIDENT ROBACH: Call the
22 roll.

23 (The Secretary called the roll.)

24 THE SECRETARY: Ayes, 61.

25 Absent from voting: Senator

1 Fuschillo.

2 ACTING PRESIDENT ROBACH: The bill
3 is passed.

4 THE SECRETARY: Calendar Number
5 1242, by Senator Young, Senate Print 4943, an act
6 to amend the Tax Law.

7 SENATOR BRESLIN: Explanation.

8 ACTING PRESIDENT ROBACH: An
9 explanation has been requested, Senator Young.

10 SENATOR YOUNG: Thank you,
11 Mr. President.

12 This bill would require that any
13 external economic indices used by the Department
14 of Taxation and Finance in estimating sales tax
15 payments due must utilize regional economic
16 indices to reflect the wide variation of the cost
17 of goods and services sold throughout the state.

18 Basically I got the idea for this
19 piece of legislation because of some incidents
20 that have occurred in my district where I've had
21 several small businesses call my office for help
22 because of unfair audits by the Department of
23 Taxation and Finance over the last couple of
24 years.

25 One that really stands out is a very

1 reputable business that is in Allegany County,
2 which is the second-poorest county in the entire
3 state. And this business called and said they
4 had been audited by Tax and Finance, and Tax and
5 Finance was saying that they owed \$40,000 in
6 additional sales taxes. Which was completely
7 erroneous. And what Tax and Finance was saying
8 was, Well, we know that your records state that
9 you charged \$5 for this beef sandwich, but we
10 believe that you actually charged a lot more and
11 didn't report it. Not taking into account that
12 in Allegany County that's all you can charge for
13 a beef sandwich, because that's what people can
14 afford to pay.

15 What's happened over the last couple
16 of years is that Tax and Finance has been on a
17 money grab. And they've hired more than 200
18 additional auditors that have specifically gone
19 after small businesses in this state, in many
20 cases unfairly. They've hit them with huge
21 fines. And as a result, these small businesses
22 feel that they've been persecuted, that they've
23 been harassed. They feel that if they contest
24 it, maybe Tax and Finance will go after them even
25 more. Many of them feel that they don't have

1 money to pay lawyers and legal fees if they do
2 contest it.

3 But I will tell you there are
4 several instances of businesses that have
5 contested it in the courts and they've won. So
6 they've gone to these desk audits in Tax and
7 Finance. Which means that they sit at a desk and
8 they come up with this national average of what
9 they think a sandwich or a glass of beer should
10 cost, instead of looking at the local economy.

11 And this fixes that fact. You know,
12 I feel very strongly that we should do all that
13 we can to help our small businesses in New York
14 State. They are the backbone of who we are and
15 where our people work. And if the state
16 continues to go after them in an unfair manner,
17 they will drive them out of business. And we
18 need to take that into account.

19 So that's that this legislation
20 does. It actually has sales tax audits that
21 would be based on reality, based on the local
22 economy, based on what salaries people are paid
23 in that region. And I think that's the right
24 thing that we should do as a state.

25 ACTING PRESIDENT ROBACH: Thank

1 you, Senator Young.

2 Senator Krueger.

3 SENATOR KRUEGER: Thank you,
4 Mr. President. If the sponsor would please yield
5 to some questions.

6 ACTING PRESIDENT ROBACH: Senator
7 Young, would you yield?

8 SENATOR YOUNG: Certainly.

9 SENATOR KRUEGER: Thank you. I
10 understand the concern. And if in fact the State
11 of New York is overly burdensome in audits for
12 some kinds of businesses or businesses in some
13 areas, we should be able to figure out a way to
14 solve that problem.

15 But I am confused by your bill. So
16 can you explain to me how Tax and Finance
17 currently determines that sales tax payments are
18 owed to the state?

19 SENATOR YOUNG: I'm sorry?

20 SENATOR KRUEGER: Can you explain
21 the current system to me? You're saying your
22 bill proposes an alternative system, so I'm
23 trying to understand the difference between the
24 current system which you think isn't
25 working versus the system you're proposing.

1 SENATOR YOUNG: Well, basically
2 they've gone into these desk audits where they
3 have a bureaucrat in Albany that sits down and
4 uses a national standard for the cost of a
5 sandwich, a glass of beer, a glass of wine. And
6 then they extrapolate that out. So they'll say,
7 for example, the customer should be paying \$14
8 for that sandwich -- and maybe that's what it
9 sells for in New York City. I'm sure that it
10 does. But in Allegany County they only charge \$5
11 because that's what the market can bear.

12 Recently I had someone from Albany
13 go out to my district, and he was laughing. He
14 went there for a wedding, and he stopped by one
15 of the local bars. And he said, "I couldn't
16 believe it, I was in Wellsville, and I got a
17 glass of beer for two bucks." And I said, "Well,
18 welcome to Wellsville. That's what people can
19 afford to pay there."

20 So it's not fair for Tax and Finance
21 to use different indices that maybe apply to
22 other regions. And I just want to let you
23 know -- this is actually cost-of-living rates.
24 And for example, in Nassau County, the average
25 annual pay is \$36,944. The U.S. city average is

1 \$34,868. In the State of New York the average
2 rate of pay is \$31,850.47. But in Jamestown,
3 which is part of my district, the average annual
4 pay is \$24,813. So you see there's a wide
5 discrepancy in what the average annual pay is
6 based on region.

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

9 ACTING PRESIDENT ROBACH: Senator
10 Young, do you continue to yield?

11 SENATOR YOUNG: Yes, Mr. President.

12 SENATOR KRUEGER: Thank you.

13 So this -- I'm trying to get my
14 questions in the right order. So this would
15 propose that Tax and Finance come up with some
16 way to allow for regional indices. Again, just
17 for the record, this is only people who somebody
18 thinks hasn't paid their correct tax amount. So
19 audits involve Tax and Finance believing that
20 somebody has failed to pay the correct amount of
21 tax into Tax and Finance.

22 But, you know, I understand that
23 different entities sell products at different
24 prices. Those can be regionally different. I
25 don't know about my colleagues here, but in

1 Albany, where we both spend a lot of time, you
2 can go to the Brown Derby and pay much more for a
3 hamburger than you would at the Pump Station. I
4 don't know whether I'm in trouble naming two
5 restaurants from Albany here on the floor, but
6 those two came to mind.

7 So how would we define various
8 regional indices? Because you were giving the
9 example that average food prices might be
10 different in a specific town in Senator Young's
11 district versus Manhattan. But I can tell you
12 you can find a hamburger for \$5 in Manhattan and
13 you can probably find a hamburger for \$35 in
14 Manhattan.

15 My understanding is that the logic
16 for the State Department of Tax and Finance to
17 use an average -- again, in order to do an
18 initial evaluation of the possibility of somebody
19 not having paid their correct sales tax -- again,
20 an average in order to do an audit which might
21 find that the sales tax was accurately paid or
22 might find that it wasn't. I guess I'm just
23 having trouble understanding how we would set up
24 this regional variation. Because I think in any
25 town in the State of New York you could probably

1 find a fairly broad range of prices for specific
2 items.

3 SENATOR YOUNG: Thank you,
4 Mr. President. Through you. Senator Krueger,
5 you're right that you may have a restaurant or a
6 bar that's more upscale than others in the same
7 town. But actually there is a resource that
8 would be available. It's the U.S. Bureau of
9 Labor Statistics Consumer Price Index. And they
10 actually have average price data per region. So
11 it would be very easy for the New York State
12 Department of Taxation and Finance to look at
13 this average-price data that's already been
14 compiled by the U.S. government through the
15 Department of Labor and apply that regionally.

16 SENATOR KRUEGER: Mr. President, if
17 the sponsor would please yield.

18 ACTING PRESIDENT ROBACH: Senator
19 Young, do you continue to yield?

20 SENATOR YOUNG: Yes, Mr. President.

21 ACTING PRESIDENT ROBACH: Continue.

22 SENATOR KRUEGER: This is very
23 enlightening. So I guess I didn't read that in
24 your bill. We were talking about using the
25 federal regional price index standard. So just

1 for me to clarify, it's your understanding that
2 that's the regional definitions this bill would
3 have the Department of Tax and Finance apply?

4 SENATOR YOUNG: Well, what I'm
5 saying is -- through you, Mr. President, what I'm
6 saying is that that's just one resource. There
7 are several resources that are available out
8 there. And I think it would be very easy for the
9 New York State Department of Taxation and Finance
10 to be able to come up with a system where they're
11 actually using data that's been compiled by
12 several sources in order to come up with consumer
13 price indices.

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

17 ACTING PRESIDENT ROBACH: Senator
18 Young, do you continue to yield?

19 SENATOR YOUNG: Yes.

20 SENATOR KRUEGER: So my
21 understanding is that was an example that perhaps
22 the Department of Tax and Finance might use the
23 federal price index regions as the regions they
24 would use for the state, but not necessarily.
25 And so in this bill it's still -- it's leaving it

1 up to Tax and Finance to establish some new
2 regional index measures that might or might not
3 be parallel to the federal government. Would
4 that be a fair statement?

5 SENATOR YOUNG: Just to clarify,
6 Senator Krueger -- through you, Mr. President --
7 actually, the ability to use external indices or
8 regional indices is optional. And for example,
9 the establishment could just say to Tax and
10 Finance: We want you to use the sales records.
11 But if there's a disagreement, then you could go
12 to these regional price structures and check.

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

15 ACTING PRESIDENT ROBACH: Does the
16 sponsor continue to yield?

17 SENATOR YOUNG: Yes, thank you.

18 SENATOR KRUEGER: Thank you.

19 I believe I heard her say the
20 business could be involved in choosing what
21 external index was used for their region? I'm
22 just trying to understand that. So the business
23 would be able to challenge the indices and
24 regional definitions used by Tax and Finance and,
25 what, choose another model? How exactly would

1 that work? Would they be able to challenge the
2 model Tax and Finance chose under this law? And
3 how would they challenge that?

4 SENATOR YOUNG: Through you,
5 Mr. President. Actually what I said was that Tax
6 and Finance could choose to use the information
7 that the business actually gives them. But
8 there's also the ability of Taxation and Finance
9 to go and check the regional economic indices.

10 SENATOR KRUEGER: I'm sorry,
11 perhaps I had a little trouble hearing Senator
12 Young. If people would quiet down a little bit.
13 I'm sorry, I didn't quite hear your answer.

14 ACTING PRESIDENT ROBACH:
15 Colleagues, please. Both people are having
16 difficulty hearing, and we want to continue the
17 debate.

18 SENATOR KRUEGER: May I ask Senator
19 Young to repeat her answer, please.

20 ACTING PRESIDENT ROBACH: Senator
21 Young?

22 SENATOR YOUNG: Through you,
23 Mr. President. Thank you very much.

24 Actually, Tax and Finance could
25 choose to use the actual sales tax information

1 that the business gives them. However, if there
2 is some kind of disagreement, then Tax and
3 Finance could go and check these economic
4 regional indices that would be established.

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

7 SENATOR YOUNG: Absolutely.

8 SENATOR KRUEGER: Thank you.

9 So yes, Tax and Finance only decides
10 to audit when it thinks there's some problem
11 between what it believes should be the taxes
12 being paid and what the business is reporting.
13 So we'd have to start with the assumption that
14 these audits are based on an initial disagreement
15 between the State of New York and the individual
16 business as to whether the correct taxes have
17 been paid.

18 And so I believe, again, I'm hearing
19 that when a business chooses to challenge the
20 audit, they would like a different indices to be
21 used for the evaluation compared to what's
22 currently used, which is the statewide average.
23 So that that might be modeled on the federal
24 regional differences; it might be something else
25 that Tax and Finance came up with. But I really

1 just want to make sure I understand that it
2 wouldn't be the business choosing the
3 measurement, it would be State Tax and Finance
4 choosing the measurement indicators. Because
5 after all, it's the Tax Department auditing for
6 whether in fact correct taxes were paid.

7 So it would be the department making
8 the decision about what indices it used, not the
9 business that is being audited; is that correct?

10 SENATOR YOUNG: Through you,
11 Mr. President. What I'm saying once again,
12 Senator Krueger, is that if there's an audit
13 that's done and the Department of Taxation and
14 Finance says, Well, we think that you owe \$40,000
15 more in sales tax, and they're extrapolating that
16 based on that they think, through a desk audit,
17 through some national average that they use on a
18 cost of a sandwich, that they owe them much more
19 money, and the business is saying no, we only
20 charge \$5, we didn't charge the national average
21 of \$14, then the Department of Taxation and
22 Finance can go back and check these locally
23 determined economic indices to make sure that
24 what they're extrapolating and the figures that
25 they're using for the price of a sandwich would

1 match what the local regional economy can bear.

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

4 ACTING PRESIDENT ROBACH: Senator
5 Young, do you continue to yield?

6 SENATOR YOUNG: Yes,
7 Mr. President. Thank you.

8 ACTING PRESIDENT ROBACH: Continue.

9 SENATOR KRUEGER: I don't think
10 we're -- we may be having a semantic difference,
11 but I'm just not still totally clear. You said
12 locally determined. Again --

13 SENATOR YOUNG: Based upon --
14 Senator Krueger, what I'm getting at, what I'm
15 saying over and over again is the fact that you
16 can use things such as the U.S. Bureau of Labor
17 Statistics average price data as a reference
18 based on local economic data to come up with a
19 consumer price index that matches the actual
20 region.

21 As I pointed out before, the prices
22 in Nassau County, for example, in the average
23 annual salary for somebody in Nassau County in
24 New York State, is very much higher than somebody
25 in Jamestown or Olean, New York, or Wellsville,

1 New York, because of regional differences.

2 So this bill actually,
3 Mr. President, is very easy to understand because
4 it actually takes into account those local
5 economic factors to make sure that the figures
6 that the Department of Taxation and Finance are
7 extrapolating out as far as a business owning
8 sales tax will match the region.

9 And I would say -- and I would
10 hazard a guess, and most of my colleagues in this
11 chamber are big supporters of small business, and
12 they understand that we have to support our small
13 businesses. The most important thing that should
14 happen for the state right now is that we grow
15 our economy. And this is to make sure that we're
16 not drive our small business out of business
17 through some unfair practices through the
18 Department of Taxation and Finance.

19 And I would also hazard a guess that
20 because they've hired 200 additional auditors
21 over the past two years -- and by the way, NFIB,
22 there are Chambers of Commerce that support this
23 legislation strongly because they've seen this
24 firsthand with many of their members. So if we
25 went around this chamber, I bet you that we could

1 find other Senators that have run into this exact
2 same problem in their districts and they would
3 like to see this fixed in order to support their
4 small businesses.

5 ACTING PRESIDENT ROBACH:

6 Colleagues, again, if we could just get a little
7 order in here so we can continue the debate and
8 get through the calendar in an orderly fashion,
9 it would be greatly appreciated.

10 Senator Krueger.

11 SENATOR KRUEGER: Thank you. I so
12 appreciate the Senator's patience in answering my
13 questions.

14 And again, I was just trying to, for
15 legislative intent, get on the record that this
16 bill doesn't come up with the plan, it says the
17 commissioner can use information as may be
18 available, pursuant to paragraph 1 of the
19 subdivision, using any external indices used to
20 estimate tax due, and shall reflect local
21 economic conditions.

22 So it's basically saying we want the
23 commissioner of Tax and Finance to have models
24 that take into account and reflect local economic
25 conditions. It does not explicitly say "Thou

1 shalt use the following model." It does not say
2 the business being audited is choosing the
3 indices to be used. Again, I just wanted to make
4 sure I understood and that I had the chance to
5 ask the Senator.

6 She's referenced small businesses as
7 her examples, which is totally legitimate. This
8 bill, as I read it, would apply to all businesses
9 potentially being audited in the State of
10 New York. I'm just wondering -- she started out
11 very carefully for small businesses -- how this
12 would work for larger businesses or businesses
13 that had multiple locations with regional
14 differences.

15 Conceivably a chain of restaurants,
16 supermarkets, clothing stores would have regional
17 pricing differences. Perhaps they would charge
18 less in County X than County Y, perhaps because
19 County X had a 4 percent local sales tax and
20 County Y had a 2 percent local sales tax. There
21 would be significant differences in taxes due
22 simply depending on which location the taxes were
23 being added up for.

24 How would this work in a
25 multilocal business?

1 ACTING PRESIDENT ROBACH: Are you
2 asking the Senator to yield for a question?

3 SENATOR KRUEGER: Yes. I apologize
4 for the delay; it took me a while to get there.

5 ACTING PRESIDENT ROBACH: The
6 sponsor yields.

7 SENATOR YOUNG: Through you,
8 Mr. President. So, Senator Krueger, what you're
9 asking is say there's a large chain store, for
10 example, that has sites around the state? So say
11 they had a store in Buffalo but they had one in
12 New York City. Then they would use the Buffalo
13 data for Buffalo and they would use the New York
14 City data for New York City.

15 SENATOR KRUEGER: If through you,
16 Mr. President, the sponsor would continue to
17 yield.

18 ACTING PRESIDENT ROBACH: Does the
19 sponsor yield?

20 SENATOR YOUNG: Certainly.

21 SENATOR KRUEGER: So the Tax
22 Department would be expected, on one audit of one
23 company, to use different indices for different
24 portions of the audit? Because I would assume --
25 although I don't know; I've never been a tax

1 auditor -- that if the State of New York decided
2 to audit a company with 15 stores in 15 different
3 counties, it's one audit on one set of books as a
4 corporation, but under this scenario we would
5 expect the Department of Tax and Finance to
6 potentially use 15 different indexes and have the
7 business break down their tax filing by each
8 store? Is that a correct analysis?

9 SENATOR YOUNG: Through you,
10 Mr. President. Just so Senator Krueger
11 understands that they can't just do one audit of
12 one corporation, because every county has a
13 separate structure. As you know, the sales tax
14 rate varies from county to county. So it's
15 already broken down that way. And so they would
16 be looking at a store in Buffalos versus a store
17 in New York City, because there's a different
18 sales tax structure in different parts of the
19 state.

20 SENATOR KRUEGER: On the bill,
21 Mr. President.

22 ACTING PRESIDENT ROBACH: Senator
23 Krueger on the bill.

24 SENATOR KRUEGER: Thank you.
25 You know, it's so interesting

1 whenever you jump into tax policy. The bill is
2 one paragraph long, but in fact I could probably
3 stand here all day asking hypotheticals about how
4 this might work. I don't think anyone wants me
5 to stand here all day asking hypotheticals.

6 Here's my dilemma, Senator Young. I
7 understand the concern that there may be audits
8 that people feel are unfair. I'm not going to
9 say Tax and Finance is perfect. I actually don't
10 know whether Tax and Finance has a
11 disproportionate number of audits of smaller
12 companies versus larger. I think it would be a
13 great question to ask them. I don't know whether
14 they have a disproportionate rate of audits on
15 companies in any specific region of the state or
16 any specific counties. That would also be a
17 great question to ask them.

18 I'm hoping that they have a
19 professional staff who use fair and
20 nondiscriminatory and nonarbitrary measures for
21 evaluating the taxes that companies pay. I hope
22 that they have a fair appeals system where they
23 actually go beyond simply "on average, it looks
24 like you didn't pay your fair share of taxes,"
25 and they actually do fair legal audits. I am

1 hoping that they actually go: You know, we were
2 wrong. We thought something was askew, we
3 thought you didn't pay your taxes, but we've
4 checked and in fact you have paid legitimate
5 taxes. You do charge less for your sandwiches if
6 you're a restaurant than the statewide average
7 might be. You did have a slower business period
8 than some other equivalent store somewhere else,
9 and that's unfortunate.

10 So I'm hoping that they actually
11 have an audit rate where they don't find the
12 companies have in fact underpaid their taxes. I
13 think that's a model for a good Tax and Finance
14 audit system. You don't want to overburden
15 anybody, you want to be fair, you want to treat
16 people equitably. And frankly, you want to not
17 discover things. You want to learn that in fact
18 sometimes you're wrong, they were right.

19 And I also understand that maybe a
20 different model than we currently use in New York
21 State would be a better one. And in fairness,
22 this legislation says "the commissioner shall
23 come up with."

24 I think I will still vote no,
25 because I would rather we actually got all those

1 answers and tried to craft a specific alternative
2 model. I don't want to presume one way or the
3 other. But in fact, if one had the belief that
4 Tax and Finance is unfairly auditing certain-size
5 companies or in certain geographic areas of the
6 state, one might be concerned that giving them a
7 new carte blanche to come up with a different
8 model could just allow them to fine-tune their
9 discriminatory, unfair treatment of some
10 businesses.

11 And that Senator Young raises
12 excellent questions about the potential for an
13 unfair auditing pattern of businesses in the
14 State of New York. I think that as a legislative
15 body we would be better off doing the homework,
16 getting some of the answers, and crafting a
17 specific alternative that everyone actually
18 agreed would work, as opposed to a new carte
19 blanche to do something different but not
20 necessarily something that would resolve the
21 concerns that we are hearing.

22 So I appreciate very much the
23 sponsor's discussion with me today, and I'll be
24 voting no.

25 ACTING PRESIDENT ROBACH: Thank

1 you, Senator.

2 Senator Little.

3 SENATOR LITTLE: Thank you,
4 Mr. President.

5 I rise just in support of this bill,
6 and I thank Senator Young for putting it
7 forward. I have had this situation occur in my
8 district. And it's unfortunate that there's even
9 a need for this bill. But what is happening is a
10 small diner, a small restaurant, hamburger place,
11 and they get called by Tax and Finance who's
12 telling them, You paid so much sales tax on the
13 meals that you sold and the goods that you sold,
14 but we don't think you charged enough. And if
15 you had charged more, according to our records,
16 what we think you should have charged, you would
17 have collected more sales tax. Therefore, you
18 owe us more sales tax.

19 And it's a certain amount of anxiety
20 that they bring on a very small business that
21 really kind of emphasizes what we're trying to
22 correct, that New York is not a business-friendly
23 state. And it certainly isn't when you come at
24 people in that way.

25 Small rural areas, they may charge

1 less. Who knows what kind of facility it is.
2 But they are assuming that the person is being
3 dishonest and is not reporting their sales tax.

4 So if what Senator Krueger was
5 hoping for would actually happen, we wouldn't
6 need this bill. But we do need a new method, and
7 I think that Senator Young's bill proposes that
8 method and that way of doing it and correcting
9 this injustice and aggravation that comes to many
10 of our small businesses.

11 Thank you.

12 ACTING PRESIDENT ROBACH: Senator
13 Young.

14 SENATOR YOUNG: Thank you,
15 Mr. President. On the bill.

16 ACTING PRESIDENT ROBACH: On the
17 bill.

18 SENATOR YOUNG: I wish to thank
19 Senator Little for her comments because she's
20 right on target. And right now in the Department
21 of Taxation and Finance, there are 523 field
22 auditors -- 200 were hired over the past two
23 years -- plus the desk auditors that I referred
24 to. And they have this gotcha mentality. It's
25 like a money grab out of Albany. Unfortunately,

1 it hurt our small businesses.

2 And I want to commend the National
3 Federation of Independent Businesses. As you
4 know so well, NFIB is the voice of small business
5 in New York State. At the same time that I was
6 investigating this issue on behalf of the small
7 businesses in my district, unbeknownst to me,
8 NFIB was having the same concerns because they
9 were hearing from small businesses statewide
10 about this issue. They went to the State
11 Comptroller, Thomas DiNapoli, who currently is
12 undergoing an investigation into these practices
13 from the State Department of Taxation and
14 Finance. So obviously it's more than me today
15 saying that there's a problem that needs to be
16 cured.

17 I want to thank my colleague Senator
18 Krueger for her questions. But it was
19 interesting to hear her say that a different
20 model would be better than the one that we have
21 now. That's exactly what this piece of
22 legislation does.

23 So I'm hoping that my colleagues in
24 this chamber will forge ahead, support our small
25 businesses. As Senator Little said so well,

1 right now in New York State a lot of businesses
2 have been driven out of business. It's a very
3 unfriendly business environment. We need to
4 reopen New York State for business -- small
5 business, manufacturers, all business. And this
6 legislation takes steps of progress toward that
7 goal.

8 So I would urge all of my colleagues
9 to vote yes. Thank you, Mr. President.

10 ACTING PRESIDENT ROBACH: Seeing no
11 other Senator wishing to speak on the bill,
12 debate is closed.

13 The Secretary will ring the bell. I
14 encourage all Senators to come to the chamber as
15 expeditiously as possible.

16 Read the last section.

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

19 ACTING PRESIDENT ROBACH: Call the
20 roll.

21 (The Secretary called the roll.)

22 ACTING PRESIDENT ROBACH: Senator
23 Alesi to explain his vote.

24 SENATOR ALESI: Briefly to explain
25 my vote, Mr. President.

1 I'd like to applaud Senator Young
2 for focusing on this issue. Tax and Finance is
3 implementing a system of audits that is based
4 entirely on assumption. And she correctly points
5 out that it is erroneous because it's taking
6 average costs across a state that has such
7 diversity when it comes to things like overhead,
8 market share, volume of sales, et cetera,
9 et cetera.

10 It's interesting to note that
11 Senator Krueger pointed out you can get a
12 \$5 hamburger in Manhattan, and yet under the
13 current system if these audits are being
14 conducted on a presumptive basis, I would think
15 that an auditor looking at a restaurant selling
16 hamburgers for \$5 in Manhattan would be a prime
17 target for an adjustment. So I would Senator
18 Krueger to reconsider based on that fact alone,
19 because that is a very dangerous situation to put
20 her own constituents and her own small businesses
21 in.

22 I can't see any reason why anybody
23 would vote against this bill. It helps small
24 business. And I congratulate Senator Young for
25 recognizing the dangerous situation that a state

1 agency is putting our small businesses in with an
2 assumption when it comes to how they think that
3 people should pay their taxes.

4 ACTING PRESIDENT ROBACH: Announce
5 the results.

6 THE SECRETARY: In relation to
7 Calendar Number 1242, those recorded in the
8 negative are Senators Huntley and L. Krueger.

9 Absent from voting: Senators Adams,
10 Montgomery, Parker and Peralta.

11 Ayes, 56. Nays, 2.

12 ACTING PRESIDENT ROBACH: The bill
13 is passed.

14 Senator Libous.

15 SENATOR LIBOUS: Mr. President,
16 thank you very much.

17 My colleagues, at this time I would
18 like to make an introduction on behalf of all of
19 us. We are pleased today to have a visitor. Our
20 visitor is from the state of Indiana, the House
21 of Representatives. He's actually the Speaker
22 Pro Tem of the House of Representatives. And
23 he's been spending some time here watching how
24 orderly we function.

25 And I would like to introduce him at

1 this time. He is Eric Turner, he's the Speaker
2 Pro Tem of the Indiana House of Representatives.
3 He's behind me. Let's give him a big round of
4 applause.

5 (Applause.)

6 SENATOR LIBOUS: Mr. President, I
7 did not mention the small fact that he is a
8 Republican, but I -- I wouldn't do that. I
9 wouldn't do that.

10 (Laughter.)

11 ACTING PRESIDENT ROBACH: Welcome,
12 Speaker Turner. Thank you for your visit, and
13 enjoy your day. Feel free to share the great
14 democracy here in the State of New York.

15 SENATOR LIBOUS: This
16 bipartisanship that goes on all the time in this
17 chamber, Mr. Turner. So thank you for joining us
18 today.

19 Mr. President, I think if we could
20 continue along this, just to give everybody a
21 little bit of an idea where we're heading, we're
22 going to finish up this controversial calendar,
23 we're going to call a Rules Committee meeting,
24 and then we'll come back and begin the active
25 list for today and keep moving right along. And

1 I think maybe about 7:00, between 7:00, 7:30,
2 while we're working on doing bills, we'll have a
3 chance to break a little bit. Okay?

4 ACTING PRESIDENT ROBACH: The
5 Secretary will read.

6 THE SECRETARY: Calendar Number
7 1265, by Senator Golden, Senate Print 5631, an
8 act to amend the Executive Law.

9 ACTING PRESIDENT ROBACH: Read the
10 last section.

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

13 ACTING PRESIDENT ROBACH: Call the
14 roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes, 62.

17 ACTING PRESIDENT ROBACH: The bill
18 is passed.

19 THE SECRETARY: Calendar Number
20 1273, by Senator Alesi, Senate Print 2438, an act
21 to amend the Tax Law.

22 SENATOR LIBOUS: Lay it aside for
23 the day.

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

1 THE SECRETARY: Calendar Number
2 1274, by Senator Grisanti, Senate Print 2878 --
3 SENATOR LIBOUS: Lay it aside for
4 the day.
5 ACTING PRESIDENT ROBACH: The bill
6 is laid aside for the day.
7 THE SECRETARY: Calendar Number
8 1277, by Senator Alesi, Senate Print 4228, an act
9 to amend the Tax Law.
10 SENATOR LIBOUS: Lay it aside for
11 the day.
12 ACTING PRESIDENT ROBACH: The bill
13 is laid aside for the day.
14 THE SECRETARY: Calendar Number
15 1290, by Senator Oppenheimer, Senate Print 5532A,
16 an act to amend the Town Law.
17 SENATOR LIBOUS: Read the last
18 section.
19 THE SECRETARY: Section 7. This
20 act shall take effect July 8, 2011.
21 ACTING PRESIDENT ROBACH: Call the
22 roll.
23 (The Secretary called the roll.)
24 THE SECRETARY: Ayes, 62.
25 ACTING PRESIDENT ROBACH: The bill

1 is passed.

2 Senator Libous, that completes the
3 reading of the controversial calendar.

4 SENATOR LIBOUS: Mr. President,
5 have we cleaned up the two controversial
6 calendars?

7 ACTING PRESIDENT ROBACH: Yes, we
8 have now cleaned up the two controversial
9 calendars.

10 SENATOR LIBOUS: Mr. President, I
11 don't want to take anything away from Senator
12 Hassell-Thompson, but I believe we're going to
13 recess so that the minority can conference.

14 Would you call on Senator
15 Hassell-Thompson, please.

16 ACTING PRESIDENT ROBACH: Senator
17 Hassell-Thompson.

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

20 There will be an immediate meeting
21 of the Democratic Conference in the Democratic
22 Conference Room.

23 SENATOR LIBOUS: Mr. President, at
24 this time the Democratic Conference will meet.
25 We'll come back here at a quarter of, or ten of,

1 within that time frame, call a Rules Committee
2 meeting, and then come back on the floor and pass
3 more bills.

4 At this time we'll stand at ease.

5 ACTING PRESIDENT ROBACH: There
6 will be an immediate Democratic conference in
7 their conference room.

8 The Senate will stand at ease until
9 ten to 5:00, followed by a Rules Committee
10 meeting.

11 (Whereupon, the Senate stood at ease
12 at 4:24 p.m.)

13 (Whereupon, the Senate reconvened at
14 5:21 p.m.)

15 ACTING PRESIDENT ROBACH: The
16 Senate will come to order.

17 Senator Libous.

18 SENATOR LIBOUS: Mr. President,
19 there will be an immediate meeting of the Rules
20 Committee in Room 332. Immediate meeting of the
21 Rules Committee in Room 332.

22 ACTING PRESIDENT ROBACH: There
23 will be an immediate meeting of the Rules
24 Committee in Room 332.

25 The Senate stands at ease.

1 (Whereupon, the Senate stood at ease
2 at 5:22 p.m.)

3 (Whereupon, the Senate reconvened at
4 6:08 p.m.)

5 ACTING PRESIDENT GALLIVAN: The
6 Senate will come to order.

7 Senator Libous.

8 SENATOR LIBOUS: Thank you,
9 Mr. President.

10 At this time could we go to the
11 reports of standing committees. I believe
12 there's a report of the Rules Committee at the
13 desk.

14 ACTING PRESIDENT GALLIVAN: Reports
15 of standing committees.

16 The Secretary will read.

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

20 Senate Print 571, by Senator Klein,
21 an act to amend Chapter 25 of the Laws of 2009;

22 746A, by Senator Young, an act to
23 amend the Penal Law;

24 1200, by Senator Griffo, an act to
25 amend the Tax Law;

1 1507, by Senator Larkin, an act to
2 amend the Vehicle and Traffic Law;

3 2004A, by Senator Skelos, an act to
4 amend the Penal Law;

5 Senate 2185, by Senator Golden, an
6 act to amend the Elder Law;

7 2592A, by Senator Lanza, an act to
8 amend the Education Law;

9 2765, by Senator Hassell-Thompson,
10 an act to amend the Correction Law;

11 3168, by Senator Huntley, an act to
12 amend the Mental Hygiene Law;

13 3357, by Senator LaValle, an act to
14 amend the Village Law;

15 3467, by Senator Oppenheimer, an act
16 to authorize approval of certain transportation
17 contracts;

18 3546, by Senator Lanza, an act to
19 establish the Teen Driver Safety Commission;

20 3912A, by Senator Savino, an act to
21 amend the Penal Law;

22 3965, by Senator Robach, an act to
23 amend the Labor Law;

24 4025A, by Senator Maziarz, an act to
25 create a temporary commission;

1 4055A, by Senator Alesi, an act to
2 amend the Public Health Law;

3 4209, by Senator Flanagan, an act to
4 amend the Criminal Procedure Law;

5 4225A, by Senator Lanza, an act to
6 amend the Judiciary Law;

7 4492, by Senator Valesky, an act to
8 amend the Elder Law;

9 4563A, by Senator Savino, an act to
10 amend the Public Health Law;

11 4732, by Senator DeFrancisco, an act
12 to amend the Tax Law;

13 4825A, by Senator Saland, an act to
14 amend the Public Authorities Law;

15 4946A, by Senator Gallivan, an act
16 to amend the Correction Law;

17 5077A, by Senator Valesky, an act to
18 amend the Elder Law;

19 5263, by Senator Ball, an act to
20 amend the County Law;

21 5267, by Senator Ball, an act to
22 amend the Executive Law;

23 5293, by Senator Ball, an act to
24 amend the Executive Law;

25 5501, by Senator Stavisky, an act to

1 authorize the City of New York;

2 5637, by Senator DeFrancisco, an act
3 to amend the Tax Law;

4 5640, by Senator Carlucci, an act to
5 amend Chapter 420 of the Laws of 1998;

6 5650, by Senator Flanagan, an act to
7 amend the Education Law;

8 5652, by Senator Seward, an act to
9 amend the Public Authorities Law;

10 5671, by Senator DeFrancisco, an act
11 to amend the State Finance Law;

12 5687, by Senator Bonacic, an act to
13 authorize the Town of Thompson;

14 5688, by Senator Bonacic, an act to
15 authorize the Town of Thompson;

16 5701, by Senator Flanagan, an act
17 relating to actions taken by the Smithtown
18 Central School District;

19 5715, by Senator Robach, an act to
20 amend the City of Rochester;

21 And Senate 5743, by Senator
22 Hassell-Thompson, an act to amend the Executive
23 Law.

24 All bills reported direct to third
25 reading.

1 ACTING PRESIDENT GALLIVAN: Senator
2 Libous.

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

5 ACTING PRESIDENT GALLIVAN: All in
6 favor of accepting the report of the Rules
7 Committee signify by saying aye.

8 (Response of "Aye.")

9 ACTING PRESIDENT GALLIVAN:
10 Opposed, nay.

11 (No response.)

12 ACTING PRESIDENT GALLIVAN: The
13 report of the Rules Committee is accepted.
14 Senator Libous.

15 SENATOR LIBOUS: Mr. President, at
16 this time if we could go to Calendar Number 54, I
17 believe, which is today's active list, and begin
18 the reading -- I'm getting signals from the
19 counsel. Excuse me.

20 (Pause.)

21 SENATOR LIBOUS: Mr. President, can
22 we go to motions and resolutions.

23 (Laughter.)

24 ACTING PRESIDENT GALLIVAN:
25 Certainly. Returning to motions and resolutions.

1 Senator Libous.

2 SENATOR LIBOUS: On behalf of
3 Senator Skelos, a very important motion, on
4 page 24 I offer the following amendments to
5 Calendar Number 646, Senate Print 4941B, and ask
6 that said bill retain its place on the Third
7 Reading Calendar.

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

11 SENATOR LIBOUS: Mr. President, now
12 may we go to the reading of the noncontroversial
13 calendar.

14 ACTING PRESIDENT GALLIVAN: The
15 Secretary will read.

16 THE SECRETARY: Calendar Number
17 106, by Senator Libous, Senate Print 2462B, an
18 act to amend the Environmental Conservation Law.

19 ACTING PRESIDENT GALLIVAN: Read
20 the last section.

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

23 ACTING PRESIDENT GALLIVAN: Call
24 the roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 62.

2 ACTING PRESIDENT GALLIVAN: The
3 bill is passed.

4 THE SECRETARY: Calendar Number
5 142, by Senator Stewart-Cousins, Senate Print
6 2373A, an act to amend the State Technology Law.

7 ACTING PRESIDENT GALLIVAN: Read
8 the last section.

9 THE SECRETARY: Section 5. This
10 act shall take effect on the 365th day.

11 ACTING PRESIDENT GALLIVAN: Call
12 the roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes, 62.

15 ACTING PRESIDENT GALLIVAN: The
16 bill is passed.

17 THE SECRETARY: Calendar Number
18 170, by Member of the Assembly Sweeney, Assembly
19 Print 5318A, an act to amend the Environmental
20 Conservation Law.

21 ACTING PRESIDENT GALLIVAN: Read
22 the last section.

23 THE SECRETARY: Section 11. This
24 act shall take effect January 15, 2012.

25 ACTING PRESIDENT GALLIVAN: Call

1 the roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT GALLIVAN: Senator
4 Grisanti, to explain his vote.

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

7 My colleagues, this monumental
8 legislation is known as the Water Withdrawal
9 Bill. It passed in the Assembly about a
10 month and a half back. It authorizes the DEC to
11 implement a comprehensive permitting system for
12 all significant water withdrawals to ensure water
13 will continue to be available to all
14 New Yorkers.

15 Specifically, this bill would create
16 a comprehensive statewide water management
17 program in New York State to enhance the state's
18 ability to manage water resources and to promote
19 economic growth and address droughts. It enables
20 New York to meet one of its most significant
21 responsibilities under the Great Lakes Compact,
22 the regulation of all significant withdrawals in
23 the New York portion of the Great Lakes Basin.

24 New York's greatest natural resource
25 is its water. And this legislation gives

1 substantial protection to that resource. With
2 our Great Lakes containing more than one-fifth of
3 the world's freshwater, steps are necessary to
4 prevent its depletion.

5 I would like to take this time to
6 thank my colleagues here in the Senate for their
7 support of this bill, to recognize all those
8 environmental groups who have worked on this
9 issue and that have sitting up there in the
10 gallery for the last three weeks in sleeping
11 bags.

12 I would like to recognize
13 Commissioner Martens and his staff for all the
14 important work they've done, because this was a
15 huge issue in my first year as chairman of the
16 State Senate's Environmental Conservation
17 Committee.

18 I want to also thank those business
19 groups for all their input to make this as
20 painless as possible, and I would like to thank
21 Assemblyman Sweeney for his leadership in his
22 house on this issue.

23 This legislation will do what all
24 good legislation should do for the people of
25 New York, it will protect our constituents, our

1 environment and protect business. I vote in the
2 affirmative.

3 Thank you, Mr. President.

4 ACTING PRESIDENT GALLIVAN: Senator
5 Grisanti shall be recorded in the affirmative.

6 Announce the results.

7 THE SECRETARY: Ayes, 62.

8 ACTING PRESIDENT GALLIVAN: The
9 bill is passed.

10 THE SECRETARY: Calendar Number
11 206, substituted earlier today by Member of the
12 Assembly Cusick, Assembly Print 7697, an act to
13 amend the General Municipal Law.

14 SENATOR BRESLIN: Lay it aside.

15 ACTING PRESIDENT GALLIVAN: The
16 bill is laid aside.

17 THE SECRETARY: Calendar Number
18 225, substituted earlier today by Member of the
19 Assembly Gunther, Assembly Print 409D, an act to
20 amend the Penal Law.

21 ACTING PRESIDENT GALLIVAN: Read
22 the last section.

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

25 ACTING PRESIDENT GALLIVAN: Call

1 the roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: In relation to
4 Calendar Number 225: Ayes, 62.

5 ACTING PRESIDENT GALLIVAN: The
6 bill is passed.

7 THE SECRETARY: Calendar Number
8 237, by Senator Carlucci, Senate Print 2843, an
9 act to amend the General Municipal Law.

10 ACTING PRESIDENT GALLIVAN: Read
11 the last section.

12 THE SECRETARY: Section 12. This
13 act shall take effect on the first of January.

14 ACTING PRESIDENT GALLIVAN: Call
15 the roll.

16 (The Secretary called the roll.)

17 ACTING PRESIDENT GALLIVAN: Senator
18 Carlucci to explain his vote.

19 SENATOR CARLUCCI: Thank you,
20 Mr. President.

21 This is an extremely important piece
22 of legislation that will really give
23 municipalities the tools they need to cut costs
24 and spread those savings on to property
25 taxpayers.

1 What this bill does is allows
2 municipalities to share services such as pooling
3 their employees under one healthcare plan,
4 allowing them to do deferred compensation
5 programs together, personnel services,
6 administrative services like that.

7 So this is the type of position that
8 we've got to move towards. We have 10,000 taxing
9 entities in the State of New York, all providing
10 similar services but doing them in different
11 ways. This is a great way to move and have the
12 synergy of all of these municipalities working
13 together to drive down property taxes in
14 New York State.

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

17 ACTING PRESIDENT GALLIVAN: Senator
18 Carlucci to be recorded in the affirmative.

19 Announce the results.

20 THE SECRETARY: Ayes, 62.

21 ACTING PRESIDENT GALLIVAN: The
22 bill is passed.

23 THE SECRETARY: Calendar Number
24 254, substituted earlier today by Member of the
25 Assembly Latimer, Assembly Print 777A, an act to

1 authorize approval of certain transportation
2 contracts.

3 ACTING PRESIDENT GALLIVAN: Read
4 the last section.

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

7 ACTING PRESIDENT GALLIVAN: Call
8 the roll.

9 (The Secretary called the roll.)

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

12 ACTING PRESIDENT GALLIVAN: The
13 bill is passed.

14 THE SECRETARY: Calendar Number
15 276, by Senator Maziarz, Senate Print 3914A, an
16 act to amend the Energy Law.

17 ACTING PRESIDENT GALLIVAN: Read
18 the last section.

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

21 ACTING PRESIDENT GALLIVAN: Call
22 the roll.

23 (The Secretary called the roll.)

24 THE SECRETARY: Ayes, 62.

25 ACTING PRESIDENT GALLIVAN: The

1 bill is passed.

2 THE SECRETARY: Calendar Number
3 279, by Senator Larkin, Senate Print 3111B, an
4 act to amend the Public Health Law.

5 ACTING PRESIDENT GALLIVAN: Read
6 the last section.

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

9 ACTING PRESIDENT GALLIVAN: Call
10 the roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT GALLIVAN: Senator
13 Kennedy to explain his vote.

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

16 This is somewhat of an incredible
17 day, momentous in many ways. And we're here on
18 this bill for an extraordinarily important reason
19 and reasons.

20 I want to thank the sponsor Senator
21 Larkin for his fortitude, for his vision, and for
22 his heart in focusing in on this particular piece
23 of legislation, not only this year in your
24 efforts but since 2003.

25 This bill is a recognition of

1 New York State providing a Certificate of Birth
2 Resulting in Stillbirth. Thousands of families
3 will be impacted in a positive way because of
4 this legislation today.

5 But what's extraordinary about this
6 is not this house passing this, but the movement
7 and the legs and the momentum that it's gotten in
8 the New York State Assembly, which in the last
9 24 hours has passed it through Ways and Means, on
10 to Rules, with an expectation that they'll
11 hopefully pass this through the Assembly
12 tomorrow.

13 Since this was first introduced in
14 2003, there have been 16,000 stillborn children
15 in New York State. On a yearly basis across the
16 United States, there's 30,000 stillbirths.

17 And the emotional roller coaster
18 that families have to endure, mothers have to
19 endure by having to go through the expectation
20 and the excitement of having a child on the way
21 and then to find out that that child in utero has
22 passed away, and the awful emotions that are tied
23 to the loss of a child and then having to go
24 through the physical pain of labor.

25 It is an emotional roller coaster

1 that thousands of families have unfortunately had
2 to endure. And it's something that after that
3 emotional roller coaster comes to an end and the
4 families are dealing with the loss of a child,
5 the birth and the loss of a child, they then have
6 to deal with New York State telling them that
7 your child died and here's a certificate of
8 death, but that your child at the same time never
9 existed.

10 This legislation closes that gap.
11 This legislation recognizes that families that
12 are grieving the loss of a stillborn child, that
13 New York State in fact recognizes that that child
14 in fact existed.

15 This is supported by so many
16 different organizations. There's a particular
17 group, Still Parents New York, and many other
18 bereavement groups across New York State. I want
19 to thank a woman, Kelly Anderson, who has led the
20 fight for this bill's passage across New York
21 State. We've probably all gotten hundreds of
22 emails from Kelly Anderson and her group, Still
23 Parents New York, in memory of the loss of her
24 son Michael Anthony Anderson, as well as the loss
25 of my nephew who was stillborn, John Christian

1 Jude Mulderig.

2 And I just again want to thank
3 Senator Larkin and all of my colleagues for your
4 vote in the affirmative on this important
5 legislation today. Thank you.

6 ACTING PRESIDENT GALLIVAN: Senator
7 Kennedy to be recorded in the affirmative.

8 Senator Adams to explain his vote.

9 SENATOR ADAMS: Thank you,
10 Mr. President.

11 I want to add my voice and thank
12 Senator Larkin for this bill as well. For the
13 last 2½ years I have been meeting with a large
14 number of constituents who have gone through this
15 process as Senator Kennedy just stated. And many
16 of them, both the husband and the wife
17 experienced this very difficult period. And this
18 bill brings closure. It allows them to really
19 address a very difficult period in their lives.

20 And this is a very important bill.
21 I know Senator Larkin, year after year he has
22 pushed this bill. Finally we may get it through
23 the Assembly and this bill can be passed and
24 signed into law.

25 You know, sometimes bills go

1 through here and we don't really know the human
2 element involved. But when you sit down and
3 speak to the parents and sit down and speak with
4 the family members, this is an important bill.

5 And I want to really thank the
6 Senator, Senator Larkin, for this bill. And I
7 hope that this is the year that this bill will
8 finally be signed into law and we can reach out
9 to those family members that are attempting to
10 close a very painful chapter in their lives. And
11 this bill is a way to do so.

12 Thank you, Mr. President.

13 ACTING PRESIDENT GALLIVAN: Senator
14 Adams to be recorded in the affirmative.

15 Senator Larkin to explain his vote.

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

18 I'd like to thank my colleagues
19 Senator Adams and Senator Kennedy for their
20 gracious response to this issue. This has been
21 an issue that's been going on a long time. The
22 first time I ever heard of a stillborn was in
23 Japan in 1951 when some of us who went to Korea
24 came home and found that our wife had this
25 unforgiven event in their lives.

1 We've tried here for many, many
2 years. We thought we were getting it. I can
3 tell you that on Monday Senator Kennedy came to
4 me and he said, "I said the rosary today." I
5 said, "Thanks a lot. We might need it."

6 But seriously, the technical
7 questions that we were getting on it, we have
8 overcome it. Senator Hannon said to me to go and
9 see Assemblyman Gottfried, chairman of Health on
10 the other said. I told Senator Adams and I told
11 Senator Kennedy that we did. He wanted one
12 specific addition to it. And you know what? We
13 did it. It's here now. I thank everybody.

14 This has been 10 years since we
15 first were introduced to this issue. And I want
16 to thank everybody who helped us. This is
17 important. You know, we've all known people who
18 have had a miscarriage, and it's been explained
19 and it's carried on. But we men have no idea of
20 the real trauma that goes on in a family when
21 there's a stillborn.

22 I think what we've done today is
23 made sure that there is no pressure on anybody.
24 The certificate is very simple. If somebody
25 doesn't want the certificate, we're not going to

1 issue them one. But today we issue a death
2 certificate. This is a death.

3 I thank everybody here for your
4 help. I know some people have raised some
5 questions, but Planned Parenthood even come in
6 and helped. This was an issue that is not
7 pleasant, but it's an issue that took a long
8 time. But I thank all of my colleagues here
9 today for supporting us.

10 Thank you very much.

11 ACTING PRESIDENT GALLIVAN: Senator
12 Larkin to be recorded in the affirmative.

13 Announce the results.

14 THE SECRETARY: In relation to
15 Calendar Number 279: Ayes, 61. Nays, 1.
16 Senator Hassell-Thompson recorded in the
17 negative.

18 ACTING PRESIDENT GALLIVAN: The
19 bill is passed.

20 THE SECRETARY: Calendar Number
21 352, by Senator Lanza, Senate Print 4373, an act
22 to amend the Penal Law.

23 ACTING PRESIDENT GALLIVAN: Read
24 the last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect on the first of November.

2 ACTING PRESIDENT GALLIVAN: Call
3 the roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 62.

6 ACTING PRESIDENT GALLIVAN: The
7 bill is passed.

8 THE SECRETARY: Calendar Number
9 386, by Senator Golden, Senate Print 2147, an act
10 to amend the Public Health Law.

11 ACTING PRESIDENT GALLIVAN: Read
12 the last section.

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

15 ACTING PRESIDENT GALLIVAN: Call
16 the roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: In relation to
19 Calendar Number 386, Senators Montgomery and
20 Perkins recorded in the negative.

21 Ayes, 60. Nays, 2.

22 ACTING PRESIDENT GALLIVAN: The
23 bill is passed.

24 THE SECRETARY: Calendar Number
25 420, substituted earlier today by Member of the

1 Assembly Magnarelli, Assembly Print 676B, an act
2 to amend the Executive Law.

3 ACTING PRESIDENT GALLIVAN: Read
4 the last section.

5 THE SECRETARY: Section 5. This
6 act shall take effect on the 90th day.

7 ACTING PRESIDENT GALLIVAN: Call
8 the roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT GALLIVAN: Senator
11 DeFrancisco to explain his vote.

12 SENATOR DeFRANCISCO: Yes, this
13 bill is an important bill and it was a long time
14 coming.

15 Several years ago I was an author of
16 a bill that became law entitled the Amber Alert,
17 whereunder the police agencies would cooperate
18 together and disseminate information to the news
19 media immediately about children being missing
20 from their house or missing from the people that
21 they were living with. And it started a process
22 by which the whole community was involved in
23 trying to find this child, in view of the fact
24 that it is well-known that the sooner the child
25 is looked for, the more likely that child is

1 going to be found.

2 For several years I've been trying
3 to get this bill to become law, and fortunately
4 this is the year it's going happen. Senator
5 Valesky had the bill last year. I had the bill
6 before that.

7 And basically it applies to adults,
8 adults with dementia, adults that are vulnerable
9 adults. We call it the Gold Alert. And it's the
10 same concept. And I'm sure everyone in their
11 communities, as I've had in mine, have an adult
12 that has wandered off from home and things have
13 happened that are not good. And as a result, the
14 same rationale for the Amber Alert for children
15 applies to vulnerable adults with dementia and
16 the like who might wander off from their home.

17 So this is that bill. It already
18 passed the Assembly. I believe it's going to be
19 signed by the Governor since the Governor's
20 office was involved in the negotiations. And
21 it's going to be a good law, and I thank
22 Assemblyman Magnarelli and Senator Valesky and
23 everyone who's had a role to play in this very,
24 very important bill.

25 Thank you very much. Believe it or

1 not, I'm going to vote aye.

2 ACTING PRESIDENT GALLIVAN: Senator
3 DeFrancisco shall be recorded in the affirmative.

4 Senator Valesky to explain his vote.

5 SENATOR VALESKY: Thank you very
6 much, Mr. President.

7 I want to join my colleague Senator
8 DeFrancisco in underscoring how important this
9 piece of legislation is. And make no mistake
10 about it, this bill will save lives.

11 And I simply want to, for the
12 record, thank Senator DeFrancisco for his many
13 years of leadership on this issue. And we
14 finally will have a new law in place that will
15 make a significant difference for people all
16 across the state.

17 I vote in the affirmative.

18 ACTING PRESIDENT GALLIVAN: Senator
19 Valesky to be recorded in the affirmative.

20 Announce the results.

21 THE SECRETARY: Ayes, 62.

22 ACTING PRESIDENT GALLIVAN: The
23 bill is passed.

24 THE SECRETARY: Calendar Number
25 429, by Senator Flanagan, Senate Print 4391A, an

1 act to amend the Penal Law.

2 ACTING PRESIDENT GALLIVAN: Read
3 the last section.

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

6 ACTING PRESIDENT GALLIVAN: Call
7 the roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 61. Nays,
10 1. Senator Montgomery recorded in the negative.

11 ACTING PRESIDENT GALLIVAN: The
12 bill is passed.

13 THE SECRETARY: Calendar Number
14 448, substituted earlier today by Member of the
15 Assembly Zebrowski, Assembly Print 6836, an act
16 to amend the Uniform City Court Act.

17 ACTING PRESIDENT GALLIVAN: Read
18 the last section.

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

21 ACTING PRESIDENT GALLIVAN: Call
22 the roll.

23 (The Secretary called the roll.)

24 THE SECRETARY: Ayes, 62.

25 ACTING PRESIDENT GALLIVAN: The

1 bill is passed.

2 THE SECRETARY: Calendar Number
3 500, by the Senate Committee on Rules, Senate
4 Print 4575, an act to amend the Tax Law.

5 ACTING PRESIDENT GALLIVAN: Read
6 the last section.

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

9 ACTING PRESIDENT GALLIVAN: Call
10 the roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: In relation to
13 Calendar 500, those recorded in the negative are
14 Senators Adams, Espaillat, Gianaris, Huntley,
15 L. Krueger, Montgomery, Parker, Peralta, Perkins,
16 Rivera, Squadron and Stavisky.

17 Ayes, 50. Nays, 12.

18 ACTING PRESIDENT GALLIVAN: The
19 bill is passed.

20 THE SECRETARY: Calendar Number
21 515, by Senator Fuschillo, Senate Print 4488A, an
22 act to amend the Vehicle and Traffic Law.

23 ACTING PRESIDENT GALLIVAN: Read
24 the last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect on the 120th day.

2 ACTING PRESIDENT GALLIVAN: Call
3 the roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 62.

6 ACTING PRESIDENT GALLIVAN: The
7 bill is passed.

8 THE SECRETARY: Calendar Number
9 521, substituted earlier today by Member of the
10 Assembly Thiele, Assembly Print Number 1410A, an
11 act to amend the Public Health Law.

12 ACTING PRESIDENT GALLIVAN: Read
13 the last section.

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

16 ACTING PRESIDENT GALLIVAN: Call
17 the roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 62.

20 ACTING PRESIDENT GALLIVAN: The
21 bill is passed.

22 THE SECRETARY: Calendar Number
23 541, by Senator Ball --

24 SENATOR LIBOUS: Lay it aside for
25 the day.

1 ACTING PRESIDENT GALLIVAN: The
2 bill is laid aside for the day.

3 THE SECRETARY: Calendar Number
4 562, by Senator Fuschillo, Senate Print 4610, an
5 act to amend the Penal Law.

6 ACTING PRESIDENT GALLIVAN: Read
7 the last section.

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

10 ACTING PRESIDENT GALLIVAN: Call
11 the roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: In relation to
14 Calendar 562, those recorded in the negative are
15 Senators Duane, Espaillat, Parker, and Perkins.

16 Ayes, 58. Nays, 4.

17 ACTING PRESIDENT GALLIVAN: The
18 bill is passed.

19 THE SECRETARY: Calendar Number
20 600, by Senator Little, Senate Print 547, an act
21 to amend the Vehicle and Traffic Law.

22 ACTING PRESIDENT GALLIVAN: Read
23 the last section.

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

1 ACTING PRESIDENT GALLIVAN: Call
2 the roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 62.

5 ACTING PRESIDENT GALLIVAN: The
6 bill is passed.

7 THE SECRETARY: Calendar Number
8 608, by Senator Parker, Senate Print 1149A, an
9 act to amend the Public Service Law.

10 ACTING PRESIDENT GALLIVAN: Read
11 the last section.

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

14 ACTING PRESIDENT GALLIVAN: Call
15 the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 62.

18 ACTING PRESIDENT GALLIVAN: The
19 bill is passed.

20 THE SECRETARY: Calendar Number
21 623, substituted earlier today by Member of the
22 Assembly Hawley, Assembly Print 7738, an act in
23 relation to dissolving the Village of Medina.

24 ACTING PRESIDENT GALLIVAN: There
25 is a home-rule message at the desk.

1 Read the last section.

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

4 ACTING PRESIDENT GALLIVAN: Call
5 the roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 62.

8 ACTING PRESIDENT GALLIVAN: The
9 bill is passed.

10 THE SECRETARY: Calendar Number
11 624, by Senator Hannon, Senate Print 1465A, an
12 act to amend the Real Property Tax Law.

13 ACTING PRESIDENT GALLIVAN: Read
14 the last section.

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

17 ACTING PRESIDENT GALLIVAN: Call
18 the roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: In relation to
21 Calendar Number 624, those recorded in the
22 negative are Senators Bonacic, Larkin and
23 O'Mara.

24 Ayes, 59. Nays, 3.

25 ACTING PRESIDENT GALLIVAN: The

1 bill is passed.

2 THE SECRETARY: Calendar Number
3 626, by Senator Johnson, Senate Print 2637, an
4 act to authorize the West Islip Union Free School
5 District.

6 ACTING PRESIDENT GALLIVAN: Read
7 the last section.

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

10 ACTING PRESIDENT GALLIVAN: Call
11 the roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: In relation to
14 Calendar 626, those recorded in the negative are
15 Senators Bonacic, Larkin and O'Mara.

16 Ayes, 59. Nays, 3.

17 ACTING PRESIDENT GALLIVAN: The
18 bill is passed.

19 THE SECRETARY: Calendar Number
20 628, by Senator LaValle --

21 SENATOR LIBOUS: Lay it aside for
22 the day.

23 ACTING PRESIDENT GALLIVAN: The
24 bill is laid aside for the day.

25 THE SECRETARY: Calendar Number

1 632, by Senator Flanagan, Senate Print 4166, an
2 act to authorize the Holy Cross Roman Catholic
3 Church.

4 ACTING PRESIDENT GALLIVAN: Read
5 the last section.

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

8 ACTING PRESIDENT GALLIVAN: Call
9 the roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: In relation to
12 Calendar Number 632, those recorded in the
13 negative are Senators Bonacic, Larkin and O'Mara.

14 Ayes, 59. Nays, 3.

15 ACTING PRESIDENT GALLIVAN: The
16 bill is passed.

17 THE SECRETARY: Calendar Number
18 633, by Senator Flanagan, Senate Print --

19 SENATOR BRESLIN: Lay it aside.

20 ACTING PRESIDENT GALLIVAN: The
21 bill is laid aside.

22 THE SECRETARY: Calendar Number
23 644, by Senator Skelos, Senate Print 4893B, an
24 act to authorize the assessor of the County of
25 Nassau.

1 ACTING PRESIDENT GALLIVAN: Read
2 the last section.

3 THE SECRETARY: Section 2. This
4 act shall take effect immediately.

5 ACTING PRESIDENT GALLIVAN: Call
6 the roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Those recorded in
9 the negative on Calendar Number 644 are Senators
10 Larkin and O'Mara.

11 Ayes, 60. Nays, 2.

12 ACTING PRESIDENT GALLIVAN: The
13 bill is passed.

14 THE SECRETARY: Calendar Number
15 645, substituted earlier today by Member of the
16 Assembly Graf, Assembly Print 7302, an act to
17 authorize Hands Across Long Island.

18 ACTING PRESIDENT GALLIVAN: Read
19 the last section.

20 THE SECRETARY: Section 2. This
21 act shall take effect immediately.

22 ACTING PRESIDENT GALLIVAN: Call
23 the roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: Those recorded in

1 the negative on Calendar Number 645 are Senators
2 Bonacic, Larkin and O'Mara.

3 Ayes, 59. Nays, 3.

4 ACTING PRESIDENT GALLIVAN: The
5 bill is passed.

6 THE SECRETARY: Calendar Number
7 727, by Senator LaValle, Senate Print 3716, an
8 act in relation to legalizing, validating,
9 ratifying and confirming.

10 ACTING PRESIDENT GALLIVAN: Read
11 the last section.

12 THE SECRETARY: Section 4. This
13 act shall take effect immediately.

14 ACTING PRESIDENT GALLIVAN: Call
15 the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Those recorded in
18 the negative on Calendar Number 727 are Senators
19 Bonacic and Larkin.

20 Ayes, 60. Nays, 2.

21 ACTING PRESIDENT GALLIVAN: The
22 bill is passed.

23 SENATOR BONACIC: Excuse me,
24 Mr. President.

25 ACTING PRESIDENT GALLIVAN: Senator

1 Bonacic.

2 SENATOR BONACIC: Mr. President, I
3 just want to make sure we're correct on the
4 calendar. It was Number 646, Senate Bill 4941B,
5 is what we were voting no on. Is that what was
6 recorded?

7 ACTING PRESIDENT GALLIVAN: 646 has
8 been amended. We were on Calendar Number 727.

9 SENATOR BONACIC: Okay, thank you.
10 I'm up on 727.

11 ACTING PRESIDENT GALLIVAN: The
12 Secretary will announce the results again of
13 Calendar Number 727.

14 THE SECRETARY: In relation to
15 Calendar 727: Ayes, 62.

16 ACTING PRESIDENT GALLIVAN: The
17 bill is passed.

18 THE SECRETARY: Calendar Number
19 728, by Senator LaValle, Senate Print 3874, an
20 act to legalize, validate, ratify and confirm.

21 ACTING PRESIDENT GALLIVAN: Read
22 the last section.

23 THE SECRETARY: Section 3. This
24 act shall take effect immediately.

25 ACTING PRESIDENT GALLIVAN: Call

1 the roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 62.

4 ACTING PRESIDENT GALLIVAN: The
5 bill is passed.

6 THE SECRETARY: Calendar Number
7 733, by Senator Johnson, Senate Print 5031A, an
8 anxiety to provide for the payment.

9 ACTING PRESIDENT GALLIVAN: Read
10 the last section.

11 THE SECRETARY: Section 2. This
12 act shall take effect immediately.

13 ACTING PRESIDENT GALLIVAN: Call
14 the roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes, 62.

17 ACTING PRESIDENT GALLIVAN: The
18 bill is passed.

19 THE SECRETARY: Calendar Number
20 736, by Senator Hannon, Senate Print 1922, an act
21 to amend the Family Court Act.

22 ACTING PRESIDENT GALLIVAN: Read
23 the last section.

24 THE SECRETARY: Section 3. This
25 act shall take effect on the first of January.

1 ACTING PRESIDENT GALLIVAN: Call
2 the roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 62.

5 ACTING PRESIDENT GALLIVAN: The
6 bill is passed.

7 THE SECRETARY: Calendar Number
8 781, by Senator Savino, Senate Print 4038B, an
9 act to amend the Banking Law.

10 ACTING PRESIDENT GALLIVAN: Read
11 the last section.

12 THE SECRETARY: Section 2. This
13 act shall take effect on the 90th day.

14 ACTING PRESIDENT GALLIVAN: Call
15 the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 62.

18 ACTING PRESIDENT GALLIVAN: The
19 bill is passed.

20 THE SECRETARY: Calendar Number
21 797, substituted earlier today by Member of the
22 Assembly Cymbrowitz, Assembly Print 6815, an act
23 to amend the Mental Hygiene Law.

24 ACTING PRESIDENT GALLIVAN: Read
25 the last section.

1 THE SECRETARY: Section 2. This
2 act shall take effect immediately.

3 ACTING PRESIDENT GALLIVAN: Call
4 the roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 62.

7 ACTING PRESIDENT GALLIVAN: The
8 bill is passed.

9 THE SECRETARY: Calendar Number
10 818, substituted earlier today by Member of the
11 Assembly Gunther, Assembly Print 475, an act to
12 amend the Vehicle and Traffic Law.

13 ACTING PRESIDENT GALLIVAN: Read
14 the last section.

15 THE SECRETARY: Section 2. This
16 act shall take effect immediately.

17 ACTING PRESIDENT GALLIVAN: Call
18 the roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 62.

21 ACTING PRESIDENT GALLIVAN: The
22 bill is passed.

23 THE SECRETARY: Calendar Number
24 824, by Senator Libous, Senate Print 5396, an act
25 to amend the Private Housing Finance Law.

1 ACTING PRESIDENT GALLIVAN: Read
2 the last section.

3 THE SECRETARY: Section 3. This
4 act shall take effect immediately.

5 ACTING PRESIDENT GALLIVAN: Call
6 the roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 61. Nays, 1.
9 Senator Espaillat recorded in the negative.

10 ACTING PRESIDENT GALLIVAN: The
11 bill is passed.

12 THE SECRETARY: Calendar Number
13 832, substituted earlier today by Member of the
14 Assembly Ramos, Assembly Print 4163A, an act to
15 authorize the Commissioner of General Services.

16 ACTING PRESIDENT GALLIVAN: Read
17 the last section.

18 THE SECRETARY: Section 2. This
19 act shall take effect immediately.

20 ACTING PRESIDENT GALLIVAN: Call
21 the roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 62.

24 ACTING PRESIDENT GALLIVAN: The
25 bill is passed.

1 THE SECRETARY: Calendar Number
2 857, by Senator Farley, Senate Print 4053A, an
3 act to amend the State Finance Law.

4 ACTING PRESIDENT GALLIVAN: Read
5 the last section.

6 THE SECRETARY: Section 2. This
7 act shall take effect immediately.

8 ACTING PRESIDENT GALLIVAN: Call
9 the roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 62.

12 ACTING PRESIDENT GALLIVAN: The
13 bill is passed.

14 THE SECRETARY: Calendar Number
15 877, by Senator Farley, Senate Print 5197, an act
16 to authorize the assessor of the City of
17 Schenectady.

18 ACTING PRESIDENT GALLIVAN: Read
19 the last section.

20 THE SECRETARY: Section 2. This
21 act shall take effect immediately.

22 ACTING PRESIDENT GALLIVAN: Call
23 the roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: In relation to

1 Calendar Number 877, those recorded in the
2 negative are Senators Bonacic, Larkin and O'Mara.

3 Ayes, 59. Nays, 3.

4 ACTING PRESIDENT GALLIVAN: The
5 bill is passed.

6 THE SECRETARY: Calendar Number
7 879, substituted earlier today by Member of the
8 Assembly Hooper, Assembly Print 5255A, an act to
9 authorize the Hebrew Academy of Nassau.

10 ACTING PRESIDENT GALLIVAN: Read
11 the last section.

12 THE SECRETARY: Section 2. This
13 act shall take effect immediately.

14 ACTING PRESIDENT GALLIVAN: Call
15 the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: In relation to
18 Calendar 879, those recorded in the negative are
19 Senators Bonacic, Larkin and O'Mara.

20 Ayes, 59. Nays, 3.

21 ACTING PRESIDENT GALLIVAN: The
22 bill is passed.

23 THE SECRETARY: Calendar Number
24 880, substituted earlier today by Member of the
25 Assembly Amedore, Assembly Print Number 5195A, an

1 act to authorize Planned Parenthood Mohawk
2 Hudson.

3 ACTING PRESIDENT GALLIVAN: Read
4 the last section.

5 THE SECRETARY: Section 2. This
6 act shall take effect immediately.

7 ACTING PRESIDENT GALLIVAN: Call
8 the roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: In relation to
11 Calendar 880, those recorded in the negative are
12 Senators Bonacic, Larkin and O'Mara.

13 Ayes, 59. Nays, 3.

14 ACTING PRESIDENT GALLIVAN: The
15 bill is passed.

16 THE SECRETARY: Calendar Number
17 882, by Senator Farley, Senate Print 3412B, an
18 act to authorize Schenectady Civic Players.

19 ACTING PRESIDENT GALLIVAN: Read
20 the last section.

21 THE SECRETARY: Section 2. This
22 act shall take effect immediately.

23 ACTING PRESIDENT GALLIVAN: Call
24 the roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Those recorded in
2 the negative on Calendar Number 882 are
3 Senators Bonacic, Larkin and O'Mara.

4 Ayes, 59. Nays, 3.

5 ACTING PRESIDENT GALLIVAN: The
6 bill is passed.

7 THE SECRETARY: Calendar Number
8 883, by Senator Farley, Senate Print 3413A, an
9 act to authorize State Street Presbyterian
10 Church.

11 ACTING PRESIDENT GALLIVAN: Read
12 the last section.

13 THE SECRETARY: Section 2. This
14 act shall take effect immediately.

15 ACTING PRESIDENT GALLIVAN: Call
16 the roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Those recorded in
19 the negative on Calendar Number 883 are
20 Senators Bonacic, Larkin and O'Mara.

21 Ayes, 59. Nays, 3.

22 ACTING PRESIDENT GALLIVAN: The
23 bill is passed.

24 THE SECRETARY: Calendar Number
25 884, substituted earlier today by Member of the

1 Assembly Cahill, Assembly Print 5791, an act to
2 amend Chapter 158 of the Laws of 1988.

3 ACTING PRESIDENT GALLIVAN: Read
4 the last section.

5 THE SECRETARY: Section 2. This
6 act shall take effect immediately.

7 ACTING PRESIDENT GALLIVAN: Call
8 the roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 62.

11 ACTING PRESIDENT GALLIVAN: The
12 bill is passed.

13 THE SECRETARY: Calendar Number
14 889, by Senator Larkin, Senate Print 4676, an act
15 to remove from the Albert Wisner Memorial Public
16 Library.

17 ACTING PRESIDENT GALLIVAN: Read
18 the last section.

19 THE SECRETARY: Section 2. This
20 act shall take effect on the first of July.

21 ACTING PRESIDENT GALLIVAN: Call
22 the roll.

23 (The Secretary called the roll.)

24 THE SECRETARY: In relation to
25 Calendar Number 889: Ayes, 62.

1 ACTING PRESIDENT GALLIVAN: The
2 bill is passed.

3 THE SECRETARY: Calendar Number
4 891, by Senator Farley, Senate Print 4766, an act
5 to authorize Bethel AME Church.

6 ACTING PRESIDENT GALLIVAN: Read
7 the last section.

8 THE SECRETARY: Section 2. This
9 act shall take effect immediately.

10 ACTING PRESIDENT GALLIVAN: Call
11 the roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Those recorded in
14 the negative on Calendar Number 891 are Senators
15 Bonacic, Larkin and O'Mara.

16 Ayes, 59. Nays, 3.

17 ACTING PRESIDENT GALLIVAN: The
18 bill is passed.

19 THE SECRETARY: On page 33, Senator
20 Griffo moves to discharge, from the Committee on
21 Local Government, Assembly Bill 7736 and
22 substitute it for the identical Senate Bill
23 Number 5434, Third Reading Calendar 893.

24 ACTING PRESIDENT GALLIVAN:
25 Substitution ordered.

1 The Secretary shall read.

2 THE SECRETARY: Calendar Number
3 893, by Member of the Assembly Galef, Assembly
4 Print 7736, an act to authorize the assessors of
5 the Town of Whitestown.

6 ACTING PRESIDENT GALLIVAN: Read
7 the last section.

8 THE SECRETARY: Section 2. This
9 act shall take effect immediately.

10 ACTING PRESIDENT GALLIVAN: Call
11 the roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Those recorded in
14 the negative on Calendar Number 893 are Senators
15 Bonacic, Larkin and O'Mara.

16 Ayes, 59. Nays, 3.

17 ACTING PRESIDENT GALLIVAN: The
18 bill is passed.

19 THE SECRETARY: Calendar Number
20 894, by Senator Farley, Senate Print 5479, an act
21 to authorize First Unitarian Society.

22 ACTING PRESIDENT GALLIVAN: Read
23 the last section.

24 THE SECRETARY: Section 2. This
25 act shall take effect immediately.

1 ACTING PRESIDENT GALLIVAN: Call
2 the roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Those recorded in
5 the negative on Calendar Number 894 are Senators
6 Bonacic, Larkin and O'Mara.

7 Ayes, 59. Nays, 3.

8 ACTING PRESIDENT GALLIVAN: The
9 bill is passed.

10 THE SECRETARY: Calendar Number
11 904, by Senator Griffo, Senate Print 5460A, an
12 act to amend the Tax Law.

13 ACTING PRESIDENT GALLIVAN: Read
14 the last section.

15 THE SECRETARY: Section 3. This
16 act shall take effect on the 180th day.

17 ACTING PRESIDENT GALLIVAN: Call
18 the roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 62.

21 ACTING PRESIDENT GALLIVAN: The
22 bill is passed.

23 THE SECRETARY: Calendar Number
24 913, substituted earlier today by Member of the
25 Assembly Weinstein, Assembly Print Number 7794A,

1 an act to amend the Family Court Act.

2 ACTING PRESIDENT GALLIVAN: Read
3 the last section.

4 THE SECRETARY: Section 4. This
5 act shall take effect on the 90th day.

6 ACTING PRESIDENT GALLIVAN: Call
7 the roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 62.

10 ACTING PRESIDENT GALLIVAN: The
11 bill is passed.

12 THE SECRETARY: Calendar Number
13 916, substituted earlier today by Member of the
14 Assembly Zebrowski, Assembly Print 7465A, an act
15 to amend the Civil Practice Law and Rules.

16 ACTING PRESIDENT GALLIVAN: Read
17 the last section.

18 THE SECRETARY: Section 2. This
19 act shall take effect immediately.

20 ACTING PRESIDENT GALLIVAN: Call
21 the roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Those recorded in
24 the negative on Calendar 916 are Senators Duane
25 and Perkins.

1 Ayes, 60. Nays, 2.

2 ACTING PRESIDENT GALLIVAN: The
3 bill is passed.

4 THE SECRETARY: Calendar Number
5 921, by Senator Zeldin, Senate Print 5477A, an
6 act to amend the General Business Law.

7 ACTING PRESIDENT GALLIVAN: Read
8 the last section.

9 THE SECRETARY: Section 4. This
10 act shall take effect on the 90th day.

11 ACTING PRESIDENT GALLIVAN: Call
12 the roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes, 62.

15 ACTING PRESIDENT GALLIVAN: The
16 bill is passed.

17 THE SECRETARY: Calendar Number
18 930, by Senator Bonacic, Senate Print 4663A, an
19 act to amend the Education Law.

20 ACTING PRESIDENT GALLIVAN: Read
21 the last section.

22 THE SECRETARY: Section 5. This
23 act shall take effect immediately.

24 ACTING PRESIDENT GALLIVAN: Call
25 the roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 62.

3 ACTING PRESIDENT GALLIVAN: The
4 bill is passed.

5 THE SECRETARY: Calendar Number
6 939, by Senator Ritchie, Senate Print 5499, an
7 act to amend the Agriculture and Markets Law.

8 ACTING PRESIDENT GALLIVAN: Read
9 the last section.

10 THE SECRETARY: Section 3. This
11 act shall take effect immediately.

12 ACTING PRESIDENT GALLIVAN: Call
13 the roll.

14 (The Secretary called the roll.)

15 SENATOR KRUEGER: Can you tell us
16 what calendar number we're on? I'm a little
17 confused.

18 ACTING PRESIDENT GALLIVAN:
19 Calendar Number 939.

20 SENATOR KRUEGER: 939? Thank you.

21 ACTING PRESIDENT GALLIVAN: Senator
22 Oppenheimer to explain her vote.

23 SENATOR OPPENHEIMER: This is
24 rather simple. And I think I can very briefly
25 explain why several of us are voting against

1 this. It isn't that we don't love maple syrup,
2 which we all do. And we use it in ample supply
3 on our pancakes.

4 But what's happening here is they're
5 trying to take the process of permitting, the
6 permits which are necessary for the water which
7 goes into maple syrup, the permit requirement is
8 being relieved. And we don't feel that's
9 something that's appropriate, because the water
10 usage has been always permitted and should
11 continue to be.

12 ACTING PRESIDENT GALLIVAN: Senator
13 Oppenheimer to be recorded in the negative.

14 Announce the results.

15 THE SECRETARY: In relation to
16 Calendar 939, those recorded in the negative are
17 Senators Adams, Addabbo, Avella, Breslin, Dilan,
18 Duane, Espaillat, Hassell-Thompson, Huntley,
19 Klein, LaValle, Marcellino, Oppenheimer, Parker,
20 Peralta, Perkins, Rivera, Serrano, Squadron,
21 Stavisky and Stewart-Cousins. Also Senator
22 Savino. Also Senator Sampson.

23 Ayes, 39. Nays, 23.

24 ACTING PRESIDENT GALLIVAN: The
25 bill is passed.

1 THE SECRETARY: Calendar Number
2 1002, by Senator Huntley, Senate Print 3078, an
3 act to amend the Mental Hygiene Law.

4 ACTING PRESIDENT GALLIVAN: Read
5 the last section.

6 THE SECRETARY: Section 5. This
7 act shall take effect immediately.

8 ACTING PRESIDENT GALLIVAN: Call
9 the roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 62.

12 ACTING PRESIDENT GALLIVAN: The
13 bill is passed.

14 THE SECRETARY: Calendar Number
15 1054, by Senator Fuschillo, Senate Print 2597, an
16 act to amend the Vehicle and Traffic Law.

17 ACTING PRESIDENT GALLIVAN: Read
18 the last section.

19 THE SECRETARY: Section 4. This
20 act shall take effect on the first of November.

21 ACTING PRESIDENT GALLIVAN: Call
22 the roll.

23 (The Secretary called the roll.)

24 THE SECRETARY: Ayes, 62.

25 ACTING PRESIDENT GALLIVAN: The

1 bill is passed.

2 THE SECRETARY: Calendar Number
3 1082, substituted earlier today by Member of the
4 Assembly Weinstein, Assembly Print Number 8007,
5 an act to amend the Judiciary Law.

6 ACTING PRESIDENT GALLIVAN: Read
7 the last section.

8 THE SECRETARY: Section 2. This
9 act shall take effect immediately.

10 ACTING PRESIDENT GALLIVAN: Call
11 the roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes, 62.

14 ACTING PRESIDENT GALLIVAN: The
15 bill is passed.

16 THE SECRETARY: Calendar Number
17 1084, substituted earlier today by Member of the
18 Assembly Weinstein, Assembly Print 7729, an act
19 to amend the Estates, Powers and Trusts Law.

20 ACTING PRESIDENT GALLIVAN: Read
21 the last section.

22 THE SECRETARY: Section 2. This
23 act shall take effect immediately.

24 ACTING PRESIDENT GALLIVAN: Call
25 the roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 62.

3 ACTING PRESIDENT GALLIVAN: The
4 bill is passed.

5 THE SECRETARY: Calendar Number
6 1102, substituted earlier today by Member of the
7 Assembly Markey, Assembly Print 8091, an act to
8 amend the Executive Law.

9 ACTING PRESIDENT GALLIVAN: Read
10 the last section.

11 THE SECRETARY: Section 2. This
12 act shall take effect on the 90th day.

13 ACTING PRESIDENT GALLIVAN: Call
14 the roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes, 62.

17 ACTING PRESIDENT GALLIVAN: The
18 bill is passed.

19 THE SECRETARY: Calendar Number
20 1103, substituted earlier today by Member of the
21 Assembly Sweeney, Assembly Print 8303, an act to
22 amend the Executive Law.

23 ACTING PRESIDENT GALLIVAN: Read
24 the last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT GALLIVAN: Call
3 the roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 62.

6 ACTING PRESIDENT GALLIVAN: The
7 bill is passed.

8 THE SECRETARY: Calendar Number
9 1176, substituted earlier today by Member of the
10 Assembly Cusick, Assembly Print Number 7698, an
11 act to amend the Penal Law.

12 ACTING PRESIDENT GALLIVAN: Read
13 the last section.

14 THE SECRETARY: Section 2. This
15 act shall take effect on the 180th day.

16 ACTING PRESIDENT GALLIVAN: Call
17 the roll.

18 (The Secretary called the roll.)

19 ACTING PRESIDENT GALLIVAN: Senator
20 Griffo to explain his vote.

21 SENATOR GRIFFO: Thank you,
22 Mr. President. I appreciate that.

23 And I want to thank Assemblyman
24 Cusick for his sponsorship in the Assembly,
25 Senator Zeldin and Senator Ball for their

1 support, along with all the members here.

2 We know that funerals can be very
3 stressful times and very traumatic experiences
4 for many families, and I would hope that this
5 bill will enable us to provide the dignity and
6 respect that we need to ensure that those
7 services, particularly for members of the armed
8 forces who have paid the ultimate sacrifice and
9 are coming home, to allow those families to
10 grieve and mourn in a respectful, dignified
11 manner.

12 So I appreciate the support here
13 today, and I vote aye.

14 ACTING PRESIDENT GALLIVAN: Senator
15 Griffo to be recorded in the affirmative.

16 Senator O'Mara to explain his vote.

17 SENATOR O'MARA: Yes, thank you,
18 Mr. President.

19 As I spoke earlier this week on the
20 recent tragic death of Devin Snyder in Cohocton,
21 New York, her funeral is set for this Saturday
22 morning. There are calling hours this evening,
23 calling hours tomorrow evening. The Westboro
24 Baptist Church has given notice that they are
25 planning on coming and protesting this funeral.

1 Unfortunately, the active date of
2 this legislation will not be in time for this
3 week's proceedings. But this is very important
4 that we don't allow these activities of groups
5 such as the Westboro Baptists to infringe upon
6 the sorrow and the grieving of families like
7 Devin Snyder's. They deserve the respect and
8 honor and dignity to grieve in peace with those
9 supporting it.

10 Fortunately, we have groups like the
11 Guardian Riders that are coming, and they will be
12 there to line the route to be sure that the
13 proceedings are peaceful, honorable, and
14 dignified. And we hope that it remains that. We
15 are hoping that we have a strong outpouring in
16 our community to support the Snyder family in
17 this extremely difficult time, as our hearts pour
18 out to them and we recognize the significance of
19 the ultimate sacrifice that the Snyder family has
20 made and that it should not be interrupted by
21 groups such as those that I have mentioned.

22 And this legislation, I thank the
23 sponsors of this and myself as a cosponsor to
24 move forward with this so that other families
25 don't have to go through this that already have

1 in these terrible times.

2 Thank you, Mr. President.

3 ACTING PRESIDENT GALLIVAN: Senator
4 O'Mara to be recorded in the affirmative.

5 Announce the results.

6 THE SECRETARY: Ayes, 62.

7 ACTING PRESIDENT GALLIVAN: The
8 bill is passed.

9 THE SECRETARY: Calendar Number
10 1195, by Senator Farley, Senate Print 5140B, an
11 act to amend the Tax Law.

12 ACTING PRESIDENT GALLIVAN: Read
13 the last section.

14 THE SECRETARY: Section 3. This
15 act shall take effect on the 90th day.

16 ACTING PRESIDENT GALLIVAN: Call
17 the roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 62.

20 ACTING PRESIDENT GALLIVAN: The
21 bill is passed.

22 THE SECRETARY: Calendar Number
23 1212, by Senator Libous, Senate Print 2952B, an
24 act to legalize, validate, ratify and confirm.

25 ACTING PRESIDENT GALLIVAN: There

1 is a home-rule message at the desk.

2 Read the last section.

3 THE SECRETARY: Section 3. This
4 act shall take effect immediately.

5 ACTING PRESIDENT GALLIVAN: Call
6 the roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 62.

9 ACTING PRESIDENT GALLIVAN: The
10 bill is passed.

11 Senator Libous, that completes the
12 noncontroversial reading of the supplemental
13 calendar.

14 SENATOR LIBOUS: Thank you,
15 Mr. President.

16 Mr. President, at this time the
17 Senate will stand at ease for about 20 minutes.
18 When we come back, we will take up the
19 controversial reading of this calendar and then
20 the noncontroversial reading of Calendar 54A.

21 So we will stand at ease till, say,
22 7:30.

23 ACTING PRESIDENT GALLIVAN: The
24 Senate stands at ease until 7:30.

25 (Whereupon, the Senate stood at ease

1 at 7:00 p.m.)

2 (Whereupon, the Senate reconvened at
3 7:51 p.m.)

4 ACTING PRESIDENT ZELDIN: Senator
5 Libous.

6 SENATOR LIBOUS: Thank you,
7 Mr. President.

8 At this time we would like to take
9 up Supplemental Calendar 54A. And we would like
10 to take up the noncontroversial reading of the
11 calendar. If it's okay with you, sir.

12 ACTING PRESIDENT ZELDIN: The
13 Secretary will read Supplemental Calendar 54A.

14 SENATOR LIBOUS: Then it's okay
15 with you.

16 ACTING PRESIDENT ZELDIN: It's okay
17 with me.

18 THE SECRETARY: Calendar Number
19 1280, by Senator Klein, Senate Print 571, an act
20 to amend Chapter 25 of the Laws of 2009.

21 ACTING PRESIDENT ZELDIN: Read the
22 last section.

23 THE SECRETARY: Section 3. This
24 act shall take effect immediately.

25 ACTING PRESIDENT ZELDIN: Call the

1 roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT ZELDIN: Senator
4 Klein to explain his vote.

5 SENATOR KLEIN: Thank you,
6 Mr. President. Just briefly.

7 This is a piece of legislation which
8 we attempted to pass previously which would treat
9 private schools around the State of New York the
10 same as we treat the public schools, having them
11 reimbursed for the MTA payroll tax.

12 This is an issue of fairness.
13 Private schools are having the same problems in
14 many cases as our public schools, and I think
15 this would take away a very grievous burden that
16 our private-school parents have for the MTA
17 payroll tax.

18 So I vote yes, Mr. President.

19 ACTING PRESIDENT ZELDIN: Senator
20 Klein to be recorded in the affirmative.

21 Announce the results.

22 THE SECRETARY: Ayes, 62.

23 ACTING PRESIDENT ZELDIN: The bill
24 is passed.

25 THE SECRETARY: Calendar Number

1 1296, by Senator Young, Senate Print 746A, an act
2 to amend the Penal Law.

3 ACTING PRESIDENT ZELDIN: Read the
4 last section.

5 THE SECRETARY: Section 4. This
6 act shall take effect on the first of November.

7 ACTING PRESIDENT ZELDIN: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 62.

11 ACTING PRESIDENT ZELDIN: The bill
12 is passed.

13 THE SECRETARY: Calendar Number
14 1297, by Senator Griffo, Senate Print 1200, an
15 act to amend the Tax Law.

16 ACTING PRESIDENT ZELDIN: Read the
17 last section.

18 THE SECRETARY: Section 2. This
19 act shall take effect immediately.

20 ACTING PRESIDENT ZELDIN: Call the
21 roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 62.

24 ACTING PRESIDENT ZELDIN: The bill
25 is passed.

1 THE SECRETARY: Calendar Number
2 1298, by Senator Larkin, Senate Print 1507, an
3 act to amend the Vehicle and Traffic Law.

4 ACTING PRESIDENT ZELDIN: Read the
5 last section.

6 THE SECRETARY: Section 4. This
7 act shall take effect immediately.

8 ACTING PRESIDENT ZELDIN: Call the
9 roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 62.

12 ACTING PRESIDENT ZELDIN: The bill
13 is passed.

14 THE SECRETARY: Calendar Number
15 1299, by Senator Skelos, Senate Print 2004A, an
16 act to amend the Penal Law.

17 ACTING PRESIDENT ZELDIN: Read the
18 last section.

19 THE SECRETARY: Section 4. This
20 act shall take effect on the first of November.

21 ACTING PRESIDENT ZELDIN: Call the
22 roll.

23 (The Secretary called the roll.)

24 THE SECRETARY: Ayes, 61. Nays,
25 1. Senator Duane recorded in the negative.

1 ACTING PRESIDENT ZELDIN: The bill
2 is passed.

3 THE SECRETARY: Calendar Number
4 1300, by Senator Golden, Senate Print 2185, an
5 act to amend the Elder Law.

6 ACTING PRESIDENT ZELDIN: Read the
7 last section.

8 THE SECRETARY: Section 4. This
9 act shall take effect on the 90th day.

10 ACTING PRESIDENT ZELDIN: Call the
11 roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes, 62.

14 ACTING PRESIDENT ZELDIN: The bill
15 is passed.

16 THE SECRETARY: Calendar Number
17 1301, by Senator Lanza, Senate Print 2592A, an
18 act to amend the Education Law.

19 ACTING PRESIDENT ZELDIN: Read the
20 last section.

21 THE SECRETARY: Section 3. This
22 act shall take effect July 1, 2011.

23 ACTING PRESIDENT ZELDIN: Call the
24 roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 62.

2 ACTING PRESIDENT ZELDIN: The bill
3 is passed.

4 THE SECRETARY: In relation to
5 Calendar Number 1302, Senator Hassell-Thompson
6 moves to discharge, from the Committee on Rules,
7 Assembly Bill Number 3582 and substitute it for
8 the identical Senate Bill Number 2765, Third
9 Reading Calendar 1302.

10 ACTING PRESIDENT ZELDIN:
11 Substitution ordered.

12 The Secretary will read.

13 THE SECRETARY: Calendar Number
14 1302, by Member of the Assembly Aubry, Assembly
15 Print 3582, an act to amend the Correction Law.

16 ACTING PRESIDENT ZELDIN: Read the
17 last section.

18 THE SECRETARY: Section 2. This
19 act shall take effect immediately.

20 ACTING PRESIDENT ZELDIN: Call the
21 roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 62.

24 ACTING PRESIDENT ZELDIN: The bill
25 is passed.

1 THE SECRETARY: Calendar Number
2 1303, by Senator Huntley, Senate Print 3168, an
3 act to amend the Mental Hygiene Law.

4 ACTING PRESIDENT ZELDIN: Read the
5 last section.

6 THE SECRETARY: Section 3. This
7 act shall take effect immediately.

8 ACTING PRESIDENT ZELDIN: Call the
9 roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 62.

12 ACTING PRESIDENT ZELDIN: The bill
13 is passed.

14 THE SECRETARY: Calendar Number
15 1304, by Senator LaValle, Senate Print 3357, an
16 act to amend the Village Law.

17 ACTING PRESIDENT ZELDIN: Read the
18 last section.

19 THE SECRETARY: Section 3. This
20 act shall take effect immediately.

21 ACTING PRESIDENT ZELDIN: Call the
22 roll.

23 (The Secretary called the roll.)

24 ACTING PRESIDENT ZELDIN: Senator
25 LaValle to explain his vote.

1 SENATOR LaVALLE: Thank you,
2 Mr. President.

3 I just want to say the bill that
4 we're voting on was the outcome of discussions
5 with the Port Jefferson Youth Council and their
6 involvement in village government.

7 A number of years ago I had passed a
8 bill that is now law that allows, in our
9 school-district communities, students to be
10 involved on local school boards. So this is
11 another move toward getting our young people
12 involved in government, making leadership
13 decisions, and being involved in their local
14 community.

15 I vote aye, Mr. President.

16 ACTING PRESIDENT ZELDIN: Senator
17 LaValle will be recorded in the affirmative.

18 Announce the results.

19 THE SECRETARY: Ayes, 62.

20 ACTING PRESIDENT ZELDIN: The bill
21 is passed.

22 THE SECRETARY: In relation to
23 Calendar Number 1305, Senator Oppenheimer moves
24 to discharge, from the Committee on Rules,
25 Assembly Bill Number 5689 and substitute it for

1 the identical Senate Bill Number 3467, Third
2 Reading Calendar 1305.

3 ACTING PRESIDENT ZELDIN:
4 Substitution ordered.

5 The Secretary will read.

6 THE SECRETARY: Calendar Number
7 1305, by Member of the Assembly Latimer, Assembly
8 Print 5689, an act to authorize approval of
9 certain transportation contracts.

10 ACTING PRESIDENT ZELDIN: Read the
11 last section.

12 THE SECRETARY: Section 2. This
13 act shall take effect immediately.

14 ACTING PRESIDENT ZELDIN: Call the
15 roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 62.

18 ACTING PRESIDENT ZELDIN: The bill
19 is passed.

20 THE SECRETARY: Calendar Number
21 1306, by Senator Lanza, Senate Print 3546, an act
22 to establish the Teen Driver Safety Commission.

23 ACTING PRESIDENT ZELDIN: Read the
24 last section.

25 THE SECRETARY: Section 3. This

1 act shall take effect immediately.

2 ACTING PRESIDENT ZELDIN: Call the
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 62.

6 ACTING PRESIDENT ZELDIN: The bill
7 is passed.

8 THE SECRETARY: Calendar Number
9 1307, by Senator Savino, Senate Print 3912A, an
10 act to amend the Penal Law.

11 ACTING PRESIDENT ZELDIN: Read the
12 last section.

13 THE SECRETARY: Section 4. This
14 act shall take effect immediately.

15 ACTING PRESIDENT ZELDIN: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 62.

19 ACTING PRESIDENT ZELDIN: The bill
20 is passed.

21 THE SECRETARY: In relation to
22 Calendar Number 1308, Senator Robach moves to
23 discharge, from the Committee on Labor, Assembly
24 Bill Number 7630 and substitute it for the
25 identical Senate Bill Number 3965, Third Reading

1 Calendar 1308.

2 ACTING PRESIDENT ZELDIN:

3 Substitution ordered.

4 The Secretary will read.

5 THE SECRETARY: Calendar Number
6 1308, by Member of the Assembly Wright, Assembly
7 Print 7630, an act to amend the Labor Law.

8 ACTING PRESIDENT ZELDIN: Read the
9 last section.

10 THE SECRETARY: Section 2. This
11 act shall take effect immediately.

12 ACTING PRESIDENT ZELDIN: Call the
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 61. Nays,
16 1. Senator Duane recorded in the negative.

17 ACTING PRESIDENT ZELDIN: The bill
18 is passed.

19 THE SECRETARY: In relation to
20 Calendar Number 1309, Senator Maziarz moves to
21 discharge, from the Committee on Finance,
22 Assembly Bill Number 3722A and substitute it for
23 the identical Senate Bill Number 4025A, Third
24 Reading Calendar 1309.

25 ACTING PRESIDENT ZELDIN:

1 Substitution ordered.

2 The Secretary will read.

3 THE SECRETARY: Calendar Number
4 1309, by Member of the Assembly Russell, Assembly
5 Print 3722A, an act to create a temporary
6 New York State War of 1812 200th anniversary
7 commemoration.

8 ACTING PRESIDENT ZELDIN: Read the
9 last section.

10 THE SECRETARY: Section 2. This
11 act shall take effect immediately.

12 ACTING PRESIDENT ZELDIN: Call the
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 62.

16 ACTING PRESIDENT ZELDIN: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 1310, by Senator Alesi, Senate Print 4055A, an
20 act to amend the Public Health Law.

21 ACTING PRESIDENT ZELDIN: Read the
22 last section.

23 THE SECRETARY: Section 2. This
24 act shall take effect one year after it shall
25 have become law.

1 ACTING PRESIDENT ZELDIN: Call the
2 roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 62.

5 ACTING PRESIDENT ZELDIN: The bill
6 is passed.

7 THE SECRETARY: Calendar Number
8 1311, by Senator Flanagan, Senate Print 4209, an
9 act to amend the Criminal Procedure Law.

10 ACTING PRESIDENT ZELDIN: Read the
11 last section.

12 THE SECRETARY: Section 2. This
13 act shall take effect immediately.

14 ACTING PRESIDENT ZELDIN: Call the
15 roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Those recorded in
18 the negative on Calendar 1311 are Senators Duane
19 and L. Krueger. Also Senator Perkins. Also
20 Senator Hassell-Thompson.

21 Ayes, 58. Nays, 4.

22 ACTING PRESIDENT ZELDIN: The bill
23 is passed.

24 THE SECRETARY: Calendar Number
25 1312, by Senator Lanza, Senate Print 4225A, an

1 act to amend the Judiciary Law.

2 ACTING PRESIDENT ZELDIN: Read the
3 last section.

4 THE SECRETARY: Section 4. This
5 act shall take effect immediately.

6 ACTING PRESIDENT ZELDIN: Call the
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 62.

10 ACTING PRESIDENT ZELDIN: The bill
11 is passed.

12 THE SECRETARY: In relation to
13 Calendar Number 1315, Senator Valesky moves to
14 discharge, from the Committee on Finance,
15 Assembly Bill 6733 and substitute it for the
16 identical Senate Bill Number 4492, Third Reading
17 Calendar 1315.

18 ACTING PRESIDENT ZELDIN:
19 Substitution ordered.

20 The Secretary will read.

21 THE SECRETARY: Calendar Number
22 1315, by Member of the Assembly Braunstein,
23 Assembly Print 6733, an act to amend the Elder
24 Law.

25 ACTING PRESIDENT ZELDIN: Read the

1 last section.

2 THE SECRETARY: Section 2. This
3 act shall take effect immediately.

4 ACTING PRESIDENT ZELDIN: Call the
5 roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 62.

8 ACTING PRESIDENT ZELDIN: The bill
9 is passed.

10 THE SECRETARY: Calendar Number
11 1316, by Senator Savino, Senate Print 4563A, an
12 act to amend the Public Health Law.

13 ACTING PRESIDENT ZELDIN: Read the
14 last section.

15 THE SECRETARY: Section 2. This
16 act shall take effect on the 60th day.

17 ACTING PRESIDENT ZELDIN: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 62.

21 ACTING PRESIDENT ZELDIN: The bill
22 is passed.

23 THE SECRETARY: In relation to
24 Calendar Number 1317, Senator DeFrancisco moves
25 to discharge, from the Committee on

1 Investigations and Government Operations,
2 Assembly Bill Number 6274 and substitute it for
3 the identical Senate Bill Number 4732, Third
4 Reading Calendar 1317.

5 ACTING PRESIDENT ZELDIN:
6 Substitution ordered.

7 The Secretary will read.

8 THE SECRETARY: Calendar Number
9 1317, by Member of the Assembly Farrell, Assembly
10 Print 6274, an act to amend the Tax Law.

11 ACTING PRESIDENT ZELDIN: Read the
12 last section.

13 THE SECRETARY: Section 2. This
14 act shall take effect immediately.

15 ACTING PRESIDENT ZELDIN: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 62.

19 ACTING PRESIDENT ZELDIN: The bill
20 is passed.

21 THE SECRETARY: Calendar Number
22 1318, by Senator Saland, Senate Print 4825A, an
23 act to amend the Public Authorities Law.

24 ACTING PRESIDENT ZELDIN: Read the
25 last section.

1 THE SECRETARY: Section 4. This
2 act shall take effect immediately.

3 ACTING PRESIDENT ZELDIN: Call the
4 roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: In relation to
7 Calendar Number 1318, those recorded in the
8 negative are Senators Dilan, Duane,
9 Hassell-Thompson, C. Kruger and Perkins.

10 Ayes, 57. Nays, 5.

11 ACTING PRESIDENT ZELDIN: The bill
12 is passed.

13 THE SECRETARY: Calendar Number
14 1319, by Senator Gallivan, Senate Print 4946A, an
15 act to amend the Correction Law.

16 ACTING PRESIDENT ZELDIN: Read the
17 last section.

18 THE SECRETARY: Section 4. This
19 act shall take effect immediately.

20 ACTING PRESIDENT ZELDIN: Call the
21 roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 61. Nays,
24 1. Senator Duane recorded in the negative.

25 ACTING PRESIDENT ZELDIN: The bill

1 is passed.

2 THE SECRETARY: Calendar Number
3 1320, by Senator Valesky, Senate Print 5077A, an
4 act to amend the Elder Law.

5 ACTING PRESIDENT ZELDIN: Read the
6 last section.

7 THE SECRETARY: Section 2. This
8 act shall take effect on the 90th day.

9 ACTING PRESIDENT ZELDIN: Call the
10 roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 62.

13 ACTING PRESIDENT ZELDIN: The bill
14 is passed.

15 THE SECRETARY: Calendar Number
16 1321, by Senator Ball, Senate Print 5263, an act
17 to amend the County Law.

18 ACTING PRESIDENT ZELDIN: Read the
19 last section.

20 THE SECRETARY: Section 2. This
21 act shall take effect immediately.

22 ACTING PRESIDENT ZELDIN: Call the
23 roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes, 62.

1 ACTING PRESIDENT ZELDIN: The bill
2 is passed.

3 THE SECRETARY: Calendar Number
4 1322, by Senator Ball, Senate Print --

5 SENATOR BRESLIN: Lay it aside.

6 ACTING PRESIDENT ZELDIN: The bill
7 is laid aside.

8 THE SECRETARY: In relation to
9 Calendar Number 1323, Senator Ball moves to
10 discharge, from the Committee on Finance,
11 Assembly Bill Number 628A and substitute it for
12 the identical Senate Bill Number 5293, Third
13 Reading Calendar 1323.

14 ACTING PRESIDENT ZELDIN:
15 Substitution ordered.

16 The Secretary will read.

17 THE SECRETARY: Calendar Number
18 1323, by Member of the Assembly Weinstein,
19 Assembly Print 628A, an act to amend the
20 Executive Law.

21 ACTING PRESIDENT ZELDIN: Read the
22 last section.

23 THE SECRETARY: Section 2. This
24 act shall take effect nine months after the day
25 it shall have become law.

1 ACTING PRESIDENT ZELDIN: Call the
2 roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 62.

5 ACTING PRESIDENT ZELDIN: The bill
6 is passed.

7 THE SECRETARY: Calendar Number
8 1325, by Senator Stavisky, Senate Print 5501, an
9 act to authorize the City of New York.

10 ACTING PRESIDENT ZELDIN: There is
11 a home-rule message at the desk.

12 Read the last section.

13 THE SECRETARY: Section 6. This
14 act shall take effect immediately.

15 ACTING PRESIDENT ZELDIN: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 62.

19 ACTING PRESIDENT ZELDIN: The bill
20 is passed.

21 THE SECRETARY: Calendar Number
22 1326, by Senator DeFrancisco, Senate Print 5637,
23 an act to amend the Tax Law.

24 ACTING PRESIDENT ZELDIN: Read the
25 last section.

1 THE SECRETARY: Section 7. This
2 act shall take effect on the first day of a sales
3 tax quarterly period.

4 ACTING PRESIDENT ZELDIN: Call the
5 roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 62.

8 ACTING PRESIDENT ZELDIN: The bill
9 is passed.

10 THE SECRETARY: In relation to
11 Calendar Number 1327, Senator Carlucci moves to
12 discharge, from the Committee on Local
13 Government, Assembly Bill Number 7652A and
14 substitute it for the identical Senate Bill
15 Number 5640, Third Reading Calendar 1327.

16 ACTING PRESIDENT ZELDIN:
17 Substitution ordered.

18 The Secretary will read.

19 THE SECRETARY: Calendar Number
20 1327, by Member of the Assembly Jaffee, Assembly
21 Print 7652A, an act to amend Chapter 420 of the
22 Laws of 1998.

23 ACTING PRESIDENT ZELDIN: Read the
24 last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT ZELDIN: Call the
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 62.

6 ACTING PRESIDENT ZELDIN: The bill
7 is passed.

8 THE SECRETARY: Calendar Number
9 1328, by Senator Flanagan, Senate Print 5650, an
10 act to amend the Education Law.

11 ACTING PRESIDENT ZELDIN: Read the
12 last section.

13 THE SECRETARY: Section 2. This
14 act shall take effect immediately.

15 ACTING PRESIDENT ZELDIN: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 62.

19 ACTING PRESIDENT ZELDIN: The bill
20 is passed.

21 THE SECRETARY: Calendar Number
22 1329, by Senator Seward, Senate Print 5652, an
23 act to amend the Public Authorities Law.

24 ACTING PRESIDENT ZELDIN: Read the
25 last section.

1 THE SECRETARY: Section 3. This
2 act shall take effect immediately.

3 SENATOR LIBOUS: Lay it aside for
4 the day.

5 ACTING PRESIDENT ZELDIN: The bill
6 is laid aside for the day.

7 THE SECRETARY: Calendar Number
8 1330, by Senator DeFrancisco, Senate Print 5671,
9 an act to amend the State Finance Law.

10 ACTING PRESIDENT ZELDIN: Read the
11 last section.

12 THE SECRETARY: Section 2. This
13 act shall take effect immediately.

14 ACTING PRESIDENT ZELDIN: Call the
15 roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 62.

18 ACTING PRESIDENT ZELDIN: The bill
19 is passed.

20 THE SECRETARY: Calendar Number
21 1331, by Senator Bonacic, Senate Print 5687, an
22 act to authorize the Town of Thompson.

23 ACTING PRESIDENT ZELDIN: There is
24 a home-rule message at the desk.

25 Read the last section.

1 THE SECRETARY: Section 3. This
2 act shall take effect immediately.

3 ACTING PRESIDENT ZELDIN: Call the
4 roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 62.

7 ACTING PRESIDENT ZELDIN: The bill
8 is passed.

9 THE SECRETARY: Calendar Number
10 1332, by Senator Bonacic, Senate Print 5688, an
11 act to authorize the Town of Thompson.

12 ACTING PRESIDENT ZELDIN: There is
13 a home-rule message at the desk.

14 Read the last section.

15 THE SECRETARY: Section 3. This
16 act shall take effect immediately.

17 ACTING PRESIDENT ZELDIN: Call the
18 roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT ZELDIN: Senator
21 Robach to explain his vote.

22 SENATOR ROBACH: Yes,
23 Mr. President. Just very briefly, this bill
24 would allow school modernization to move
25 forward -- oh, this is the wrong bill, right? I

1 want go on the next one.

2 (Laughter.)

3 ACTING PRESIDENT ZELDIN: Announce
4 the results.

5 SENATOR ROBACH: Excuse me. I love
6 Senator Bonacic's bill.

7 (Laughter.)

8 THE SECRETARY: Ayes, 62.

9 ACTING PRESIDENT ZELDIN: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 1333, by Senator Flanagan, Senate Print 5701, an
13 act relating to actions taken by the Smithtown
14 Central School District.

15 ACTING PRESIDENT ZELDIN: Read the
16 last section.

17 THE SECRETARY: Section 4. This
18 act shall take effect immediately.

19 ACTING PRESIDENT ZELDIN: Call the
20 roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes, 62.

23 ACTING PRESIDENT ZELDIN: The bill
24 is passed.

25 THE SECRETARY: Calendar Number

1 1334, by Senator Robach, Senate Print 5715 --

2 SENATOR BRESLIN: Lay it aside.

3 ACTING PRESIDENT ZELDIN: The bill
4 is laid aside.

5 Senator Libous, that concludes the
6 reading of the noncontroversial calendar.

7 SENATOR LIBOUS: Mr. President, I'm
8 going to have to relieve you because we're going
9 to debate your bill first on the other calendar.

10 So if I could ask Senator Griffo, my
11 ace reliever, to get up there. And we will go
12 back to the controversial Calendar Number 54, and
13 we will start with Senator Zeldin's bill.

14 ACTING PRESIDENT GRIFFO: The
15 Secretary will ring the bell.

16 SENATOR LIBOUS: We'll give Senator
17 Zeldin a moment to get prepared here.

18 ACTING PRESIDENT GRIFFO: The
19 Secretary will read.

20 THE SECRETARY: Calendar Number
21 206, by Member of the Assembly Cusick, Assembly
22 Print 7697, an act to amend the General Municipal
23 Law.

24 SENATOR BRESLIN: Explanation.

25 ACTING PRESIDENT GRIFFO: Senator

1 Breslin has requested an explanation.

2 Senator Zeldin.

3 SENATOR ZELDIN: This bill
4 authorizes state municipalities to create and
5 regulate a 1,000-foot zone around military
6 funerals. It also allows the Parks Commissioner
7 to require demonstrators to apply for a permit
8 prior to demonstrating on state property.

9 Additionally, local governments will
10 be allowed to, by local law, enact similar permit
11 requirements to regulate demonstrations on public
12 property and in parks.

13 This original bill that was passed
14 established an automatic buffer zone of 2500
15 feet. If you can recall, back in March we passed
16 a permanent bill at that time. This one is 1,000
17 feet. The protesters will be required to obtain
18 a permit as established by local law.

19 The bill also gives a municipality
20 more discretion to -- more discretion is given to
21 the municipality in establishing a permit
22 program. Additionally, the penalty in the first
23 bill was \$500 for violating a permit
24 requirement. An intentional violation was a
25 Class A misdemeanor. This bill's penalty is

1 progressive, with no criminal sanction. Multiple
2 violations lead to increased dollar penalties.

3 The second time, \$1,000. The third time, \$2,000.

4 ACTING PRESIDENT GRIFFO: Senator
5 Duane.

6 SENATOR DUANE: Thank you,
7 Mr. President, if the -- well, before I begin, I
8 just -- I do know that the United States Supreme
9 Court recently ruled on the issue of funeral
10 protests. I know -- I believe it was in March of
11 this year.

12 And the ruling -- well, I'll say one
13 other thing. I also realize that it's not
14 exactly the same, but a similar issue is being
15 addressed by Senator Griffo's legislation, which
16 was 5605, which was 1176 on our calendar, which I
17 know Senator Zeldin was also a sponsor of.

18 But I was wondering if the sponsor
19 could just maybe describe the gist of that
20 ruling, because it seems as if this legislation
21 is maybe in response to that Supreme Court
22 ruling.

23 ACTING PRESIDENT GRIFFO: Senator
24 Zeldin, is that a -- Senator Duane, you want to
25 repeat that question?

1 SENATOR DUANE: I'm asking if --
2 I'm asking for a description of this legislation
3 as it may be in response to the U.S. Supreme
4 Court decision in March of this year.

5 ACTING PRESIDENT GRIFFO: Thank
6 you, Senator Duane.

7 Senator Zeldin.

8 SENATOR ZELDIN: Mr. President,
9 Snyder v. Phelps was a U.S. Supreme Court
10 decision from March that ruled against a tort
11 action called the intentional infliction of
12 emotional distress. That particular Supreme
13 Court ruling did not rule on time, place, manner
14 restrictions, which is what this bill as well as
15 Senator Griffo's bill does.

16 As a matter of fact, the Supreme
17 Court's decision footnotes the Maryland rule,
18 which is the state where that particular action
19 took place, where Maryland imposed a buffer zone
20 similar to what Senator Griffo's bill did earlier
21 today.

22 It also talks about the compelling
23 state interest that New York State would have,
24 for example, in enacting legislation such as this
25 one or the one from Senator Griffo from earlier

1 this evening.

2 So in response to your question,
3 Senator Duane, because this is not addressing an
4 intentional infliction of emotional distress or
5 any type of tort or civil action and it's dealing
6 with time, place, manner restrictions, not only
7 does it not conflict the Supreme Court's
8 decision, it's actually perfectly in line with
9 the language in the ruling.

10 ACTING PRESIDENT GRIFFO: Senator
11 Duane.

12 SENATOR DUANE: Yes, Mr. President,
13 if the sponsor would continue to yield.

14 ACTING PRESIDENT GRIFFO: The
15 sponsor yields?

16 SENATOR ZELDIN: Yes, I would.

17 SENATOR DUANE: I know the case
18 arose from a protest at the funeral of a Marine
19 who had died in Iraq, Lance Corporal Snyder.
20 Although very sadly, and just -- I mean, I can't
21 even describe just, you know, how distressing and
22 really, you know, despicable these actions were.

23 But I'm just wondering if the
24 sponsor could maybe tell us in that particular
25 case, similar to other cases, what exactly were

1 the protesters doing that led to this court case
2 which went up to the Supreme Court.

3 SENATOR ZELDIN: Through you,
4 Mr. President. In that particular case it was a
5 family member of the deceased that brought a
6 civil action against Westboro Baptist Church, and
7 specifically Phelps, for what they were alleging
8 was intentional infliction of emotional distress,
9 the distress that they received by the protest
10 itself.

11 That was a civil action that went up
12 to the U.S. Supreme Court. Originally there was
13 a judgment that the Snyder family received for
14 the intentional infliction of emotional distress,
15 but by the time it went to the Supreme Court,
16 they overruled that, saying that it would be
17 improper for there to be a tort for the
18 intentional infliction of emotional distress.

19 The Maryland buffer-zone bill was
20 not in place at the time of that funeral.

21 SENATOR DUANE: And through you,
22 Mr. President, if the sponsor would continue to
23 yield.

24 SENATOR ZELDIN: Yes, I would.

25 ACTING PRESIDENT GRIFFO: The

1 sponsor yields.

2 SENATOR DUANE: I know that the
3 Westboro Church members and their followers were
4 doing particularly, I don't know how else to say
5 it, hateful, distressing, just, you know,
6 horrible signs. And just because I think it's
7 important if we're passing this legislation --
8 and I think it may pass muster under the Supreme
9 Court ruling, but I was wondering if just for us
10 to know in this house the kind of hate speech and
11 language and despicable words that the protesters
12 were holding up that really brought us to this
13 place and that made it so that we would need
14 legislation like this.

15 SENATOR ZELDIN: Well, this
16 legislation does not specifically target Westboro
17 Baptist Church. I just want to make that very
18 clear. We do not target any particular type of
19 speech or particular groups that are engaging in
20 any conduct.

21 However, in the particular example
22 of Snyder v. Phelps and in other conduct of
23 Westboro Baptist Church -- because they were the
24 ones involved in that particular case -- they
25 usually engage in language and conduct suggesting

1 that the deceased service member was gay,
2 deserved to die, and other derivative messages
3 with regards to the sexual orientation of the
4 particular deceased service member as well as the
5 fact that they deserved to die because they were
6 serving overseas.

7 SENATOR DUANE: -- because I know
8 that the sponsor and I know --

9 ACTING PRESIDENT GRIFFO: Senator
10 Duane, are you going to ask the sponsor to
11 continue to yield?

12 SENATOR DUANE: Yes, Mr. President.

13 ACTING PRESIDENT GRIFFO: Senator
14 Zeldin, do you continue to yield?

15 SENATOR ZELDIN: I would.

16 ACTING PRESIDENT GRIFFO: Yes.

17 SENATOR DUANE: And I'm sorry for
18 my, you know, hesitation, about -- but I think
19 people understand as I ask the questions and sort
20 of get confirmation of why it is that we're
21 passing this legislation and then the companion,
22 what I would consider companion legislation by
23 Senator Griffo, the language on the signs were
24 things like "Thank God for Dead Soldiers," "We
25 Deserved 9/11," which was my district and Daniel

1 Senator Squadron's district now, "God Hates Fags
2 and That's Why Soldiers Are Dying."

3 And so of course I'm someone who
4 supports free speech, and I have demonstrated
5 myself, and I think in an appropriate manner -- I
6 hope in an appropriate manner -- but never with
7 signs like "America is Doomed." And I am
8 wondering or asking if the sponsor is -- will
9 this legislation help to make it so that this
10 kind of horrible and just, you know, hate speech
11 and just nonsensical, just horrible language and
12 signage, would this make it so that mourners
13 would maybe not have to see this kind of trash,
14 really?

15 SENATOR ZELDIN: Well,
16 Mr. President, through you. The whole objective
17 of this legislation is to balance the freedom of
18 speech -- the right of, for example, in that
19 particular case, Westboro Baptist Church, their
20 right to make those signs, to say their hatred
21 things -- balancing that with the compelling
22 state interest of protecting those families,
23 those who are mourning the loss of their loved
24 one, to provide dignity and honor at that most
25 important part of their life.

1 Like coincidentally in the Snyder
2 family of that case, Sergeant Snyder, who will be
3 buried in Senator O'Mara's district this
4 Saturday, where as, just ironically, Westboro
5 Baptist Church plans on protesting that funeral
6 to say hatred things, this bill -- as well as the
7 bill that was earlier by Senator Griffo -- aims
8 to balance that freedom of speech with that
9 compelling state interest. Because I personally
10 because that it's wrong. And I think that it's
11 important that the next time someone in the same
12 position as Mr. Snyder in the Snyder v. Phelps
13 case, or Sergeant Snyder, who's being buried in
14 Senator O'Mara's district this Saturday, the next
15 time the state is going to be there to, as
16 Senator Griffo's bill attempts to do, provide a
17 buffer zone, and as this particular piece of
18 legislation does, allows localities to have a
19 1,000-foot barrier if there's going to be any
20 demonstrations.

21 SENATOR DUANE: Thank you,
22 Mr. President. Thank you. On the bill,
23 Mr. President.

24 ACTING PRESIDENT GRIFFO: Senator
25 Duane on the bill.

1 SENATOR DUANE: I commend the
2 sponsor of this legislation, Senator Zeldin, as
3 well as yourself, Mr. President. The actions of
4 this particular -- and people who I -- I know I
5 should be able to and I sometimes may be able to
6 pray for them.

7 But to picket funerals of people who
8 died in service to our country, they even
9 picketed the funeral of Coretta Scott King. They
10 use hateful and horrible language. They
11 denigrate our country and people who live in our
12 country and soldiers who fight for our country.

13 And I know that one of the things
14 that makes our country great is that people
15 can -- they're permitted to say these things and
16 to hold up these signs. But there does have to
17 be a buffer zone. And grieving families deserve
18 to have some protection from this kind of
19 demonstration and hate speech.

20 So I'm going to be voting in the
21 affirmative. I'm hopeful that exactly that kind
22 of balance is being struck between free speech
23 and protecting families when they are at the
24 absolute worst moments of their lives, and
25 that -- and that there be -- that they not use

1 epithets about any group in their activities,
2 which I know are just about causing -- for them
3 to get attention. And it's a sickness that they
4 have.

5 So I hope that this bill and the
6 companion bill will have the impact that it's
7 supposed to have. And I thank the sponsors of
8 both pieces of legislation, and I urge my
9 colleagues to vote yes.

10 Thank you, Mr. President.

11 ACTING PRESIDENT GRIFFO: Thank
12 you, Senator Duane.

13 Is there any other Senator wishing
14 to be heard?

15 Seeing none, hearing none, debate is
16 closed. The Secretary will ring the bell.

17 Read the last section.

18 THE SECRETARY: Section 4. This
19 act shall take effect on the 60th day.

20 ACTING PRESIDENT GRIFFO: Call the
21 roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT GRIFFO: Senator
24 Zeldin to explain his vote.

25 Can I have some order in the

1 chamber, please {gaveling}.

2 SENATOR ZELDIN: For me personally,
3 a lot of inspiration behind being part of this
4 historic act of this entire body is a specialist
5 named Thomas J. Wilwerth, who went to the same
6 high school that I did, William Floyd, and lost
7 his life in combat in Iraq. Senator Griffo had
8 his inspiration. Assemblyman Cusick, who is
9 behind me, who carried this legislation in the
10 State Assembly, which passed it last week, had
11 his inspiration. And he had actually a few years
12 back with Senator DeFrancisco passed legislation
13 that created a 100-foot buffer zone.

14 For all of us in here --
15 Republicans, Democrats, all of us in the Assembly
16 and the Senate -- we found an opportunity to all
17 just show our commitment and respect for those
18 families mourning the losses of those loved ones.

19 I would be remiss without
20 acknowledging, as well, Assemblyman Murray, who's
21 from my home area, who also was inspired by
22 Specialist Wilwerth's family story. And I want
23 to thank Bob Farley, who did so much work on our
24 end in putting this legislation together. And
25 once again, thank you, Assemblyman Cusick,

1 because there's no way we would be here without
2 everyone coming together.

3 And I'm excited to see Governor
4 Cuomo hopefully signing this bill into law and
5 protect those families the next time someone
6 might be in our districts, that Westboro Baptist
7 Church or any other group wanting to protest a
8 military funeral. We stand with the Patriot
9 Guard Riders, this body stands with those Gold
10 Star families, we're here for them and we're
11 showing that tonight.

12 Thank you. I'll be voting in the
13 affirmative.

14 ACTING PRESIDENT GRIFFO: Senator
15 Zeldin to be recorded in the affirmative.

16 Senator DeFrancisco to explain his
17 vote.

18 SENATOR DeFRANCISCO: Yes. As a
19 veteran and being active with the veterans in my
20 district for many, many years, when I first
21 proposed the initial bill that this bill expands,
22 I couldn't believe how despicable certain people
23 could be to actually demonstrate at a funeral of
24 a veteran who gave his life so that they could be
25 free and say what they want to say.

1 But there's a time and a place as
2 far as what people can say and where they can say
3 it. And that bill that I passed gave certain
4 limits, and this bill is even better. And it
5 shows this unified chamber is standing together,
6 arm to arm, to make sure that we protect the
7 freedom of speech but provide limits that are
8 absolutely necessary to protect the honor, the
9 dignity, and the memory of those who gave that
10 free speech -- gave their lives for that free
11 speech that we all enjoy.

12 Thank you, Mr. President. I vote
13 aye.

14 ACTING PRESIDENT GRIFFO: Senator
15 DeFrancisco to be recorded in the affirmative.

16 Senator Larkin to explain his vote.

17 SENATOR LARKIN: Thank you,
18 Mr. President.

19 I want to congratulate Senator
20 Zeldin. You know, I hope everybody in this room
21 knows that he's a combat veteran in Iraq. He has
22 been in the position to see and observe those
23 being shipped home.

24 And, you know, as Americans some of
25 us remember -- Senator McDonald remembers --

1 people were coming home from Vietnam and they
2 spit on us. Even after the Korean War. And
3 after Vietnam. Military people used to go to
4 their office in civilian clothes because of the
5 temperature out there against men in the armed
6 forces.

7 But this hits the bottom line. And
8 I don't care what religion they are that want to
9 protest at -- I think it's a disgrace. I think
10 the Supreme Court must have gone out and had a
11 late lunch when they voted.

12 But what we're saying here now is to
13 protect the families, protect the municipalities,
14 and protect some incident from happening. There
15 is nothing more that you can say when somebody
16 that's brought back who served his country -- and
17 in this day and age, these funerals are for men
18 and women who are killed in combat, and they're
19 volunteers. They weren't drafted. They offered
20 themselves up. Don't we have any shame?

21 Everybody in this room should be
22 standing up thanking Lee, thanking Joe Griffo for
23 what he did the other day, because it's about
24 time this country recognized, without the force
25 of our armed forces, we would not be a free

1 nation.

2 I said on this floor the other day
3 that I saw a T-shirt and it said "Home of the
4 Free Because of the Brave." Ladies and
5 gentlemen, this is a bill that everyone should
6 stand up and say yes. And thank you, Senator,
7 because you stood up and you knew that there were
8 people out there, especially this Baptist church,
9 they wrote all of us tense letters saying how
10 terrible you were and these people should have
11 died for what they did.

12 No, they shouldn't die for what they
13 did. They died in defense of this country's
14 position in the world. And they volunteered.
15 And some of them were on their second and third.
16 One of the Congressional Medal of Honor ones
17 recently, before he was killed, it was his fourth
18 trip.

19 Thank God that we have a great
20 country. Let us not step, spit or turn our backs
21 on those who have made the supreme sacrifice.

22 Thank you, Mr. President.

23 ACTING PRESIDENT GRIFFO: Senator
24 Larkin to be recorded in the affirmative.

25 Senator McDonald to explain his

1 vote.

2 SENATOR MCDONALD: Yes, sir. Thank
3 you, Mr. President. I vote yes.

4 I want to thank Senator Zeldin,
5 Assemblyman Cusick, Senators Griffo, DeFrancisco,
6 all the staff people involved.

7 I especially want to thank this
8 body, all the Senators, both parties, both sides,
9 all the Assembly representatives, unanimous, our
10 Governor. Unlike the war I was in, it's a
11 different era. People learn from it. You see
12 nothing but affection for our soldiers, men and
13 women coming back. And you see nothing but
14 support for them.

15 That's amazing. If anything good
16 can be taken out of a war like Vietnam, it's that
17 people learned. Whether you like the war or not,
18 they're our people, they're our soldiers, our
19 men, our women, and their families are our
20 families.

21 So I thank the Senator, the Assembly
22 representatives for all what they've done for
23 us. And unfortunately, sadly, we're going to
24 have more funerals. It's inevitable. The cost
25 of freedom is very high. But we are blessed to

1 have the men and women in this country, in this
2 state -- and don't let anybody kid you, New York
3 State is always there when America needs it.
4 It's our soldiers, our men and women.

5 And we have a lot to be proud of,
6 and they have a lot to be proud of in the
7 New York State Senate, the New York State
8 Assembly, and the Governor's office thank you.

9 ACTING PRESIDENT GRIFFO: Senator
10 McDonald to be recorded in the affirmative.

11 Senator Nozzolio to explain his
12 vote.

13 SENATOR NOZZOLIO: Thank you,
14 Mr. President.

15 I proudly stand in this body to vote
16 aye for this important legislative measure, an
17 important protection, an important understanding
18 of the contributions made by our veterans.

19 I thank Senator Zeldin for his
20 leadership, for his service to our nation, for
21 his understanding that the price of freedom in
22 America is not free. That freedom is not free.
23 That freedom is based on the foundation of the
24 blood and sacrifice of our veterans throughout
25 our history.

1 In less than a month we will be
2 opening up a veterans cemetery at the site of the
3 former Sampson Naval and Air Force Base, a place
4 where over a million sailors and airmen trained
5 in preparation for battle. Many of those sailors
6 and airmen left their nation, left their homes,
7 left America to fight in foreign lands and never
8 returned.

9 This cemetery will be a tribute to
10 those sacrifices. It will be a cemetery open to
11 all veterans. But as I think about the opening
12 of that cemetery, I often, during the debate and
13 discussion today, felt that those brave men and
14 women who are our veterans defended the very
15 freedom that protest is all about. We're saying
16 make that protest in good taste and in respect
17 and in honor.

18 Because if we do not honor those
19 sacrifices, if we do not honor those veterans,
20 then our society does not deserve to be the
21 freest land in the history of the world. We
22 deserve that because of the sacrifices of our
23 veterans.

24 And thank you, Senator Zeldin, for
25 making this legislation possible.

1 ACTING PRESIDENT GRIFFO: Senator
2 Nozzolio to be recorded in the affirmative.

3 Senator Ball to explain his vote.

4 SENATOR BALL: I served in the
5 other chamber for four years, and I've got to say
6 I was wrong. When this legislation -- when
7 Senator Zeldin came to me on this piece of
8 legislation, I really didn't think that it would
9 pass the Assembly. I thought maybe it would get
10 caught up. And I certainly never thought that it
11 would pass unanimously. And I have never been
12 happier to be so wrong.

13 What an important day. And I just
14 ask that if it's -- you know, many times when
15 legislation comes forward we say, well, if it can
16 save one life. I got to tell you, just from a
17 public-protection point of view, these horrific
18 demonstrations that seek to use anger points to
19 get extreme views in the media are no doubt one
20 day going to be a flash point in a news story.
21 And if this legislative body can pass it
22 unanimously, what a great message to send.

23 So I'm very proud to be part of
24 this. I was actually working at the local level
25 with all the counties in my district and

1 throughout the Hudson Valley to pass local
2 legislation. But what a testament to this
3 Legislature and to this state that we were able
4 to get it done beyond all the politics.

5 So I want to thank everybody who's
6 been involved in this, and it's a very special
7 day. Thank you.

8 ACTING PRESIDENT GRIFFO: Senator
9 Ball to be recorded in the affirmative.

10 Senator Farley to explain his vote.

11 SENATOR FARLEY: Thank you,
12 Mr. President.

13 As a veteran of the Korean War, the
14 forgotten war, I want to applaud Senator Zeldin,
15 a brilliant young Senator and a new Senator, one
16 that is addressing something.

17 The freedom of speech is not
18 absolute. You can't yell "Fire" in a theater.
19 And, Senator Duane, I can understand you being
20 moved by this. Because this kind of behavior and
21 language and demonstration is beyond the pale,
22 beyond the pale. And I see no reason why the
23 United States anywhere can allow this.

24 And I applaud my colleagues in this
25 chamber for sending this message: New York State

1 is not going to allow this. And I think it's so
2 significant. And I applaud my colleagues for
3 supporting it. And I applaud you, Senator
4 Zeldin, for bringing this forward.

5 And I vote aye.

6 ACTING PRESIDENT GRIFFO: Senator
7 Farley to be recorded in the affirmative.

8 Announce the results.

9 THE SECRETARY: Ayes, 62.

10 ACTING PRESIDENT GRIFFO: The bill
11 is passed.

12 The Secretary will read.

13 THE SECRETARY: Calendar Number
14 633, by Senator Flanagan, Senate Print 4167, an
15 act to authorize the Selden Fire District.

16 ACTING PRESIDENT GRIFFO: Read the
17 last section.

18 SENATOR BRESLIN: Explanation.

19 ACTING PRESIDENT GRIFFO: An
20 explanation has been requested.

21 Senator Flanagan.

22 SENATOR FLANAGAN: Thank you,
23 Mr. President.

24 This is a relatively simple bill.
25 It's a tax-exemption bill retroactive for the

1 Selden Fire District in the Town of Brookhaven in
2 Suffolk County.

3 SENATOR KRUEGER: Thank you,
4 Mr. President. If the sponsor would please yield
5 to a few questions.

6 ACTING PRESIDENT GRIFFO: Senator
7 Flanagan, will you yield to a series of questions
8 from Senator Krueger?

9 SENATOR FLANAGAN: Yes. Yes, I
10 will, Mr. President.

11 ACTING PRESIDENT GRIFFO: Senator
12 Krueger.

13 SENATOR KRUEGER: Thank you.
14 Through you, Mr. President.

15 This is in your district, Senator
16 Flanagan?

17 SENATOR FLANAGAN: Actually,
18 Senator Krueger, if the truth be told --

19 SENATOR KRUEGER: That would be
20 good.

21 SENATOR FLANAGAN: That would
22 probably be a good idea.

23 -- Senator LaValle and I happen to
24 represent the Selden community. Senator
25 LaValle's district office is in Selden. The

1 firehouse and the fire district is physically
2 located actually right in his district. But he
3 is so genteel and magnanimous, he allowed me to
4 introduce this legislation.

5 SENATOR KRUEGER: Thank you very
6 much.

7 If through you, Mr. President, the
8 sponsor would continue to yield.

9 ACTING PRESIDENT GRIFFO: The
10 sponsor yields.

11 SENATOR FLANAGAN: Yes.

12 SENATOR KRUEGER: Thank you.

13 So this is a relatively late
14 retroactive request. I think it goes back to the
15 years 2004-2005. How has this property been
16 determined to be used solely for charitable
17 purposes?

18 SENATOR FLANAGAN: It's an exempt
19 property and has been since after the time the
20 Selden Fire District acquired it, and it is used
21 by the fire district.

22 SENATOR KRUEGER: Mr. President, if
23 through you the sponsor would continue to yield.

24 SENATOR FLANAGAN: Yes.

25 ACTING PRESIDENT GRIFFO: The

1 sponsor yields.

2 SENATOR KRUEGER: What purpose is
3 it used for?

4 SENATOR FLANAGAN: Senator Krueger,
5 I don't mean to be glib, but it's for fire
6 district purposes for training, for housing their
7 equipment, for servicing the needs of the Selden
8 residents and businesses within the Selden Fire
9 District.

10 SENATOR KRUEGER: Mr. President, if
11 through you the sponsor would continue to yield.

12 SENATOR FLANAGAN: Yes.

13 ACTING PRESIDENT GRIFFO: The
14 sponsor yields.

15 SENATOR KRUEGER: Thank you.

16 The reason I asked is because it
17 appears to be a single-family home, and to my
18 understanding it's not actually a firehouse. So
19 I was wondering, it's a storage facility or a
20 training facility, is that what we're -- what
21 I'm -- I'm just double-checking. Is that what
22 you said?

23 SENATOR FLANAGAN: Senator Krueger,
24 I can tell you this. Every time I've been to the
25 Selden Fire District for events, for community

1 meetings, I have seen nothing but fire-related
2 activity, fire-related storage, fire-related
3 equipment.

4 So I'm not aware of a single-family
5 home. But apparently you've taken a burning
6 interest in the Selden Fire District area and
7 community, so you may be more informed than I.

8 SENATOR KRUEGER: Mr. President, if
9 through you the sponsor would continue to yield.

10 SENATOR FLANAGAN: Yes.

11 ACTING PRESIDENT GRIFFO: The
12 sponsor yields.

13 SENATOR KRUEGER: Thank you.

14 I have not been to the Selden Fire
15 District, but I just want to know -- so you have
16 actually been to this building and know that it's
17 being used for this purpose?

18 SENATOR FLANAGAN: No, Senator
19 Krueger, what I said is I have been to the
20 property, all of the property that's owned by the
21 Selden Fire District. They have a multiple
22 number of buildings, they have parking lots.

23 One of the things you might not know
24 is that the fire district is located on Route 25,
25 state highway, which is an extraordinarily busy

1 area. And the Selden Fire District, while it
2 covers residential properties, probably more so
3 than many of the volunteer districts in the area,
4 they cover a tremendous amount of commercial
5 property. So they tend to have a bigger
6 facility, more equipment, because their
7 needs are, frankly, more acute given the fact
8 that they have a lot more commercial property to
9 protect.

10 SENATOR KRUEGER: If through you,
11 Mr. President, the sponsor would continue to
12 yield.

13 SENATOR FLANAGAN: Yes.

14 ACTING PRESIDENT GRIFFO: The
15 sponsor yields.

16 SENATOR KRUEGER: Thank you.

17 And I want to correct myself. I
18 said it was for the 2004-2005 tax year. This is
19 for the 2005-2006 tax year.

20 Was the sponsor aware that in 2007
21 five of the Selden fire commissioners were
22 charged with felonies, that they stole more than
23 \$50,000 in taxpayer funds, and they made a plea
24 deal with the Suffolk County DA and all five men
25 admitted to lying on their expense vouchers?

1 SENATOR FLANAGAN: Yes.

2 SENATOR KRUEGER: Thank you,
3 Mr. President, if through you the
4 sponsor would continue to yield.

5 SENATOR FLANAGAN: Yes, I will.

6 ACTING PRESIDENT GRIFFO: The
7 sponsor yields.

8 SENATOR KRUEGER: And is the
9 sponsor aware that a more recent audit of the
10 Selden Fire District by the State Comptroller's
11 office for 2008 and 2009 revealed the following
12 mismanagement, that there were 35 wire transfers
13 totaling \$2 million without obtaining board
14 authorization?

15 SENATOR FLANAGAN: Yes, I am aware
16 of that.

17 SENATOR KRUEGER: Mr. President, if
18 through you the sponsor would continue to yield.

19 SENATOR FLANAGAN: Yes.

20 ACTING PRESIDENT GRIFFO: The
21 sponsor yields.

22 SENATOR KRUEGER: Thank you.

23 Is the sponsor also aware that this
24 same state audit found, between 2008-2009, 15
25 payments totaling \$93,000 were not

1 audited-approved by the board until after the
2 payments were made and that they could not
3 determine when the eight payments totaling
4 \$693,000 were tracked due to deficiencies in the
5 documentation?

6 SENATOR FLANAGAN: Senator Krueger,
7 as to the other two, I was acutely aware. You
8 are reciting some facts that I can't say I'm a
9 hundred percent familiar with.

10 SENATOR KRUEGER: Mr. President, if
11 through you the sponsor would continue to yield.

12 SENATOR FLANAGAN: Yes.

13 ACTING PRESIDENT GRIFFO: The
14 sponsor yields.

15 SENATOR KRUEGER: Thank you.

16 There's a series of other findings
17 from the audit report that I'll skip. But is the
18 sponsor aware that during 2008 the district paid
19 12 vendors a total of \$2.6 million for purchase
20 and public work contracts that were in excess of
21 the bidding thresholds for this work?

22 SENATOR FLANAGAN: No, Senator
23 Krueger.

24 SENATOR KRUEGER: Thank you.

25 On the bill, Mr. President.

1 ACTING PRESIDENT GRIFFO: Senator
2 Krueger on the bill.

3 SENATOR KRUEGER: Senator Flanagan
4 pointed out that I did take a particular interest
5 in this request for a tax exemption. And I did
6 partly because it went so far back. And it is, I
7 think, at least the pattern of this body not to
8 go back more than three years with these
9 requests.

10 But also, in fact, because several
11 of my colleagues now have a pattern of always
12 voting no on these nonprofit retroactive tax
13 exemptions. And Senator Bonacic, who's one of
14 them, and I had a fascinating debate earlier
15 today about changing the state law to evaluate
16 whether certain not-for-profits should
17 automatically get tax exemptions to start with.
18 And this one caught my eye because it wasn't for
19 a traditional not-for-profit organization the way
20 we usually think of them, but rather for a fire
21 district.

22 And so I thought I would do a little
23 homework. And I have to say it was disturbing to
24 me to find out that there were so many different
25 articles about this fire district and scandals

1 associated with it, grand jury probes, state
2 audits, accusations, settlements with district
3 attorneys -- quote, "Heat is on Fire
4 Districts" -- that I think we ought to all look a
5 little more carefully not only at when we approve
6 tax exemptions but also to take a closer look
7 when the State Legislature is involved with
8 making determinations about state money vis-a-vis
9 charitable organizations and volunteer
10 quasi-governmental quasi-not-for-profit entities
11 such as this Selden Fire District.

12 Clearly there are concerns. Clearly
13 there's law enforcement that has been involved,
14 and the State Comptroller's office. I'm just not
15 comfortable voting for this bill tonight. Thank
16 you, Mr. President. I'll be voting no.

17 ACTING PRESIDENT GRIFFO: Senator
18 LaValle.

19 SENATOR LaVALLE: Thank you,
20 Mr. President.

21 As Senator Flanagan indicated, we
22 share the Selden community. In my own case, my
23 history goes back a lot of years to the Selden
24 community and the Selden Fire District. It has
25 been in existence as the Selden Fire District for

1 well beyond 70 or more years.

2 It is a district -- just so the
3 members know, out of this fire district in the
4 1970s came legislation that created the junior
5 volunteer fire members. And so today throughout
6 our state individuals are enjoying, young people
7 are enjoying being part of a fire department and
8 carrying on a tradition as their parents have.

9 We always tend to evaluate an
10 entity, whether it be a school district, a city,
11 a village, a town, by a particular incident that
12 maybe that entity, municipal entity did not
13 particularly distinguish itself. We have --
14 whenever we have incidents, we make, as a
15 legislative body, changes so that there is
16 greater scrutiny on our municipal entity.

17 As everyone knows, fire
18 commissioners, volunteer firefighters are that,
19 they are volunteers. Just as school board
20 members are volunteers. And so in our world
21 today, volunteers sometimes don't have the
22 greatest guidance in how to move forward a -- how
23 to proceed in a proper way.

24 We passed in the last number of days
25 a bill that I sponsored that would allow a

1 volunteer firefighter to be validated in their
2 appointment even though there was an error in
3 appointing them because of some sort of
4 paperwork. So these things happen, and we make
5 changes.

6 Senator Krueger has gone through a
7 litany and talked about the Comptroller's
8 office. And so that is critically important to
9 ensure that monies, that there's transparency and
10 that we are ensuring that where there were prior
11 problems that those problems are being ironed
12 out.

13 I would tell that you this fire
14 district has expanded, has been a premier fire
15 district in their community as it grew
16 immensely. And I fully understand the growth in
17 the community because I was part of, as a teacher
18 and a n administrator, in the school district
19 contained -- at Middle Country School District,
20 and Selden is part of that school district.

21 So, Senator Krueger, I can
22 understand your questions. But I think when you
23 look at what is happening locally, I think the
24 picture of what is happening locally doesn't
25 square with the numbers that you talked about.

1 And you have to understand how, in our local
2 communities outside of the city, that they have
3 grown to meet great demands. And it's all done
4 voluntarily.

5 Our fire service and our
6 commissioners literally save our taxpayers in the
7 hundreds of millions of dollars because the
8 volunteers, whether they be fire commissioners or
9 volunteer firefighters, are providing service to
10 their local community.

11 I'm going to vote in the
12 affirmative, Mr. President.

13 ACTING PRESIDENT GRIFFO: Senator
14 Martins on the bill.

15 SENATOR MARTINS: Thank you,
16 Mr. President.

17 I believe I heard someone refer to
18 our fire districts are as quasi-governmental.
19 They are government, if we consider a lot of the
20 different entities and corporations that have
21 been discussed in this body in the very same way
22 over the last few days.

23 This is a fire district. It doesn't
24 have any shareholders. It's not a corporation.
25 The benefit of what we are discussing here today

1 is to the taxpayers of that fire district.

2 And although I want to compliment my
3 colleague Senator Krueger on her due diligence
4 and her doing her homework and coming up with all
5 of those articles, in my view what we're
6 discussing here today is whether or not the
7 taxpayers of the Selden Fire District should have
8 to bear the expense with regard to a piece of
9 property which was acquired. Nothing more,
10 nothing less.

11 Everything else is sensational. And
12 it's great for us to sit here and discuss it. I
13 love the fact that we're discussing these
14 issues. I think it highlights some points that
15 we do need to discuss. Certainly the
16 Comptroller's office and the Comptroller's
17 office's ability to audit different levels of
18 government continues to be important. To the
19 extent that there was any criminal activity,
20 certainly the Suffolk County district attorney
21 will be able to address that.

22 But what we're discussing here today
23 and what we're being asked to vote on today is
24 one simple point, should the taxpayers of the
25 Selden Fire District have to bear the expense

1 associated with this tax year for this piece of
2 property. And the answer is quite simple. And
3 consistent with how this body has voted in the
4 past, our vote should be very simple.

5 As our colleague Senator LaValle
6 just mentioned, firefighters in our suburban
7 communities are the backbone of our communities.
8 The volunteer firefighters of our fire districts,
9 and volunteer firefighters, are the backbones of
10 our community. They volunteer to provide safety
11 to our communities.

12 And to the extent we're considering
13 a fire district and volunteers and we're
14 considering the taxpayers of that district, I
15 will vote in favor of this bill and I will vote
16 for the taxpayers of the Selden Fire District.

17 ACTING PRESIDENT GRIFFO: Senator
18 Flanagan.

19 SENATOR FLANAGAN: Thank you,
20 Mr. President. I want to follow on the comments
21 of both Senator LaValle and Senator Martins.

22 Senator Krueger, I agree with the
23 concerns that you have raised, so I want to be
24 clear about a couple of things. I agree with
25 Senator Martins that some of the activities that

1 were reported are things that I do not
2 appreciate, I do not agree with, do not support.
3 And I am gratified to know that the Comptroller's
4 office, by virtue of the fact that they have done
5 audits, have ferreted out some wrongdoing and
6 have allowed for some corrections to take place
7 which will, as Senator Martins said, continue to
8 protect the taxpayers.

9 So while negative things happened,
10 good things came as a result of the due diligence
11 that's continuing and routinely offered by the
12 Comptroller's office not only for this fire
13 district but for many fire districts as well as
14 municipalities and local governments all
15 throughout the state.

16 As to the criminal activity, while
17 it certainly doesn't make any of us happy,
18 whether it's the district that I happen to
19 represent or anywhere else, in a weird way it
20 shows that the system is working. Because bad
21 things were done, people got caught, they got
22 indicted, and they were criminally charged and
23 they were convicted or pled to certain deals.

24 But I would also focus very clearly
25 on what Senator Martins said, that this is about

1 the taxpayers within the Selden Fire District.
2 And that's where my focus and primary focus is
3 going to continue to be.

4 And, Senator Krueger, since you
5 raised some things that were salient facts, there
6 are some things I think you should know about the
7 Selden Fire District. Because if you want the
8 full picture, I can tell you that my interaction,
9 along with Senator LaValle, I have met hundreds
10 of dedicated people throughout the years. I
11 would strongly tell you that they have an
12 impeccable reputation for protecting and serving
13 the community, whether it's for the residential
14 side or the commercial side.

15 And I did a little bit of my own
16 homework in terms of some of their activities.
17 There's a not-for-profit called Angela's House,
18 which is one of the charities that they work
19 with, the volunteers. And again, I'll stress the
20 word "volunteers," nonpaid people who give of
21 their time not only for the fire district but in
22 supporting, in this example, one endeavor that is
23 for children who are medically frail with
24 developmental disabilities. I know because
25 Angela's House happens to be right in my

1 district.

2 And just as a way of a reminder of
3 what the community and sense of service is of the
4 overwhelming majority of volunteers -- and this
5 is unfortunate, but indicative of the value of
6 the volunteer service -- one of their members is
7 a gentleman named Geoffrey Breitkopf, who
8 happened to be a Nassau County police officer who
9 was recently killed, but was a Selden resident
10 and was a very active member in the Selden Fire
11 District.

12 I can tell you without hesitation
13 that the people in that district, not only the
14 community and the taxpayers but everybody who
15 works in that fire district, has rallied around
16 the Breitkopf family and stood for many of the
17 positive values that we would hope to see in
18 every community in the State of New York.

19 So while it is fair and legitimate
20 to raise things that have created problems, I
21 would be remiss I didn't share with you properly
22 some of the many wonderful things that get done
23 by this fire district.

24 And I will close by saying again
25 this is about protecting the taxpayers. And in

1 advancing this bill, I believe that we're doing
2 that.

3 Thank you, Mr. President.

4 ACTING PRESIDENT GRIFFO: Senator
5 Adams.

6 SENATOR ADAMS: Would the sponsor
7 yield for one question, please.

8 ACTING PRESIDENT GRIFFO: Senator
9 Flanagan, do you yield?

10 SENATOR FLANAGAN: Yes.

11 SENATOR ADAMS: Senator Flanagan,
12 you stated that the individuals who were
13 involved, they were arrested and indicted and
14 some was convicted or pleaded. Did any of them
15 go to jail?

16 SENATOR FLANAGAN: Senator Adams, I
17 believe so, but I'm not a hundred percent sure.
18 I think one of the aspects that was -- there was
19 some restitution involved.

20 But I can say this. And this might
21 sound gratuitous; I have very, very strong faith
22 in our district attorney, Tom Spoda. He has an
23 impeccable reputation. And I tell you that while
24 I may not know every detail of what their
25 arrangements were, or their conviction, I have

1 great confidence that the district attorney did
2 everything conceivable to protect the taxpayers.

3 SENATOR ADAMS: Thank you.

4 On the bill.

5 ACTING PRESIDENT GRIFFO: Senator
6 Adams on the bill.

7 SENATOR ADAMS: First of all, I
8 don't think that Senator Flanagan or any of the
9 other Senators will in any way attempt to pass
10 any legislation that would help anyone that's
11 involved in any criminal wrongdoing. I think
12 they're doing it out of the good faith of the
13 volunteer firefighters' service.

14 And those institutions are
15 important, particularly where you don't have, you
16 know, paid firefighters. And many of my
17 colleagues in my other life were volunteer
18 firefighters.

19 But we can't overlook two pieces I
20 want to touch on. One, I want to thank Senator
21 Krueger for the information she brought forward.
22 And you don't sugarcoat and dismiss millions of
23 dollars being stolen, and don't dismiss it as a
24 rounding error.

25 And then it also just bring to life,

1 as I say to Senator Montgomery, Perkins, and
2 others, here we are talking about putting young
3 people in jail for five misdemeanors, but we got
4 millions of dollars that are being stolen and
5 district attorneys creatively find restitution
6 programs to slap individuals on the wrist. This
7 is the dual system of justice that I talk about
8 over and over again. This is what happens.

9 ACTING PRESIDENT GRIFFO: Senator
10 Ball, why do you rise?

11 SENATOR BALL: I'd just like to see
12 if the speaker would yield for a quick question.

13 SENATOR ADAMS: Yes. As always, as
14 always, when I finish my thought.

15 ACTING PRESIDENT GRIFFO: He will
16 yield after he finishes his point, Senator Ball.

17 Senator Adams.

18 SENATOR ADAMS: And so I think that
19 when you have a system such as this institution
20 of the volunteer fire service and millions of
21 dollars is caught into what Senator Liz Krueger
22 just raised, it raises a question on how do we
23 properly address that matter. How do we properly
24 ensure that they don't continue to use taxpayers'
25 dollars -- when there already is a struggling

1 public school system out in the particular area,
2 how do we ensure that that money is not wasted
3 and properly protect taxpayers' dollars? And I
4 wanted to raise that.

5 And if a Senator Ball has a
6 question, I will be more than happy to answer it
7 from my good friend Senator Ball.

8 ACTING PRESIDENT GRIFFO: Senator
9 Ball.

10 SENATOR BALL: Senator Adams, just
11 one quick question. What is the status of the
12 investigation into the Aqueduct gaming scandal
13 and the multi-billion-dollar bid-rigging scheme?
14 On the topic, the multi-billion-dollar
15 bid-rigging scheme in the Aqueduct scandal that
16 still is unresolved, just a quick status update
17 on that. Because I see tonight that you raised
18 your interest in corruption.

19 SENATOR ADAMS: First of all,
20 Senator Ball, that's not germ -- Senator Ball,
21 that's not --

22 ACTING PRESIDENT GRIFFO: Senator
23 Breslin, why do you rise?

24 SENATOR BRESLIN: Point of order.

25 ACTING PRESIDENT GRIFFO: What is

1 your point of order?

2 SENATOR BRESLIN: Yes, this
3 discussion is not relevant to this particular --

4 ACTING PRESIDENT GRIFFO: Your
5 point is well-taken and the question is
6 nongermane.

7 Senator Adams, have you completed?

8 SENATOR ADAMS: Yes, I have, sir.

9 ACTING PRESIDENT GRIFFO: Thank
10 you, Senator Adams.

11 Is there any other Senator wishing
12 to be heard?

13 Senator Krueger.

14 SENATOR KRUEGER: Thank you very
15 much.

16 ACTING PRESIDENT GRIFFO: I'm going
17 to ask for order in the chamber, please.

18 SENATOR KRUEGER: Thank you.

19 I appreciated Senator Flanagan and
20 Senator Martins --

21 ACTING PRESIDENT GRIFFO: I'm going
22 caution all members to stick to the subject of
23 the legislation also, please.

24 SENATOR KRUEGER: I'll absolutely
25 be on the legislation. Thank you so much,

1 Mr. President.

2 This was not an attempt to
3 disrespect the fire district or the excellent
4 volunteers and I'm sure the majority of
5 volunteers in the Selden Fire District.

6 Experience with volunteer firemen is
7 not unique to Long Island. My husband has been a
8 volunteer fireman with the FDNY for over
9 30 years. He is an honorary fire chief still
10 working each week with the fire department and
11 with the firehouse nearest to our home. And I
12 know of the amazing, brave work of volunteer
13 firefighters throughout the country.

14 This wasn't even an issue of the
15 past findings of the Comptroller. It was to
16 highlight that I'm not sure we do our due
17 diligence in this house.

18 Now, it is possible that approving
19 this tax exemption doesn't actually save the
20 taxpayers money. Because remember, when an
21 individual piece of property is taken off the tax
22 rolls, the community loses the tax money from
23 that building. And yes, since it's a volunteer
24 fire department as opposed to a church, one can
25 make the argument that the community, if the

1 taxes were weren't exempted, would have to
2 contribute in some way. But the community is
3 either losing the tax revenue on the house or not
4 having to pay the taxes on the house. I actually
5 think it's probably a wash in this situation to
6 argue it's saving the taxpayers money.

7 But my point in highlighting this
8 tonight was to make the argument that we ought to
9 do due diligence before we go ahead and approve
10 these items.

11 Again, this is listed as a private
12 home that last sold for \$350,000 but was assessed
13 in 2009 at \$1.775 million. So I think it is
14 incumbent on us to ensure that this single-family
15 home that is in fact owned by the Selden Fire
16 District is being used for justifiable purposes
17 of the fire department.

18 And I think that it's a relevant
19 question because the dates in which it was
20 purchased was when people were running that
21 department who have now admitted criminal acts
22 and taking money -- and I am sure are not part of
23 the district department now, but they were in
24 control when that house was purchased.

25 And so I think it's an excellent

1 example for us as Senators to rethink whether
2 there should be a more formalized review process
3 for all tax-exemption requests that come through
4 us. The Assembly, it's my understanding, has a
5 much more -- has a stricter timeline by which
6 they will go backwards and has a stricter set of
7 requirements for these applications before they
8 come to the floor of the Assembly. That they
9 require a copy of the approved application for
10 exemption from the organization showing it's been
11 filed with the assessor, a copy of the deed
12 and/or conveyance which aptly provides a
13 description and the date of purchase of all
14 parcels to which a retroactive nonprofit
15 exemption has been requested, a copy of all the
16 tax bills, a statement from the local assessor
17 and local legislative representative
18 acknowledging the accuracy of the current
19 legislation, which includes a statement that the
20 local governing body will grant the retroactive
21 exemption once appropriate state authority is
22 obtained.

23 I think it's a good model. I think
24 it's a model we should follow in this house. And
25 I think it was reasonable for me to ask the

1 sponsor had he been to this house and did he know
2 that it was being used for the purposes that the
3 request is being made for. Again, particularly
4 because of the history with this fire district,
5 with the people who were in charge at the time
6 this building was purchased, and the findings
7 after the fact of criminal activity by them.

8 So again, it's not meant as
9 disrespect in any way for fire districts,
10 volunteer firemen, but simply to point out our
11 perhaps failure in not doing enough due diligence
12 in our chamber. And the fact that many, many of
13 these come through. Even today I lost count of
14 how many came through.

15 And so I will continue to vote no
16 tonight on this bill. But I think it is a
17 constructive lesson perhaps for all of us.

18 Thank you, Mr. President.

19 ACTING PRESIDENT GRIFFO: Is there
20 any other Senator wishing to be heard?

21 Seeing none, hearing none, the
22 debate is closed. The Secretary will ring the
23 bell.

24 Read the last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT GRIFFO: Call the
3 roll.

4 (The Secretary called the roll.)

5 ACTING PRESIDENT GRIFFO: Senator
6 Andrea Stewart-Cousins to explain her vote.

7 Can I have some order in the
8 chamber, please. And I'm going to remind the
9 members that you're on a two-minute explanation.
10 Again, order, please.

11 Senator Andrea Stewart-Cousins.

12 SENATOR STEWART-COUSINS: Thank
13 you, Mr. President.

14 I certainly raise some of those
15 concerns and, by the same token, realize the
16 importance of the voluntary firefighters and the
17 services that they bring to the community.

18 But I will have to be consistent in
19 what I have practiced, which is very similar to
20 what the Assembly practiced when I was chair of
21 the Local Governments, and even now, as a
22 member. I don't go beyond three years. I think
23 that there's an opportunity to keep up with your
24 paperwork. And when you go as many years as
25 this, I think it poses several problems.

1 So I will be voting in the negative.

2 ACTING PRESIDENT GRIFFO: Senator
3 Stewart-Cousins to be recorded in the negative.

4 Senator LaValle to explain his vote.

5 SENATOR LaVALLE: Thank you,
6 Mr. President.

7 I just want to simply say that we've
8 been voting on bills like this all afternoon.
9 This is a filing question, not an exemption
10 question, because a fire district is exempt. But
11 they didn't put their papers in on time. They
12 really, again, fumbled the ball.

13 So that means that the fire district
14 is paying full taxes on a house that should be
15 exempt, but because they didn't file in time for
16 their exemption, that means the district is being
17 punished, and its taxpayers that pay fire
18 district taxes.

19 I vote aye.

20 ACTING PRESIDENT GRIFFO: Senator
21 LaValle to be recorded in the affirmative.

22 Announce the results.

23 THE SECRETARY: Those recorded in
24 the negative on Calendar Number 633 are
25 Senators Adams, Avella, Espaillat,

1 Hassell-Thompson, Kennedy, L. Krueger,
2 Montgomery, Parker, Peralta, Perkins, Rivera,
3 Serrano, Stavisky, and Stewart-Cousins.

4 Absent from voting: Senator
5 Huntley.

6 Ayes, 47. Nays, 14.

7 ACTING PRESIDENT GRIFFO: The bill
8 is passed.

9 Senator Libous.

10 SENATOR LIBOUS: Mr. President, can
11 we return to motions, please.

12 ACTING PRESIDENT GRIFFO: We'll
13 return to motions.

14 Senator Libous.

15 SENATOR LIBOUS: On behalf of
16 Senator Young, I wish to call up her bill, Senate
17 Print 2835, recalled from the Assembly, which is
18 now at the desk.

19 ACTING PRESIDENT GRIFFO: The
20 Secretary will read.

21 THE SECRETARY: Calendar Number
22 427, by Senator Young, Senate Print 2835, an act
23 to amend the Criminal Procedure Law.

24 SENATOR LIBOUS: Mr. President, I
25 now move to reconsider the vote by which this

1 bill was passed.

2 ACTING PRESIDENT GRIFFO: Call the
3 roll on reconsideration.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 62.

6 SENATOR LIBOUS: Mr. President, I
7 now offer up the following amendments.

8 ACTING PRESIDENT GRIFFO: The
9 amendments are received.

10 Senator Libous.

11 SENATOR LIBOUS: Mr. President,
12 after consultation with my friend Senator
13 Breslin --

14 ACTING PRESIDENT GRIFFO: Senator
15 Libous, one second, please.

16 Please, can we have some quiet in
17 the chamber. Thank you.

18 Senator Libous.

19 SENATOR LIBOUS: As I was saying,
20 after some consultation with my good friend
21 Senator Breslin, at this time we would like to
22 bring up the Supplemental Calendar 54A and go to
23 the controversial reading of that calendar.

24 ACTING PRESIDENT GRIFFO: The
25 Secretary will read.

1 THE SECRETARY: Calendar Number
2 1322, by Senator Ball, Senate Print 5267, an act
3 to amend the Executive Law.

4 ACTING PRESIDENT GRIFFO: Read the
5 last section.

6 THE SECRETARY: Section 2. This
7 act shall take effect on the 60th day.

8 ACTING PRESIDENT GRIFFO: Call the
9 roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 62.

12 ACTING PRESIDENT GRIFFO: The bill
13 is passed.

14 THE SECRETARY: Calendar Number
15 1334, by Senator Robach, Senate Print 5715, an
16 act to amend the City of Rochester.

17 SENATOR BRESLIN: Explanation.

18 ACTING PRESIDENT GRIFFO: Senator
19 Robach, Senator Breslin has requested an
20 explanation.

21 SENATOR ROBACH: Yes,
22 Mr. President.

23 This bill is a bill that would allow
24 the Rochester City School District to go ahead
25 with its modernization plans. There's been a lot

1 of dialogue on this. There's been several
2 different versions.

3 This bill, by locking in the
4 commitment of the city of Rochester to operating
5 funds, yet removing them from obligation for debt
6 service on the building side, has built consensus
7 with the education community, the construction
8 industry, the building trades, the education
9 folks, teachers, and certainly accomplishes what
10 the mayor of the city of Rochester wanted, no
11 additional debt service given to them.

12 This bill should allow building to
13 move forward and modernize in a green way, in a
14 modern way, these school buildings of the
15 Rochester School District, some of which are very
16 old, similar to the plans that have already
17 transpired in Syracuse and Buffalo.

18 ACTING PRESIDENT GRIFFO: Senator
19 Krueger.

20 SENATOR KRUEGER: Thank you. If
21 the sponsor could please yield.

22 ACTING PRESIDENT GRIFFO: Senator
23 Robach, do you yield?

24 SENATOR ROBACH: I will.

25 ACTING PRESIDENT GRIFFO: Senator

1 Krueger.

2 SENATOR KRUEGER: Thank you.

3 So the Assembly has passed a
4 different bill. Can you explain to me what your
5 bill is as compared to the Assembly version
6 that's passed their house?

7 SENATOR ROBACH: Yes. There's
8 really one major difference, in my opinion, and
9 that is our bill locks in the commitment of the
10 City of Rochester to the current level of
11 operating aid. Unlike the Assembly bill, which I
12 believe leaves it in a gray area.

13 But both bills now do not add to the
14 debt service of the city. That will be given to
15 the school district.

16 And again, as I said earlier in my
17 explanation, this bill has got a little bit more
18 public vetting and has the support of the
19 building trades, teachers, the education
20 community, and I think protects what many people
21 in my community asked about the Assembly
22 version. While we want to build new schools, we
23 don't want our new schools but have our class
24 size for our kids go from 20 to 40.

25 So I think the important difference,

1 albeit one thing, is this really does codify and
2 clarify that commitment to the operating aid of
3 the city moving forward. And I think that's very
4 important.

5 SENATOR KRUEGER: If the sponsor
6 would continue to yield, please.

7 SENATOR ROBACH: I will.

8 SENATOR KRUEGER: Thank you.

9 You mentioned the teachers, the
10 building trades. Does the mayor and the city
11 council support this bill?

12 SENATOR ROBACH: The mayor said to
13 me -- I believe they do. The mayor said that his
14 goal was to get a bill -- and for full
15 disclosure, the original bill that I had put in
16 would have put the debt service on the City of
17 Rochester. He requested that piece be taken out,
18 and we did that. So I do believe he supports
19 it.

20 And throughout the dialogue and
21 debate, even some of his public statements in the
22 newspaper, he had indicated that in no way, shape
23 or form did he want to lower his obligation to
24 the city school district, he just did not want it
25 to rise. This bill not only accomplishes that,

1 but in a somewhat challenging situation also
2 brought all the parties concerned together and
3 has that support, differing from the Assembly
4 Bill.

5 SENATOR KRUEGER: Through you,
6 Mr. President, if the sponsor would continue to
7 yield.

8 ACTING PRESIDENT GRIFFO: The
9 sponsor yields.

10 SENATOR ROBACH: I relish the
11 opportunity.

12 SENATOR KRUEGER: Thank you.

13 So you think the mayor and the city
14 council support. Do we have a home-rule message
15 or any document from them saying they want this
16 bill?

17 SENATOR ROBACH: There's no
18 home-rule message for any of these. As a matter
19 of fact, Senator Krueger, ironically enough, we
20 don't really have to do any bill in the city
21 school district and the City of Rochester could
22 move forward and build like other communities.
23 Only our city said and our mayor said he will not
24 do that without relief, because he doesn't want
25 to give the city school district any additional

1 funds.

2 So there is no home-rule message.
3 Nor does there even need to be a bill,
4 technically, for them to move forward and build.
5 But because the mayor said he would not move
6 forward without a bill that would allow him not
7 to add any debt, that's why we have this
8 legislation.

9 SENATOR KRUEGER: Through you,
10 Mr. President, if the sponsor would continue to
11 yield.

12 SENATOR ROBACH: I will.

13 ACTING PRESIDENT GRIFFO: The
14 sponsor yields.

15 SENATOR KRUEGER: If we pass this
16 legislation and it became the law, versus the
17 Assembly version becoming the law, who is
18 responsible for paying the debt service on these
19 bonds for school construction?

20 SENATOR ROBACH: The school
21 district. That was the difference between the
22 first bill and this bill. And this is why I
23 believe the mayor would support that, because his
24 statement to me directly was "I will support any
25 bill that allows us to build these buildings but

1 not have my debt service or obligation
2 increase."

3 My concern with the Assembly bill,
4 in all candor, is I think it makes a little bit
5 of a gray area with the language they've chosen
6 is they do have to protect that hundred, just not
7 the \$19 million in debt service.

8 And I'm hoping -- I don't mean to
9 cut you off --

10 SENATOR KRUEGER: No.

11 SENATOR ROBACH: I'm hoping, I
12 really am, given the fact this is very important
13 and so many people have rallied around this bill,
14 I really do hope the Assembly will do the logical
15 thing and get this done.

16 Normally when I do legislation, if I
17 could have somebody who I'm sponsoring the bill
18 or trying to get something accomplished in the
19 other house, build some consensus, I'm the
20 happiest guy in the world. Hopefully they will
21 be too. It should really not be about an
22 individual or anybody else, it should be about
23 getting it done with the community and the
24 greater -- all the affected groups at large as a
25 whole.

1 SENATOR KRUEGER: Mr. President, if
2 the sponsor would continue to yield.

3 SENATOR ROBACH: Certainly.

4 ACTING PRESIDENT GRIFFO: The
5 sponsor yields.

6 SENATOR KRUEGER: Okay, this has
7 been very helpful. I'm learning a lot.

8 So the mayor and the city council of
9 Rochester are not, quote, unquote, on the hook
10 for the debt on the new bonds for the new
11 schools, it's the school district. So has the
12 school district sent us something saying they
13 want this legislation?

14 SENATOR ROBACH: Yes. As a matter
15 of fact, the president of the school board, Malik
16 Evans, not only supports it but also had given me
17 a state and a quote for the press release when we
18 came together with all the groups to try and come
19 to some consensus on moving forward.

20 SENATOR KRUEGER: Through you,
21 Mr. President, if the sponsor would please yield
22 for an additional question.

23 SENATOR ROBACH: Certainly.

24 ACTING PRESIDENT GRIFFO: The
25 sponsor yields.

1 SENATOR KRUEGER: So it sounds like
2 all the ducks are in a row. What is the reason
3 why the Assembly wouldn't have a same-as with
4 your version at this point in time?

5 SENATOR ROBACH: That I'm unclear
6 of. You'd really have to ask them why they don't
7 have a same-as bill. I've certainly sent it to
8 my colleagues in the Assembly. I think they're
9 aware of the support from the community at
10 large. And I'm hoping by the end of the process
11 they will do that.

12 I clearly think that this is the
13 best way to go. Again, I love it when we get
14 consensus, not division. And originally there
15 was a lot of people that were concerned with some
16 of the earlier versions of the bill in the
17 Assembly. Hopefully, I sincerely hope this will
18 get done.

19 But I can't answer the question why
20 they wouldn't -- going back to my earlier
21 comments, whenever I'm doing anything, the more
22 people I can have supporting it, I want to get
23 almost everybody who's an impacted and affected
24 party supporting something. That's usually
25 something I jump on and want to support.

1 Hopefully the Assembly will come to the same
2 conclusion, or the sponsor of the bill over
3 there. I'm hopeful that will happen.

4 SENATOR KRUEGER: Thank you.

5 On the bill, Mr. President.

6 ACTING PRESIDENT GRIFFO: Senator
7 Krueger on the bill.

8 SENATOR KRUEGER: Thank you. I
9 very much appreciate the sponsor's responses. It
10 has been contentious. Apparently it has changed
11 multiple times.

12 As he explains it to me right here
13 on the floor for the record, the parties who
14 should care one way or the other all seem to be
15 in consensus about it. I'm hoping that is in
16 fact the story and an actual bill can get passed
17 to address this issue for Rochester, and I see no
18 reason why I should not vote for this bill
19 tonight.

20 Thank you, Mr. President.

21 ACTING PRESIDENT GRIFFO: Any other
22 Senator wishing to be heard on this?

23 All right, debate is closed. The
24 Secretary will ring the bell.

25 Read the last section.

1 THE SECRETARY: Section 2. This
2 act shall take effect immediately.

3 ACTING PRESIDENT GRIFFO: Call the
4 roll.

5 (The Secretary called the roll.)

6 ACTING PRESIDENT GRIFFO: Announce
7 the results.

8 If you voted negatively, please
9 raise your hand.

10 THE SECRETARY: Those recorded in
11 the negative on Calendar 1334: Senator Smith.

12 Absent from voting: Senators
13 Huntley and Parker.

14 Ayes, 59. Nays, 1.

15 ACTING PRESIDENT GRIFFO: The bill
16 is passed.

17 Senator Libous.

18 SENATOR LIBOUS: Mr. President, can
19 we return to motions, please.

20 ACTING PRESIDENT GRIFFO: We will
21 return to motions.

22 SENATOR LIBOUS: On behalf of
23 Senator Young, on page 27 I offer the following
24 amendments to Calendar Number 764, Senate Print
25 4758A, and ask that said bill retain its place on

1 the Third Reading Calendar.

2 ACTING PRESIDENT GRIFFO: The
3 amendments are received, and the bill shall
4 retain its place on third reading.

5 SENATOR LIBOUS: On behalf of
6 Senator Bonacic, on page 12 I offer the following
7 amendments to Calendar Number 326, Senate Print
8 3949A, and ask that said bill retain its place on
9 the Third Reading Calendar.

10 ACTING PRESIDENT GRIFFO: The
11 amendments are received, and the bill shall
12 retain its place on third reading.

13 Senator Libous.

14 SENATOR LIBOUS: Would you call on
15 Senator Breslin, please.

16 ACTING PRESIDENT GRIFFO: Senator
17 Breslin.

18 SENATOR BRESLIN: Thank you,
19 Mr. President.

20 There will be an immediate meeting
21 of the Senate Democratic Conference in Room 314.

22 ACTING PRESIDENT GRIFFO: There
23 will be an immediate meeting of the Senate
24 Democrat Conference in Room 314.

25 SENATOR LIBOUS: Mr. President, the

1 Senate will recess for about 20 minutes and then
2 return promptly at the end of their conference.

3 ACTING PRESIDENT GRIFFO: The
4 Senate stands at ease for 20 minutes.

5 (Whereupon, the Senate stood at ease
6 at 9:32 p.m.)

7 (Whereupon, the Senate reconvened at
8 10:33 p.m.)

9 ACTING PRESIDENT GRIFFO: The
10 Senate will come to order.

11 Senator Libous.

12 SENATOR LIBOUS: Mr. President, can
13 we go to motions?

14 ACTING PRESIDENT GRIFFO: We are on
15 motions.

16 I'm going to ask for some order in
17 the chamber, please.

18 Senator Libous.

19 SENATOR LIBOUS: On behalf of
20 Senator Seward, on page 9 I offer the following
21 amendments to Calendar Number 239, Senate Print
22 2713, and I ask that said bill retain its place
23 on the Third Reading Calendar.

24 ACTING PRESIDENT GRIFFO: The
25 amendments are received, and the bill will retain

1 its place on third reading.

2 Senator Libous.

3 SENATOR LIBOUS: Mr. President, at
4 this time could we take up the supplemental
5 active list. It would be the page with the one
6 bill on it by Senator Squadron, Calendar Number
7 1014.

8 ACTING PRESIDENT GRIFFO: The
9 Secretary will read.

10 SENATOR LIBOUS: Noncontroversial.

11 THE SECRETARY: Calendar Number
12 1014, by Senator Squadron, Senate Print 79A, an
13 act to amend the General Construction Law.

14 ACTING PRESIDENT GRIFFO: Read the
15 last section.

16 THE SECRETARY: Section 5. This
17 act shall take effect on the 60th day.

18 ACTING PRESIDENT GRIFFO: Call the
19 roll.

20 (The Secretary called the roll.)

21 ACTING PRESIDENT GRIFFO: Senator
22 Squadron to explain his vote.

23 SENATOR SQUADRON: Thank you,
24 Mr. President, to explain my vote.

25 I just want to take a moment to

1 thank Senator Larkin for his work on this bill.
2 He and I have been partnering on this bill for
3 two terms now.

4 And it's a critically important
5 bill. It's going to open it up to \$120 billion
6 in investment for New York for socially impactful
7 investment. So it's a great bill for business in
8 New York State, it brings a whole new corporate
9 form, and it was done in a bipartisan way.

10 So thank you to Senator Larkin,
11 Senator Smith, and Senator Bonacic, the other
12 colleague with whom I worked on this bill. I
13 vote aye.

14 ACTING PRESIDENT GRIFFO: Senator
15 Squadron to be recorded in the affirmative.

16 Senator Grisanti to explain his
17 vote.

18 SENATOR GRISANTI: Mr. President, I
19 just want to thank Senator Squadron for bringing
20 this bill to the floor. It's a very good bill.

21 It helps out the area of the City of
22 Buffalo, as you can see. It has support from
23 Guardians of Buffalo, which is basically an
24 organization that takes -- basically what he's
25 trying to do is a corporation that does good.

1 This is a corporation that takes vacant lots,
2 turns them into community gardens that grow
3 fruits and vegetables and sells them at farmer's
4 markets. It's going to help them as far as
5 retain as much money as they can.

6 Appreciate the bill, and I vote aye.

7 ACTING PRESIDENT GRIFFO: Senator
8 Grisanti to be recorded in the affirmative.

9 Announce the results.

10 THE SECRETARY: Ayes, 62.

11 ACTING PRESIDENT GRIFFO: The bill
12 is passed.

13 Senator Libous.

14 SENATOR LIBOUS: Mr. President, can
15 we now take up the noncontroversial reading of
16 the supplemental calendar, starting with Senator
17 McDonald's bill, Calendar Number 101.

18 ACTING PRESIDENT GRIFFO: The
19 Secretary will read.

20 THE SECRETARY: Calendar Number
21 101, by Senator McDonald, Senate Print 2152A, an
22 act to amend Chapter 542 of the Laws of 1997.

23 ACTING PRESIDENT GRIFFO: There is
24 a home-rule message at the desk.

25 Read the last section.

1 THE SECRETARY: Section 2. This
2 act shall take effect immediately.

3 ACTING PRESIDENT GRIFFO: Call the
4 roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 62.

7 ACTING PRESIDENT GRIFFO: The bill
8 is passed.

9 THE SECRETARY: On page 9, Senator
10 Grisanti moves to discharge, from the Committee
11 on Rules, Assembly Bill Number 766A and
12 substitute it for the identical Senate Bill
13 Number 1737B, Third Reading Calendar 234.

14 ACTING PRESIDENT GRIFFO:
15 Substitution so ordered.

16 The Secretary will read.

17 THE SECRETARY: Calendar Number
18 234, by Member of the Assembly Gantt, Assembly
19 Print 766A, an act to amend Chapter 616 of the
20 Laws of 1992.

21 ACTING PRESIDENT GRIFFO: Read the
22 last section.

23 THE SECRETARY: Section 2. This
24 act shall take effect immediately.

25 ACTING PRESIDENT GRIFFO: Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 62.

4 ACTING PRESIDENT GRIFFO: The bill
5 is passed.

6 THE SECRETARY: Calendar Number
7 269, by Senator Seward, Senate Print 2382A,
8 Concurrent Resolution of the Senate and Assembly.

9 ACTING PRESIDENT GRIFFO: Call the
10 roll on the concurrent resolution.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT GRIFFO: Senator
13 Krueger to explain her vote.

14 SENATOR KRUEGER: Thank you,
15 Mr. President.

16 I'll be voting no on this
17 constitutional amendment tonight. While there
18 seems to be some different interpretations of the
19 gray area of whether this constitutional
20 amendment establishing the right to hunt, fish,
21 and trap would in fact force legal challenges to
22 local gun laws, local laws saying that you cannot
23 hunt in specific parks, I am very concerned that
24 a constitutional amendment would open us up to
25 years of litigation on different DEC -- a current

1 DEC law, on New York City gun permit laws, on any
2 number of other local ordinances putting, in
3 fact, limitations on hunting, fishing, trapping
4 and the carrying of weapons.

5 So I think we'd be better off as a
6 state not opening ourselves up to all these legal
7 disputes by changing our constitution.

8 I'll be voting no. Thank you.

9 ACTING PRESIDENT GRIFFO: Senator
10 Krueger to be recorded in the negative.

11 Announce the results.

12 THE SECRETARY: In relation to
13 Calendar 269, those recorded in the negative are
14 Senators Adams, Avella, Duane, Gianaris,
15 Hassell-Thompson, L. Krueger, Montgomery, Parker,
16 Perkins and Rivera. Also Senator Stavisky.

17 Ayes, 51. Nays, 11.

18 ACTING PRESIDENT GRIFFO: The
19 resolution is adopted.

20 THE SECRETARY: Calendar Number
21 297, by Senator Hannon, Senate Print 1924, an act
22 to amend the Real Property Tax Law.

23 ACTING PRESIDENT GRIFFO: Read the
24 last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT GRIFFO: Call the
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 62.

6 ACTING PRESIDENT GRIFFO: The bill
7 is passed.

8 THE SECRETARY: On page 11, Senator
9 Lanza moves to discharge, from the Committee on
10 Rules, Assembly Bill Number 7463A and substitute
11 it for the identical Senate Bill Number 4377A,
12 Third Reading Calendar 315.

13 ACTING PRESIDENT GRIFFO:
14 Substitution so ordered.

15 The Secretary will read.

16 THE SECRETARY: Calendar Number
17 315, by Member of the Assembly Cusick, Assembly
18 Print Number 7463A, an act to authorize owners of
19 residential real property.

20 ACTING PRESIDENT GRIFFO: Read the
21 last section.

22 THE SECRETARY: Section 2. This
23 act shall take effect immediately.

24 ACTING PRESIDENT GRIFFO: Call the
25 roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 62.

3 ACTING PRESIDENT GRIFFO: The bill
4 is passed.

5 THE SECRETARY: Calendar Number
6 378, by Senator Golden, Senate Print 4496B, an
7 act to amend the Vehicle and Traffic Law.

8 ACTING PRESIDENT GRIFFO: There is
9 a home-rule message at the desk.

10 Read the last section.

11 THE SECRETARY: Section 3. This
12 act shall take effect immediately.

13 ACTING PRESIDENT GRIFFO: Call the
14 roll.

15 (The Secretary called the roll.)

16 ACTING PRESIDENT GRIFFO: Those in
17 the negative please raise your hands.

18 Announce the results.

19 THE SECRETARY: In relation to
20 Calendar Number 378, those recorded in the
21 negative are Senators Duane, C. Kruger, Lanza,
22 LaValle, Marcellino, Montgomery, Ranzenhofer,
23 Saland and Zeldin. Also Senator Griffio.

24 Ayes, 52. Nays, 10.

25 ACTING PRESIDENT GRIFFO: The bill

1 is passed.

2 THE SECRETARY: Calendar Number
3 384, by Senator Maziarz, Senate Print 3755B, an
4 act to amend the Public Authorities Law.

5 ACTING PRESIDENT GRIFFO: Read the
6 last section.

7 THE SECRETARY: Section 2. This
8 act shall take effect immediately.

9 ACTING PRESIDENT GRIFFO: Call the
10 roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 61. Nays,
13 1. Senator LaValle recorded in the negative.

14 ACTING PRESIDENT GRIFFO: The bill
15 is passed.

16 THE SECRETARY: On page 15, Senator
17 Fuschillo moves to discharge, from the Committee
18 on Rules, Assembly Bill Number 5516C and
19 substitute it for the identical Senate Bill
20 Number 3461C, Third Reading Calendar 387.

21 ACTING PRESIDENT GRIFFO:
22 Substitution so ordered, and the Secretary will
23 read.

24 THE SECRETARY: Calendar Number
25 387, by Member of the Assembly Jaffee, Assembly

1 Print Number 5516C, an act to amend the Public
2 Health Law.

3 ACTING PRESIDENT GRIFFO: Read the
4 last section.

5 THE SECRETARY: Section 3. This
6 act shall take effect on the 90th day.

7 ACTING PRESIDENT GRIFFO: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 61. Nays,
11 1. Senator Lanza recorded in the negative.

12 ACTING PRESIDENT GRIFFO: The bill
13 is passed.

14 THE SECRETARY: Calendar Number
15 518, by Senator Flanagan, Senate Print 4670, an
16 act to amend the Highway Law.

17 ACTING PRESIDENT GRIFFO: There is
18 a home-rule message at the desk.

19 The Secretary will read the last
20 section.

21 THE SECRETARY: Section 2. This
22 act shall take effect immediately.

23 ACTING PRESIDENT GRIFFO: Call the
24 roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 62.

2 ACTING PRESIDENT GRIFFO: The bill
3 is passed.

4 THE SECRETARY: Calendar Number
5 519, by Senator Flanagan, Senate Print 4686, an
6 act to amend the Highway Law.

7 ACTING PRESIDENT GRIFFO: There is
8 a home-rule message at the desk.

9 The Secretary will read the last
10 section.

11 THE SECRETARY: Section 2. This
12 act shall take effect immediately.

13 ACTING PRESIDENT GRIFFO: Call the
14 roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes, 62.

17 ACTING PRESIDENT GRIFFO: The bill
18 is passed.

19 THE SECRETARY: Calendar Number
20 520, by Senator Flanagan, Senate Print 4765, an
21 act to amend the Vehicle and Traffic Law.

22 ACTING PRESIDENT GRIFFO: Read the
23 last section.

24 THE SECRETARY: Section 2. This
25 act shall take effect immediately.

1 ACTING PRESIDENT GRIFFO: Call the
2 roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 62.

5 ACTING PRESIDENT GRIFFO: The bill
6 is passed.

7 THE SECRETARY: On page 19, Senator
8 Griffo moves to discharge, from the Committee on
9 Rules, Assembly Bill Number 6726A and substitute
10 it for the identical Senate Bill Number 4521A,
11 Third Reading Calendar 547.

12 ACTING PRESIDENT GRIFFO:
13 Substitution so ordered.

14 The Secretary will read.

15 THE SECRETARY: Calendar Number
16 547, by Member of the Assembly Russell, Assembly
17 Print 6726A, an act to amend the Public
18 Authorities Law.

19 ACTING PRESIDENT GRIFFO: Read the
20 last section.

21 THE SECRETARY: Section 2. This
22 act shall take effect immediately.

23 ACTING PRESIDENT GRIFFO: Call the
24 roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 62.

2 ACTING PRESIDENT GRIFFO: The bill
3 is passed.

4 THE SECRETARY: On page 20, Senator
5 Maziarz moves to discharge, from the Committee on
6 Rules --

7 SENATOR MAZIARZ: Lay it aside for
8 the day, please.

9 ACTING PRESIDENT GRIFFO: We're
10 going to do the substitution first, Senator
11 Maziarz.

12 THE SECRETARY: On page 20, Senator
13 Maziarz moves to discharge, from the Committee on
14 Rules, Assembly Bill Number 353C and substitute
15 it for the identical Senate Bill Number 519C,
16 Third Reading Calendar 576.

17 ACTING PRESIDENT GRIFFO: The
18 substitution is so ordered, and the bill is laid
19 aside for the day.

20 The Secretary will continue to read.

21 THE SECRETARY: Calendar Number
22 602, by Senator McDonald, Senate Print 2153B, an
23 act to amend the Highway Law.

24 ACTING PRESIDENT GRIFFO: Read the
25 last section.

1 THE SECRETARY: Section 3. This
2 act shall take effect immediately.

3 ACTING PRESIDENT GRIFFO: Call the
4 roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 62.

7 ACTING PRESIDENT GRIFFO: The bill
8 is passed.

9 THE SECRETARY: On page 22, Senator
10 Savino moves to discharge, from the Committee on
11 Rules, Assembly Bill Number 6599 and substitute
12 it for the identical Senate Bill Number 1610,
13 Third Reading Calendar 611.

14 ACTING PRESIDENT GRIFFO: The
15 substitution is so ordered.

16 There is a home-rule message at the
17 desk.

18 The Secretary will read.

19 THE SECRETARY: Calendar Number
20 611, by Member of the Assembly Brook-Krasny,
21 Assembly Print Number 6599, an act to authorize
22 the City of New York.

23 ACTING PRESIDENT GRIFFO: Read the
24 last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT GRIFFO: Call the
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 62.

6 ACTING PRESIDENT GRIFFO: The bill
7 is passed.

8 THE SECRETARY: Calendar Number
9 619, by Senator Ritchie, Senate Print 5159, an
10 act to amend the Agriculture and Markets Law.

11 ACTING PRESIDENT GRIFFO: Read the
12 last section.

13 THE SECRETARY: Section 2. This
14 act shall take effect immediately.

15 ACTING PRESIDENT GRIFFO: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 62.

19 ACTING PRESIDENT GRIFFO: The bill
20 is passed.

21 THE SECRETARY: Calendar Number
22 639, by Senator Zeldin, Senate Print 4600B, an
23 act to authorize the assessor of the Town of
24 Islip.

25 ACTING PRESIDENT GRIFFO: Read the

1 last section.

2 THE SECRETARY: Section 2. This
3 act shall take effect immediately.

4 ACTING PRESIDENT GRIFFO: Call the
5 roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 61. Nays,
8 1. Senator Bonacic recorded in the negative.

9 ACTING PRESIDENT GRIFFO: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 656, by Senator Larkin, Senate Print 1727, an act
13 to amend the Executive Law.

14 ACTING PRESIDENT GRIFFO: Read the
15 last section.

16 THE SECRETARY: Section 2. This
17 act shall take effect immediately.

18 ACTING PRESIDENT GRIFFO: Call the
19 roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 62.

22 ACTING PRESIDENT GRIFFO: The bill
23 is passed.

24 THE SECRETARY: Calendar Number
25 657, by Senator Golden, Senate Print 1744, an act

1 to amend the Executive Law.

2 ACTING PRESIDENT GRIFFO: Read the
3 last section.

4 THE SECRETARY: Section 2. This
5 act shall take effect on the first of January.

6 ACTING PRESIDENT GRIFFO: Call the
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 62.

10 ACTING PRESIDENT GRIFFO: The bill
11 is passed.

12 THE SECRETARY: On page 24, Senator
13 O'Mara moves to discharge, from the Committee on
14 Rules, Assembly Bill Number 7280 and substitute
15 it for the identical Senate Bill Number 5133,
16 Third Reading Calendar 677.

17 ACTING PRESIDENT GRIFFO: The
18 substitution is so ordered.

19 The Secretary will read.

20 THE SECRETARY: Calendar Number
21 677, by Member of the Assembly Englebright,
22 Assembly Print Number 7280, an act to amend the
23 Parks, Recreation and Historic Preservation Law.

24 ACTING PRESIDENT GRIFFO: Read the
25 last section.

1 THE SECRETARY: Section 2. This
2 act shall take effect immediately.

3 ACTING PRESIDENT GRIFFO: Call the
4 roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 62.

7 ACTING PRESIDENT GRIFFO: The bill
8 is passed.

9 THE SECRETARY: Senator Oppenheimer
10 moves to discharge, from the Committee on Rules,
11 Assembly Bill Number 340A and substitute it for
12 the identical Senate Bill Number 1846A, Third
13 Reading Calendar 825.

14 ACTING PRESIDENT GRIFFO: The
15 substitution is so ordered.

16 The Secretary will read.

17 THE SECRETARY: Calendar Number
18 825, by Member of the Assembly Paulin, Assembly
19 Print 340A, an act to authorize the lease of
20 lands located at the State University of New York
21 at Purchase.

22 ACTING PRESIDENT GRIFFO: Read the
23 last section.

24 THE SECRETARY: Section 2. This
25 act shall take effect immediately.

1 ACTING PRESIDENT GRIFFO: Call the
2 roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 61. Nays,
5 1. Senator Ranzenhofer recorded in the negative.

6 ACTING PRESIDENT GRIFFO: The bill
7 is passed.

8 THE SECRETARY: Calendar Number
9 847, by Senator Maziarz, Senate Print 5407, an
10 act to amend the Economic Development Law.

11 ACTING PRESIDENT GRIFFO: Read the
12 last section.

13 THE SECRETARY: Section 7. This
14 act shall take effect immediately.

15 ACTING PRESIDENT GRIFFO: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 62.

19 ACTING PRESIDENT GRIFFO: The bill
20 is passed.

21 THE SECRETARY: Calendar Number
22 855, by Senator LaValle, Senate Print 3834A, an
23 act to amend the New York State Urban Development
24 Corporation Act.

25 ACTING PRESIDENT GRIFFO: Read the

1 last section.

2 THE SECRETARY: Section 2. This
3 act shall take effect immediately.

4 ACTING PRESIDENT GRIFFO: Call the
5 roll.

6 (The Secretary called the roll.)

7 ACTING PRESIDENT GRIFFO: Senator
8 Stavisky to explain her vote.

9 SENATOR STAVISKY: To explain my
10 vote.

11 I have been assured by Senator
12 LaValle that the section that deals with the
13 biosciences research institutions and
14 organizations does not include the State
15 University of New York Research Foundation. And
16 therefore I will vote aye.

17 Thank you, Mr. President.

18 ACTING PRESIDENT GRIFFO: Senator
19 Stavisky to be recorded in the affirmative.

20 Announce the results.

21 THE SECRETARY: Ayes, 62.

22 ACTING PRESIDENT GRIFFO: The bill
23 is passed.

24 THE SECRETARY: Calendar Number
25 863, by Senator McDonald, Senate Print 5109, an

1 act to amend the Public Officers Law.

2 ACTING PRESIDENT GRIFFO: Read the
3 last section.

4 THE SECRETARY: Section 2. This
5 act shall take effect immediately.

6 ACTING PRESIDENT GRIFFO: Call the
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 62.

10 ACTING PRESIDENT GRIFFO: The bill
11 is passed.

12 THE SECRETARY: On page 32, Senator
13 Bonacic moves to discharge, from the Committee on
14 Rules, Assembly Bill Number 6935 and substitute
15 it for the identical Senate Bill Number 4874,
16 Third Reading Calendar 867.

17 ACTING PRESIDENT GRIFFO: There is
18 a home-rule message at the desk.

19 The Secretary will read.

20 THE SECRETARY: Calendar Number
21 867, by Member of the Assembly Gunther, Assembly
22 Print Number 6935, an act to amend the Public
23 Authorities Law.

24 ACTING PRESIDENT GRIFFO: Read the
25 last section.

1 THE SECRETARY: Section 2. This
2 act shall take effect immediately.

3 ACTING PRESIDENT GRIFFO: Call the
4 roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 62.

7 ACTING PRESIDENT GRIFFO: The bill
8 is passed.

9 THE SECRETARY: Calendar Number
10 873, by Senator Zeldin, Senate Print 4545A, an
11 act to authorize.

12 ACTING PRESIDENT GRIFFO: Read the
13 last section.

14 THE SECRETARY: Section 2. This
15 act shall take effect immediately.

16 ACTING PRESIDENT GRIFFO: Call the
17 roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: In relation to
20 Calendar Number 873, those recorded in the
21 negative are Senators Bonacic and Larkin.

22 Ayes, 60. Nays, 2.

23 ACTING PRESIDENT GRIFFO: The bill
24 is passed.

25 THE SECRETARY: Calendar Number

1 900, by Senator Seward, Senate Print 5040, an act
2 to amend the Insurance Law.

3 ACTING PRESIDENT GRIFFO: Read the
4 last section.

5 THE SECRETARY: Section 2. This
6 act shall take effect on the 120th day.

7 ACTING PRESIDENT GRIFFO: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 61. Nays,
11 1. Senator Montgomery recorded in the negative.

12 ACTING PRESIDENT GRIFFO: The bill
13 is passed.

14 THE SECRETARY: Calendar Number
15 922, by Senator Ranzenhofer, Senate Print 3224,
16 an act to amend the Social Services Law.

17 ACTING PRESIDENT GRIFFO: Read the
18 last section.

19 THE SECRETARY: Section 2. This
20 act shall take effect immediately.

21 ACTING PRESIDENT GRIFFO: Call the
22 roll.

23 (The Secretary called the roll.)

24 THE SECRETARY: Ayes, 62.

25 ACTING PRESIDENT GRIFFO: The bill

1 is passed.

2 THE SECRETARY: On page 38, Senator
3 Little moves to discharge, from the Committee on
4 Rules, Assembly Bill Number 7933 and substitute
5 it for the identical Senate Bill Number 5475,
6 Third Reading Calendar 995.

7 ACTING PRESIDENT GRIFFO:
8 Substitution so ordered.

9 The Secretary will read.

10 THE SECRETARY: Calendar Number
11 995, by Member of the Assembly Sayward, Assembly
12 Print Number 7933, an act to amend the Town Law.

13 ACTING PRESIDENT GRIFFO: Read the
14 last section.

15 THE SECRETARY: Section 2. This
16 act shall take effect immediately.

17 ACTING PRESIDENT GRIFFO: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 62.

21 ACTING PRESIDENT GRIFFO: The bill
22 is passed.

23 THE SECRETARY: On page 48, Senator
24 Golden moves to discharge, from the Committee on
25 Rules, Assembly Bill Number 8012 and substitute

1 it for the identical Senate Bill Number 5485,
2 Third Reading Calendar 1131.

3 ACTING PRESIDENT GRIFFO:
4 Substitution so ordered.

5 The Secretary will read.

6 THE SECRETARY: Calendar Number
7 1131, by Member of the Assembly Abbate, Assembly
8 Print Number 8012, an act to amend the
9 Administrative Code of the City of New York.

10 ACTING PRESIDENT GRIFFO: Read the
11 last section.

12 THE SECRETARY: Section 5. This
13 act shall take effect July 1, 2011.

14 ACTING PRESIDENT GRIFFO: Call the
15 roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 61. Nays,
18 1. Senator Saland recorded in the negative.

19 ACTING PRESIDENT GRIFFO: The bill
20 is passed.

21 THE SECRETARY: On page 50, Senator
22 Lanza moves to discharge, from the Committee on
23 Local Government, Assembly Bill Number 7735 and
24 substitute it for the identical Senate Bill
25 Number 5486, Third Reading Calendar 1163.

1 ACTING PRESIDENT GRIFFO:

2 Substitution so ordered.

3 The Secretary will read.

4 THE SECRETARY: Calendar Number
5 1163, by Member of the Assembly Farrell, Assembly
6 Print Number 7735, an act to amend Chapter 130 of
7 the Laws of 1998.

8 ACTING PRESIDENT GRIFFO: Read the
9 last section.

10 THE SECRETARY: Section 2. This
11 act shall effect immediately.

12 ACTING PRESIDENT GRIFFO: Call the
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 62.

16 ACTING PRESIDENT GRIFFO: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 1186, by Senator Grisanti, Senate Print 2352, an
20 act to amend the Education Law.

21 ACTING PRESIDENT GRIFFO: Read the
22 last section.

23 THE SECRETARY: Section 2. This
24 act shall take effect on the first of July.

25 ACTING PRESIDENT GRIFFO: Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 62.

4 ACTING PRESIDENT GRIFFO: The bill
5 is passed.

6 THE SECRETARY: On page 52, Senator
7 DeFrancisco moves to discharge, from the
8 Committee on Rules, Assembly Bill Number 8235 and
9 substitute it for the identical Senate Bill
10 Number 5665, Third Reading Calendar 1198.

11 ACTING PRESIDENT GRIFFO:
12 Substitution so ordered.

13 The Secretary will read.

14 THE SECRETARY: Calendar Number
15 1198, by Member of the Assembly Farrell, Assembly
16 Print Number 8235, an act to amend Part RR of
17 Chapter 57 of the Laws of 2008.

18 ACTING PRESIDENT GRIFFO: Read the
19 last section.

20 THE SECRETARY: Section 2. This
21 act shall take effect immediately.

22 ACTING PRESIDENT GRIFFO: Call the
23 roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes, 62.

1 ACTING PRESIDENT GRIFFO: The bill
2 is passed.

3 Senator Maziarz, that completes the
4 noncontroversial reading of the supplemental
5 calendar.

6 SENATOR MAZIARZ: Thank you very
7 much, Mr. President.

8 There will be an immediate meeting
9 of the Rules Committee in Room 332. After the
10 meeting of the Rules Committee, we will reconvene
11 here to accept the report of the Rules Committee,
12 and after that the Senate will adjourn until
13 tomorrow -- Adam doesn't have the time yet. But
14 if you all come back, Adam will tell me and I
15 will you what time we're meeting tomorrow.

16 Thank you, Mr. President.

17 ACTING PRESIDENT GRIFFO: There's
18 an immediate meeting of the Rules Committee in
19 Room 332.

20 The Senate stands at ease.

21 (Whereupon, the Senate stood at ease
22 at 10:54 p.m.)

23 (Whereupon, the Senate reconvened at
24 11:18 p.m.)

25 SENATOR LIBOUS: Mr. President.

1 ACTING PRESIDENT MAZIARZ: Senator
2 Libous.

3 SENATOR LIBOUS: Mr. President,
4 before we have a reading of the Rules report, I
5 want to go to motions for a moment, please.

6 ACTING PRESIDENT MAZIARZ: Motions
7 and resolutions.

8 Senator Libous.

9 SENATOR LIBOUS: On behalf of
10 Senator Fuschillo, on page 39 I offer the
11 following amendments to Calendar Number 999,
12 Senate Print 5545A, and ask that said bill retain
13 its place on the Third Reading Calendar.

14 Mr. President, at this time I
15 believe, if we go to reports of standing
16 committees, there is a report of the Rules
17 Committee at the desk.

18 ACTING PRESIDENT MAZIARZ: Reports
19 of standing committees.

20 There is a report of the Rules
21 Committee at the desk.

22 The Secretary will read.

23 THE SECRETARY: Senator Skelos,
24 from the Committee on Rules, reports the
25 following bills:

1 Senate Print 230, by Senator
2 Montgomery, an act to amend the Correction Law;
3 333, by Senator Diaz, an act to
4 authorizing the City of New York;
5 357A, by Senator Robach, Concurrent
6 Resolution of the Senate and Assembly;
7 1408, by Senator Hannon, an act to
8 amend the Public Health Law;
9 2357B, by Senator Oppenheimer, an
10 act to amend the Education Law;
11 4005A, by Senator Fuschillo, an act
12 to amend the Insurance Law;
13 4101A, by Senator Farley, an act to
14 amend the Education Law;
15 4384B, by Senator Ranzenhofer, an
16 act to amend the Public Health Law;
17 4725, by Senator Kennedy, an act to
18 amend the Penal Law;
19 4770, by the Committee on Rules, an
20 act authorizing the assessor of the Town of
21 Rockland;
22 5577A, by Senator Golden, an act to
23 amend the Tax Law;
24 5591, by Senator Little, an act to
25 amend the Public Health Law;

1 5623, by Senator Peralta, an act to
2 amend the Penal Law;

3 5644, by Senator Hannon, an act to
4 amend Chapter 474 of the Laws of 1996;

5 5653, by the Senate Committee on
6 Rules, an act to amend the Administrative Code of
7 the City of New York;

8 5663, by Senator LaValle, an act to
9 amend the Environmental Conservation Law;

10 5667, by Senator Bonacic, an act to
11 amend the General Municipal Law;

12 5695, by Senator Klein, an act to
13 amend the Insurance Law;

14 5706A, by the Senate Committee on
15 Rules, an act to authorize the City of New York;

16 And 5713, by Senator Johnson, an act
17 to amend the Education Law.

18 All bills ordered direct to third
19 reading.

20 ACTING PRESIDENT MAZIARZ: Senator
21 Libous.

22 SENATOR LIBOUS: Mr. President, is
23 there any further business at the desk?

24 ACTING PRESIDENT MAZIARZ: Senator,
25 I'm sorry, we have to move to accept the report

1 of the Rules Committee.

2 SENATOR LIBOUS: Mr. President,
3 Thank you. That's very important.

4 Can we move to accept the report of
5 the Rules Committee.

6 ACTING PRESIDENT MAZIARZ: All
7 those in favor of accepting the report of the
8 Rules Committee signify by saying aye.

9 (Response of "Aye.")

10 ACTING PRESIDENT MAZIARZ: Opposed,
11 nay.

12 (No response.)

13 ACTING PRESIDENT MAZIARZ: The
14 Rules Committee report is accepted.

15 Senator Libous.

16 SENATOR LIBOUS: We'll try this
17 again, Mr. President. Is there any further
18 business at the desk?

19 ACTING PRESIDENT MAZIARZ: No, no
20 further business at the desk.

21 SENATOR LIBOUS: Well,
22 Mr. President, since there's no further business
23 at the desk, at this time I will announce that
24 the Republican Conference will meet tomorrow
25 morning in Room 332 at 10:00 a.m. That's a

1 Republican conference tomorrow morning in
2 Room 332 at 10:00 a.m.

3 And, Mr. President, there being no
4 further business at this time before the Senate,
5 we will adjourn until Friday, June 17th, at
6 11:00 a.m.

7 Oh, oh -- we haven't adjourned yet,
8 have we?

9 ACTING PRESIDENT MAZIARZ: No.

10 SENATOR LIBOUS: Senator Breslin
11 would like to be recognized.

12 ACTING PRESIDENT MAZIARZ: Senator
13 Breslin.

14 SENATOR BRESLIN: The Democratic
15 Conference will meet at --

16 SENATOR LIBOUS: Oh, there's
17 Senator Hassell-Thompson.

18 ACTING PRESIDENT MAZIARZ: There
19 will be a Democratic conference at 7:30 a.m.
20 tomorrow morning.

21 (Laughter.)

22 SENATOR LIBOUS: Mr. President, I
23 think if you would please call on Senator
24 Hassell-Thompson you'll get the correct scoop.

25 ACTING PRESIDENT MAZIARZ: Senator

1 Hassell-Thompson.

2 SENATOR HASSELL-THOMPSON: There
3 will be a Democratic conference at 10:30 a.m. in
4 the Democratic Conference Room. Thank you.

5 ACTING PRESIDENT MAZIARZ: There
6 will be a Democratic conference tomorrow morning
7 at 10:30 a.m., and a Republican conference at
8 10:00 a.m.

9 Senator Libous.

10 SENATOR LIBOUS: That's correct,
11 Mr. President.

12 And there being no further business
13 before the Senate, I move that we adjourn until
14 June 17th, Friday, at 11:00 a.m.

15 ACTING PRESIDENT MAZIARZ: On
16 motion, the Senate stands adjourned until Friday,
17 June 17th, at 11:00 a.m.

18 (Whereupon, at 11:23 p.m., the
19 Senate adjourned.)

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