NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 22, 2011

12:05 p.m.

REGULAR SESSION

LIEUTENANT GOVERNOR ROBERT J. DUFFY, President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

Please rise and join me in the Pledge of Allegiance.

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

THE PRESIDENT: In the absence of clergy, please join me in a moment of silence.

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

THE PRESIDENT: The Secretary will read the Journal.

THE SECRETARY: In Senate, Tuesday, June 21, the Senate met pursuant to adjournment. The Journal of Monday, June 20, was read and approved. On motion, Senate adjourned.

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

Next, presentation of petitions.

Messages from the Assembly.

The Secretary will read.

THE SECRETARY: On page 7, Senator Espaillat moves to discharge, from the Committee on Rules, Assembly Bill Number 6324B and substitute it for the identical Senate Bill Number 1880B, Third Reading Calendar 220.

On page 8, Senator Gallivan moves to discharge, from the Committee on Rules, Assembly Bill Number 7599B and substitute it for the identical Senate Bill Number 4050B, Third Reading Calendar 300.

On page 19, Senator Carlucci moves to discharge, from the Committee on Local Government, Assembly Bill Number 2367B and substitute it for the identical Senate Bill Number 4293, Third Reading Calendar 872.

On page 22, Senator Golden moves to discharge, from the Committee on Local Government, Assembly Bill Number 6319 and substitute it for the identical Senate Bill Number 3896, Third Reading Calendar 986.

And on page 30, Senator Young moves to discharge, from the Committee on Rules, Assembly Bill Number 8242 and

substitute it for the identical Senate Bill Number 5649, Third Reading Calendar 1179.

THE PRESIDENT: Substitutions so ordered.

Next, messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President.

On behalf of Senator Stewart-Cousins, I move to amend Senate Bill Number 2374A by striking out the amendments made on 3/9/11 and restoring it to its original print number, 2374.

THE PRESIDENT: So ordered.

SENATOR BRESLIN: Thank you, Mr. President.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

On behalf of Senator McDonald, I

wish to call up his bill, Print Number 3411A, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1458, by Senator McDonald, Senate Print 3411A, an act in relation to allowing John R. Panichi.

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

THE PRESIDENT: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

THE PRESIDENT: The bill is restored to third reading.

Senator Libous.

SENATOR LIBOUS: Mr. President, we have an active list in front of us. At this time can we do the noncontroversial reading of that list.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 57,

by Senator Klein, Senate Print 990A, an act to amend the Social Services Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 220, substituted earlier by Member of the Assembly Castro, Assembly Print 6324B, an act to amend the General Business Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 235, by Senator Stewart-Cousins, Senate Print 2374, an act to authorize the County of

Westchester.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 300, substituted earlier by Member of the Assembly Robinson, Assembly Print 7599B, an act to amend the Family Court Act.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 872, substituted earlier by Member of the Assembly Jaffee, Assembly Print 2367B, an act to

authorize.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49. Nays, 1. Senator Bonacic recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 986, substituted earlier by Member of the Assembly Linares, Assembly Print 6319, an act to amend the Real Property Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1179, substituted earlier by Member of the Assembly Lopez, Assembly Print 8242, an act to

amend the Private Housing Finance Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1419, by Senator Flanagan, Senate Print 1883A, an act to amend the Insurance Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 60th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Flanagan to explain his vote.

SENATOR FLANAGAN: Thank you, Mr. President.

Mr. President, this has been commonly referred to as the breast density bill. And to my colleagues, I appreciate anyone who

will be voting in favor of this.

A lot of times we get legislation that we introduce as a result of things that happen to people in an adverse way. And I have had the privilege and good fortune of meeting a woman named JoAnn Pushkin from my home community who, as a result of a misreading and an improper diagnosis, has had to battle cancer for a number of years. She's doing well. She's a delightful individual. And she has channeled her energies into working on issues like this.

And this is one of the few times I feel comfortable getting up and saying even though someone will say this is an insurance mandate, I firmly believe that this will save costs in the long run. Because you're going to get better readings, you're going to get better information, and this is more in the line of prevention and getting something addressed before something negative happens rather than after the fact.

This issue is gaining a lot of notoriety across the country. New York, by passing this law, will be ahead of many other states.

And I will say this. I've learned a lot about this issue in talking to people, and particularly advocates in this area. And one thing that really struck me more than anything else is that most women are unaware of this whole issue. There are roughly 50 percent of women who have, quote, unquote, dense breasts, and many of them don't even know that. So the notice provisions in here and the additional coverage will go a long way towards protecting women hopefully not only just in this state but across the country.

Mr. President, I am voting in the affirmative. Thank you.

THE PRESIDENT: Thank you, Senator.

Senator Flanagan's vote will be recorded in the affirmative.

Senator Krueger.

SENATOR KRUEGER: Thank you.

I rise to commend the sponsor of the bill for movement of the bill to the floor, and hopefully it will become the law of New York State.

When I entered the New York State Senate about nine years ago, I was fighting for

the passage of the Women's Health and Wellness Act, which would finally have allowed any mammography coverage mandatory in New York State insurance. And the technology has improved, and the models for how to detect breast cancer in women and men have moved forward.

And on behalf of statistically a huge percentage of the women in New York State who may in fact face a diagnosis of breast cancer at some point in their lives, this is a very important bill to pass.

And yes, there are insurance companies who object and who are opposed to new mandates on health insurance. But if you look at the statistics on breast cancer, if you look at the statistics on unsatisfactory diagnosis early on, particularly among women who have denser breast tissue, clearly in 2011 the technology is available to ensure that all women get correct diagnoses. And it is the responsibility of this state to ensure that insurance coverage is there for every woman and the statistically still small number of men who may also face breast cancer.

So I'm very glad this bill is passing today. Thank you. I'll vote yes.

THE PRESIDENT: Thank you, Senator.

Senator Krueger's vote will be recorded in the affirmative.

Senator Hassell-Thompson.

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

I rise to commend Senator Flanagan on the passage of this bill, primarily because, as you heard from Senator Liz Krueger, the numbers of women who in their first stage of diagnosis have masses in their breast, and even though at that time cancer is not clearly indicated, what these follow-up tests will do is to help to monitor and make sure that we catch as many women as we can in the very early stages. It is so tragic when women don't become aware until Stage 4 and it's too late to do anything about this disease.

But certainly he is to be commended. And I am very proud to be one of the people who will be here to vote for this bill.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

Senator Hassell-Thompson will be recorded in the affirmative.

Next, Senator Montgomery.

SENATOR MONTGOMERY: Thank you, Mr. President.

I rise to also thank my colleague Senator Flanagan. It's very personal, because I'm one of those people who has the issue of dense breast tissue. And it's been very often problematic in the general way of having the mammograms. So I thank you for myself and for certainly many, many of the other women who have the same issue and now will be able to have their insurance company cover the cost of the ultrasound.

So certainly I'll be voting in the positive and want to say I'm very happy that I'm able to vote yes on a bill that has such an important personal impact on my own life.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

Senator Montgomery's vote will be recorded in the affirmative.

Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. President.

I too would like to compliment

Senator Flanagan for this legislation. I see it as an expansion of the woman's health bill that we did back in 2004, when we required insurance companies to have coverage for women for osteoporosis, breast cancer detection through mammograms.

And what we found out then and what you all know is that when a man or a woman has breast cancer -- and I think the incidence of a man is 1 in 8, and women is much more predominantly in having it, the costs are astronomical on the back end of trying to cure the woman or at least contain breast cancer.

What this legislation does, it's educational, it's preventative. And I think in the long run it will help diminish healthcare costs for those individuals that are fortunate, because of this legislation, to detect the possibility of breast cancer and get it early, prevent it and lead a very healthy life.

So thank you, Senator Flanagan. I vote in the affirmative. Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

Senator Bonacic's vote will be

recorded in the affirmative.

Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you, Mr. President.

Actually, Senator Bonacic said a good deal of what I was going to say, that in the long run this is a cost-saver. We know that if we can catch breast cancer early, it doesn't metastasize to the extent where very radical procedures are necessary.

And I am one of the fortunate survivors of early detection of breast cancer, and here I am 24 years later and very happy to support Senator Flanagan's bill. Thank you, John.

THE PRESIDENT: Thank you, Senator.

Senator Oppenheimer's vote will be recorded in the affirmative.

Senator LaValle.

SENATOR LaVALLE: Thank you, Mr. President.

I want to congratulate Senator Flanagan on this. I think, as everyone knows, early detection is a key.

And I was thinking, when Senator

Bonacic was talking, because he was right on target, that many, many years ago there was a FRAM oil filter ad on television: "Pay me now or pay me later." So this actually is, is a measure that will save money in the long run. But most importantly -- most importantly -- it will save lives.

I vote in the affirmative.

THE PRESIDENT: Thank you, Senator.

Senator LaValle will be recorded in the affirmative.

Any other Senators wishing to speak on this bill?

The Secretary will announce the results.

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

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

SENATOR LIBOUS: Mr. President, I believe Senator Breslin has a motion.

THE PRESIDENT: Returning to motions and resolutions.

Senator Breslin.

SENATOR BRESLIN: Thank you,

Mr. President.

On behalf of Senator Espaillat, I wish to call up Senate Print Number 3114A, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 195, by Senator Espaillat, Senate Print 3114A, an act to amend the Public Housing Law.

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

THE PRESIDENT: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

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

THE PRESIDENT: The amendments are received.

SENATOR BRESLIN: Thank you, Mr. President.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Mr. President,

there is a resolution at the desk by Senator Carlucci. I would ask at this time if we could read the title and move on the resolution.

THE PRESIDENT: The Secretary will read the resolution.

THE SECRETARY: Legislative resolution by Senator Carlucci, memorializing Governor Andrew M. Cuomo to proclaim Sunday, August 21, 2011 as Onion Appreciation Day in the State of New York.

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

(Response of "Aye.")

THE PRESIDENT: Any opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, at this time we need to do some back room mechanics before the next Rules report. And I believe that the Democrats will be conferencing soon; we'll leave that up to them to determine a time.

But I'm going to call a Rules

Committee meeting at 1:35, 1:35 in Room 332. There will be a Rules Committee meeting at 1:35 in Room 332.

THE PRESIDENT: Rules Committee meeting at 1:35 in Room 332.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 12:23 p.m.)

(Whereupon, the Senate reconvened at 2:58 p.m.)

THE PRESIDENT: The Senate will come to order.

Senator Libous.

SENATOR LIBOUS: Mr. President, could we go to reports of standing committees, please.

I believe there's a report of the Rules Committee at the desk. Could we have it read and then adopt it.

THE PRESIDENT: The Secretary will read.

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

Senate Print 108, by Senator Diaz,

an act to amend the Penal Law;

325, by Senator Montgomery, an act to amend the Public Health Law;

649, by Senator Sampson, an act directing the Commissioner of Education;

1053, by Senator Parker, an act to amend the Public Service Law;

1642, by Senator Breslin, an act to amend the Public Authorities Law;

3213, by Senator Nozzolio, an act to amend the Vehicle and Traffic Law;

3987B, by Senator LaValle, an act to amend the Education Law;

4257C, by Senator Golden, an act to amend the Executive Law;

4287A, by Senator Johnson, an act to amend the Environmental Conservation Law;

4597A, by Senator Hannon, an act to amend the Public Health Law;

5022A, by Senator Addabbo, an act to amend the Penal Law;

5668, by Senator Ball, an act to authorize the Town of Kent;

5717, by Senator Golden, an act to amend the Real Property Tax Law;

5722, by the Committee on Rules, an act to amend the Education Law;

5729, by Senator Bonacic, Concurrent Resolution of the Senate and Assembly;

5747, by Senator Libous, an act to amend the Insurance Law;

5763, by Senator Young, an act to amend the Administrative Code of the City of New York;

5792, by Senator McDonald, an act to amend the Mental Hygiene Law;

5796, by Senator McDonald, an act to amend the Mental Hygiene Law;

5827, by Senator Bonacic, Concurrent Resolution of the Senate and Assembly;

And 5828, by Senator Ball, an act to amend the Environmental Conservation Law.

All bills ordered direct to third reading.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Mr. President, could we move to accept the Rules report.

THE PRESIDENT: All in favor of accepting the report of the Rules Committee signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Any opposed?

(No response.)

THE PRESIDENT: The Rules report is accepted.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

At this time can we take up Supplemental Calendar 58A, the noncontroversial reading.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1467, by Senator Diaz, Senate Print 108, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the first of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to

Calendar Number 1470, Senator Montgomery moves to discharge, from the Committee on Rules, Assembly Bill Number 1747 and substitute it for the identical Senate Bill Number 325, Third Reading Calendar 1470.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1470, by Member of the Assembly Gunther, Assembly Print 1747, an act to amend the Public Health Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1492, by Senator Sampson, Senate Print 649, an act directing the Commissioner of Education.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 1492, those recorded in the negative are Senators Little and Marcellino.

Ayes, 59. Nays, 2.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1493, Senator Parker moves to discharge, from the Committee on Rules, Assembly Bill Number 4161 and substitute it for the identical Senate Bill Number 1053, Third Reading Calendar 1493.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1493, by Member of the Assembly Pretlow, Assembly Print 4161, an act to amend the Public Service Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This

act shall take effect on the 90th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1494, by Senator Breslin, Senate Print 1642, an act to amend Public Authorities Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1495, by Senator Nozzolio, Senate Print 3213, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 1495, those recorded in the negative are Senators Addabbo, Avella, Ball, Dilan, Duane, Gianaris, Huntley, L. Krueger, C. Kruger, Montgomery, Perkins, Ritchie, Rivera, Squadron, Stavisky, and Stewart-Cousins.

Ayes, 45. Nays, 16.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar 1496, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 8159A and substitute it for the identical Senate Bill Number 3987B, Third Reading Calendar 1496.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1496, by Member of the Assembly Glick, Assembly Print 8159A, an act to amend the Education Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1497, by Senator Golden, Senate Print 4257C, an act to amend the Executive Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1498, Senator Johnson moves to discharge, from the Committee on Commerce, Economic Development and Small Business, Assembly Bill Number --

SENATOR LIBOUS: Lay it aside for the day.

THE PRESIDENT: Senator Libous, we need to do the substitution first.

The Secretary will read.

THE SECRETARY: Senator Johnson moves to discharge, from the Committee on Commerce, Economic Development and Small Business, Assembly Bill Number 7988 and substitute it for the identical Senate Bill Number 4287A, Third Reading Calendar 1498.

THE PRESIDENT: Substitution ordered.

The bill is laid aside for the day.

THE SECRETARY: Calendar Number 1499, by Senator Hannon, Senate Print 4597A, an act to amend the Public Health Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator DeFrancisco to explain his vote.

SENATOR DeFRANCISCO: I'm going to vote yes on this bill because the bill talks about these office-based surgery centers seeking reimbursement, it doesn't really say that they're

entitled to it.

What I think is the big question -- it's apparently a one-house bill, so when this is negotiated, my only concern is there are ambulatory care centers that have to go through the certificate of need process. And my question that hasn't been satisfactorily answered to date is if this is allowed where just office-based surgery centers can get reimbursed by insurance companies for a portion of their expenses of having the surgeries at the facility, or the facility expenses, why do you have to go through a certificate of need process? And how would it affect the certificate of need process?

So I'll vote yes knowing it's a one-house bill and that it's just seeking, they are allowed to seek reimbursement, and it doesn't really mandate it.

Thank you, Mr. President.

THE PRESIDENT: Senator DeFrancisco will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 61.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1500, by Senator Addabbo, Senate Print 5022A, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1501, Senator Ball moves to discharge, from the Committee on Rules, Assembly Bill Number 8270 and substitute it for the identical Senate Bill Number 5668, Third Reading Calendar 1501.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1501, by Member of the Assembly Galef, Assembly Print 8270, an act to authorize the Town of Kent.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1502, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 8286 and substitute it for the identical Senate Bill Number 5717, Third Reading Calendar 1502.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1502 --

SENATOR LIBOUS: Lay it aside for the day.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 1503, by the Committee on Rules, Senate Print 5722, an act to amend the Education Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1504, by Senator Bonacic, Senate Print 5729, Concurrent Resolution of the Senate and Assembly.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The resolution is adopted.

THE SECRETARY: In relation to Calendar Number 1505, Senator Libous moves to discharge, from the Committee on Rules, Assembly Bill Number 8251 and substitute it for the identical Senate Bill Number 5747, Third Reading Calendar 1505.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1505, by Member of the Assembly Braunstein, assembly Print 8251, an act to amend the Insurance Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1506, by Senator Young, Senate Print 5763 --

SENATOR BRESLIN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 1507, Senator McDonald moves to discharge, from the Committee on Rules, Assembly Bill Number 8322 and substitute it for the identical Senate Bill Number 5792, Third Reading Calendar 1507.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1507, by Member of the Assembly Schroeder, Assembly Print 8322, an act to amend the Mental Hygiene Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1508, Senator McDonald moves to discharge, from the Committee on Rules, Assembly Bill Number 8330 and substitute it for the identical Senate Bill Number 5796, Third Reading Calendar 1508.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

1508, by Member of the Assembly Weisenberg, Assembly Print 8330, an act to amend the Mental Hygiene Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first of January.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1509, by Senator Bonacic, Senate Print 5827, Concurrent Resolution of the Senate and Assembly.

THE PRESIDENT: Call the roll on the resolution.

(The Secretary called the roll.)

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

THE PRESIDENT: The resolution is adopted.

THE SECRETARY: In relation to Calendar Number 1510, Senator Ball moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 468 and

substitute it for the identical Senate Bill Number 5828, Third Reading Calendar 1510.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1510, by Member of the Assembly Gunther, Assembly Print 468, an act to amend Environmental Conservation Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

Senator Libous, that completes the reading of the noncontroversial supplemental calendar.

SENATOR LIBOUS: Thank you, Mr. President.

Mr. President, at this time we will move to a controversial reading of the calendar. And if we could just wait a second for the

sponsor of the bill, who will be debating, to come into the chamber.

In the meantime, Mr. President, if we can go to motions.

THE PRESIDENT: Motions and resolutions.

SENATOR LIBOUS: Thank you, Mr. President.

On behalf of Senator Grisanti, I wish to call up his bill, Senate Print 3134A, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 267, by Senator Grisanti, Senate Print 3134A, an act to amend the Criminal Procedure Law.

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

THE PRESIDENT: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

SENATOR LIBOUS: Mr. President, I

now offer up the following amendments.

THE PRESIDENT: The amendments are received.

SENATOR LIBOUS: Thank you, Mr. President.

THE PRESIDENT: The Secretary will ring the bell.

Senator Libous.

SENATOR LIBOUS: Mr. President, I think we are now ready to take up the controversial reading of this calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1506, by Senator Young, Senate Print 5763, an act to amend the Administrative Code of the City of New York.

SENATOR SQUADRON: Explanation.

THE PRESIDENT: Senator Young, an explanation has been requested by Senator Squadron.

SENATOR YOUNG: Thank you, Mr. President.

This bill would provide the opportunity for property owners to repay the City

of New York the amount of the J-51 benefits that they received, plus 9 percent interest that they would have gotten from the city, and waive the amount of future benefits to which they would otherwise be entitled.

In addition, this bill would allow for resolution to and implementation of brought about from the Roberts decision, the court decision.

THE PRESIDENT: Senator Squadron.

SENATOR SQUADRON: Would the sponsor yield.

THE PRESIDENT: Senator Young, will you yield?

SENATOR YOUNG: Yes, Mr. President.

THE PRESIDENT: The Senator yields.

SENATOR SQUADRON: Thank you very much.

So are there specific developments or addresses, apartment buildings that this bill would affect?

SENATOR YOUNG: Well, basically -- Mr. President through you -- there was a 1996 opinion from the Division of Housing and Community Renewal that said that these high-rent

apartments could still receive the J-51 benefits but also, if they were set to be deregulated, they could be deregulated.

In the year 2000, that opinion from the Division of Housing and Community Renewal actually became a regulation. And at that time it went through the regulatory process. It was subject to public comment and review; no one complained. And since that time there has not been one piece of legislation that's been produced that would overturn the regulation.

So basically there was a court decision, the Roberts decision in 2009 that left a lot of unopened or unresolved questions. And at the time the court said that it would be beneficial for the Legislature to take action on this issue and come up with a resolution. So basically this piece of legislation answers all of the questions that were left open by the courts.

Right now the Division of Housing and Community Renewal says that this affects up to 40,000 units in New York City. And if we have to go through the process to negotiate each case in those 40,000 units, go through the appeals

process, possible litigation on this, it could take years and also really strain the court system. And on top of that, it would cost a great deal of money in order to resolve it.

So this is a compromise bill. It would allow the owners, as I said, to pay back the J-51 benefits with 9 percent interest to the city. It would answer the unopened questions. And it would give the tenants the opportunity to be able to give input during the process.

SENATOR SQUADRON: Will the sponsor continue to yield.

THE PRESIDENT: Senator Young, will you yield?

SENATOR YOUNG: Yes, I will.

THE PRESIDENT: The Senator yields.

SENATOR SQUADRON: So I appreciate that. And I think we're going to -- we'll, as we talk this afternoon, talk a little bit about what compromise means and all that.

But just in the simplest level, are there specific addresses in the State of New York that this would affect? Obviously the Roberts decision was mentioned. Are you aware of any specific developments in the State of New York

that would be fact affected by this bill? Just looking for a list of the developments that you're aware of, based on the court decision, that would be affected by this bill.

SENATOR YOUNG: Through you, Mr. President. It's not geared towards any one development. It's actually based on addressing comprehensively the 40,000 units that were impacted by the Roberts decision.

SENATOR SQUADRON: Would the sponsor continue to yield.

THE PRESIDENT: Senator?

SENATOR YOUNG: Yes.

THE PRESIDENT: The Senator yields.

SENATOR SQUADRON: Would this bill affect Stuyvesant Town and Peter Cooper Village?

SENATOR YOUNG: Yes, it would. About 4400 units in Sty Town and Peter Cooper Village that would be affected, out of a total of about 40,000.

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

THE PRESIDENT: Senator Young?

SENATOR YOUNG: Yes.

THE PRESIDENT: The Senator yields.

SENATOR SQUADRON: Thank you.

In Senator Young's bill on page 15 there's reference to sort of a very specific definition of former Mitchell-Lamas. And I was just wondering, does Senator Young know of any specific address or development that that very specific provision would apply to?

SENATOR YOUNG: Through you, Mr. President, it would apply to Independence Plaza North and any other units that would meet these requirements.

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

THE PRESIDENT: Senator Young?

SENATOR YOUNG: Certainly, Mr. President.

SENATOR SQUADRON: Through you, Mr. President. Does that provision on page 15 apply to any other addresses, to the sponsor's knowledge?

SENATOR YOUNG: Through you, Mr. President, not that I'm aware of.

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

SENATOR YOUNG: Yes.

SENATOR SQUADRON: I appreciate that.

The sponsor may know that a housing development in my district is 1350 units, 3500 residents. I assume, since that's in my district and this provision only applies to that one development, that certainly that provision doesn't apply to anything in the sponsor's district. Let me just ask, does any part of this bill apply to any address, housing unit constituent in the sponsor's district?

SENATOR YOUNG: Through you, Mr. President. No, it doesn't. But it applies to an issue that needs to be handled by the Legislature.

Actually in May of 2010, Governor Paterson had a program bill through DHCR that was actually similar to a previous bill that I had introduced on this topic.

So this is something that needs to be handled. And I think it's the responsible thing to do to have this legislation to answer these open questions.

SENATOR SQUADRON: Thank you.

Thank you. Would the sponsor continue to yield.

SENATOR YOUNG: Yes, Mr. President.

THE PRESIDENT: The sponsor yields.

SENATOR SQUADRON: So I appreciate the fact that there were certainly some folks who are unhappy with the Roberts decision, and they would love to come to the Legislature and have the Legislature undo that court decision. And, you know, there are a number of landlords, a number of folks who invested in real estate and weren't very happy with the tenant protections that the Roberts decision affirmed were already existing in current law.

So let me just understand, because I work very closely with my constituents who would be affected by this bill, with my 3,000 constituents that this bill would impose higher rents on. And so let me ask, when the sponsor talks about a compromise solution in this bill, who is the compromise between?

SENATOR YOUNG: It actually is between a previous bill and the current bill.

But I want -- through you, Mr. President, I want Senator Squadron to remember that this version of the bill maintains

the tenants' rights, in that if they -- even if the owner pays back the J-51 benefits, the tenants would still stay in a stabilized situation if that's where they were when all of this occurred.

If a tenant came in after the fact, signed a new lease and wasn't in that particular apartment when all this was going on, then the stabilization would not apply. But all the tenants that were there actually would continue to receive the stabilization.

SENATOR SQUADRON: Would the sponsor continue to yield?

SENATOR YOUNG: Yes.

THE PRESIDENT: Senator Young yields.

SENATOR SQUADRON: So just to be clear, the sponsor just said that under this bill the residents of IPN would continue to be under rent stabilization pursuant to the Roberts decision, just as if this bill didn't pass. Just to be clear, the sponsor's view is that that's true for every resident in each of the 1,350 units at IPN? Because as I read the bill, in fact if you're not rent-regulated as of the

effective date of the bill, then you're no longer rent-regulated and those units are lost.

So if the sponsor wouldn't mind clarifying the difference between what was just said and the text of the bill.

SENATOR YOUNG: Thank you, Mr. President. Just to clarify, the tenants would remain deregulated through the terms of their lease.

SENATOR SQUADRON: Thank you.

Would the sponsor continue to yield?

THE PRESIDENT: Senator Young.

SENATOR YOUNG: Yes, Mr. President.

THE PRESIDENT: The Senator yields.

SENATOR SQUADRON: Thank you.

Right, so there are some units that would otherwise be regulated that wouldn't be regulated under this bill.

Let me ask sort of more broadly. The sponsor talks a lot about the need for clarification in order to save the courts from fully enacting the Roberts decision and the effects of the Roberts decision in secondary

cases such as the one affecting IPN.

Let me just ask, then, what would be the effect of this bill on IPN and only IPN, as far as we can tell, as defined on page 15 of the bill, in terms of limiting the court's ability to make the residents whole for having been overcharged under the precepts of the Roberts decision?

SENATOR YOUNG: Through you, Mr. President. Could you maybe restate that question to be a little bit more clear?

SENATOR SQUADRON: Absolutely.

What would this bill do to limit the court's ability to make tenants whole?

SENATOR YOUNG: Basically -- through you, Mr. President -- the Roberts decision specifically stated in its opinion that the Legislature was the proper forum to address and resolve the resulting issues. So they left a lot of these things wide open and said that it should be up to the Legislature to try to fix it.

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

SENATOR YOUNG: Yes.

SENATOR SQUADRON: Actually, I believe the Roberts decision said that the lower courts should figure out the details of the decision and left it up to the lower courts to do that, did not ask the Legislature.

Let me ask this. Has Justice Friedman, who's the person who has heard the IPN case, asked for the Legislature to weigh in and define down the tenants' rights under the Roberts decision?

SENATOR YOUNG: Through you, Mr. President. As I stated previously, the courts said that we needed to come up with a resolution through the Legislature to many of these issues.

As I also stated previously, this is something that maintains tenants' rights and at the same time it solves the issue. Which by the way, Mr. President, could remain open for years and years and years and years and could clog up the courts, and actually there would be no resolution to this.

So this is just a way legislatively to handle the situation, a very positive way. It gives tenants the rights through the legislation,

and at the same time it allows for the owners to have certainty. One of the issues outstanding right now is that the owners are basically in limbo and they can't do anything with the buildings. They can't sell them, they can't do anything with them.

And so this is something that needs to be tackled, and that's what's this piece of legislation does.

SENATOR SQUADRON: If the sponsor would continue to yield.

SENATOR YOUNG: Yes.

SENATOR SQUADRON: Thank you.

So just to be clear, in the case of IPN -- and again, as I can tell, Section 11 of this bill only applies to IPN. It only applies to those 3500 residents in my district, it only applies to the one landlord who is unhappy with the court's decision. Let's be very, very clear. The judge -- I'm sorry, if the sponsor would yield for the question, I appreciate it.

SENATOR YOUNG: Sure.

SENATOR SQUADRON: The judge in the IPN case has not requested the Legislature to weigh in and define the rights of the tenants in

the IPN case, is that correct? So that Section 11 of this bill is not based on any request from the court to define what the tenants can and cannot get, what the tenants' rights are and are not. This is not at the request of any court, correct?

SENATOR YOUNG: Through you, Mr. President, that is true.

But that section would apply to anyone else who would qualify under these provisions also.

SENATOR SQUADRON: If the sponsor would continue to yield, is there any court that has requested for the Legislature to weigh in on this question, this specific J-51 Mitchell-Lama question?

SENATOR YOUNG: Through you, Mr. President, not that I'm aware of.

SENATOR SQUADRON: Thank you very much.

So let me ask again, if the sponsor wouldn't mind -- the sponsor I know said this is a compromise between the previous bill and this bill. I really need to understand. It seems that we have the highest court in the state

making a pretty clear definition of the requirements for rent regulation and for tenant protections under J-51 and other provisions. We have a justice in New York County very clearly weighing in and saying the J-51 law is very clear, these tenants have certain rights under it. We have no one claiming chaos or concerns. We have a landlord who's unhappy with the decision. And then we have this provision that would negatively affect my constituents in some pretty significant ways we're going to get into.

So I have to ask, why do we need this provision? Who except for the IPN landlord benefits? Who except for the IPN landlord is asking for this?

SENATOR YOUNG: Through you, Mr. President. Just to disagree somewhat with what Senator Squadron just said, this big issue, the reason that we're doing this legislation is that the Court of Appeals specifically stated in its opinion that chaos could result from the implementation of its decision. So it acknowledged that these are outstanding issues that need to be handled by the Legislature.

SENATOR SQUADRON: If the sponsor

would continue to yield.

THE PRESIDENT: Senator Young?

SENATOR YOUNG: Yes, Mr. President.

THE PRESIDENT: The Senator yields.

SENATOR SQUADRON: Isn't what the court said that -- didn't the court say that if the landlords feel this is unduly burdensome they are free to seek a legislative solution? Which -- just to put two questions in one, in the interests of time, wouldn't that suggest that the only person who's looking for a legislative solution in terms of IPN is a single landlord who apparently would like a legislative solution?

SENATOR YOUNG: Through you, Mr. President. Senator Squadron's statements absolutely are not true.

But as I stated previously, the court decision could apply, DHCR says, to up to 40,000 units.

SENATOR SQUADRON: If the sponsor would continue to yield.

THE PRESIDENT: Senator Young?

SENATOR YOUNG: Yes, Mr. President.

THE PRESIDENT: The Senator yields.

SENATOR SQUADRON: As we've talked about this afternoon, this provision of this bill would, alone, affect 3500 residents in a building that -- let me tell you, I was there two weekends ago. There's no chaos at IPN right now. This decision has not caused chaos. This is a provision that would only benefit a single landlord who is not happy with the provisions of law that have been pretty clearly stated by a court. So I don't know what -- I don't know which one of those statements could possibly be seen to be untrue.

However, to move on, since it's pretty clear that this is a bill that is really only in the interests of a single landlord who doesn't like a court decision and would like the Legislature to overturn it, can I ask, currently, under Justice Friedman's order relative to the case IPN Tenants vs. Gluck, what overcharge repayments would tenants be due compared to what would be allowed if this bill passed into law?

SENATOR YOUNG: Through you, Mr. President, the overcharge and the treble damages would be waived through the payment.

SENATOR SQUADRON: I'm sorry, I

apologize. If the sponsor would repeat that.

SENATOR YOUNG: Through you, Mr. President.

THE PRESIDENT: Senator.

SENATOR YOUNG: The overcharge and the penalties would be waived. And those would be waived if the landlord and the tenant agreed to negotiate a new base rate.

And by the way, if the tenant does not agree with that, they can still avail themselves of the court process.

SENATOR SQUADRON: If the sponsor would continue to yield.

THE PRESIDENT: Senator Young.

SENATOR YOUNG: Yes.

THE PRESIDENT: The Senator yields.

SENATOR SQUADRON: Let me just ask, is this new provision that would -- just to be very, very clear, so the provisions that the sponsor just described -- and there's a little background chatter here, so forgive me, I didn't hear every word, but I think I understood.

Just to be clear, though, in big picture the provisions of this bill would mean that tenants -- whether they were tenants before

2006, after 2006, before 2010, after 2010, before the time this bill is enacted, after the time this bill is enacted -- tenants in every class, regardless of when they moved into IPN, would have less recourse, would be due less dollars from the landlord and would have higher rents if this bill were to pass than if it weren't to pass, is that correct?

Just so it's pretty clear, I think it's -- if one of those classes, that's not true, let me know. But I just want to be very clear. Whatever the class of tenant in IPN, they will be due less in terms of overcharges from the landlord and they will be paying higher rents if this bill passes, correct?

SENATOR YOUNG: Through you, Mr. President. There's nothing that forces the tenants to avail themselves of this process. It's just another tool. So if they still wanted to file an overcharge complaint with DHCR and go through that process, they still would be able to do that also.

SENATOR SQUADRON: If the sponsor would continue to yield.

THE PRESIDENT: Senator Young?

SENATOR YOUNG: Yes.

THE PRESIDENT: The Senator yields.

SENATOR SQUADRON: I'm a little stumped by that answer, because I'm fairly certain that this bill would attempt to create rent stabilization prospectively, not retrospectively, which is what the court has clearly said. So I'm a little stumped as to what the tenants' voluntary ability to avail themselves of this provision or not is in this bill.

Again, pretty clear question. We have tenants in a number of different classes set out in this bill, having to do with a date in 2006, a date in 2010, the effective date of this bill. So you have whatever that is, eight classes of tenants. Each of those eight classes of tenants would be due a combination of less in overcharges or would have to pay more rent if this bill passed than if it didn't.

SENATOR YOUNG: Okay, this is some of the background that I hope will answer Senator Squadron's questions. The class of apartments impacted by the decision includes tenants in occupancy on exit date from Mitchell-Lama

program, and that would be 6/28/2004, and free-market tenants who took occupancy after 6/28/2004 or while the J-51 was determined by the court to have been received.

J-51 was paid back in part on 4/2/2006. So the proposed legislation would rent-stabilize those current tenants who were in occupancy on 6/28/2004 but were not recipients of Section 8 benefits but who did participate in the landlord assistance program agreed to by the owners and the tenants association.

This proposed legislation also will rent-stabilize those free-market current tenants who took occupancy between 6/28/2004 and April 2, 2006. And that was the date J-51 was paid back in part.

All the units will be stabilized at the rent billed on August 30, 2010. And the above assumes total payback of the J-51 benefit plus interest at 9 percent.

SENATOR SQUADRON: If the sponsor would continue to yield.

THE PRESIDENT: Senator Young?

SENATOR YOUNG: Yes, Mr. President.

THE PRESIDENT: The Senator yields.

SENATOR SQUADRON: I suppose that the simple yes-no question is not going to get a response on the floor today.

So clearly the answer to that question is yes, every single tenant, regardless of when they moved into IPN, would either be due less in repayments for overcharges or would have higher rents if this bill passed, period. I think the long answer makes that very, very clear. It makes sense, since the landlord seems to be the only one who feels that we need a legislative fix here.

Let me move on to the next question, though, which is --

SENATOR YOUNG: Mr. President, through you.

THE PRESIDENT: Senator Young.

SENATOR YOUNG: Just to answer Senator Squadron's question, there's no mandate that a tenant has to avail themselves of this process. So what you just stated actually was factually incorrect.

SENATOR SQUADRON: I think I was in the middle of a question, so -- we don't entirely understand what the "voluntary process" means

relative to a bill that is supposed to create clarification on an issue that is still before the court.

It seems to me this issue is still before the court. The court is likely to decide it in a way to be very, very clear that these folks were in fact rent-stabilized, are in fact due significant repayments for overcharges plus interest.

If this bill passed, that process would no longer be the case. The court would rely on this bill rather than current law and current procedure. So this concept that the tenants might not need to avail themselves of this specific process is a little disingenuous, since it's pretty clear the court would avail themselves of this bill in order to conclude this if this bill passes.

And if this bill doesn't pass, the court will avail themselves of current law. And we know what will happen under current law: These tenants will get repayments for the overcharges, plus interest. These tenants will have rent stabilization continuously, based on the date of the J-51 or the date of the

privatization, and all of these other factors wouldn't be relevant. So this concept of voluntary participation is I think a red herring at best.

Let's just be clear, though. Under current law, if it's determined -- if the court finally determines the landlord was wrong to destabilize the units and these tenants are due overcharges based on the existing DHCR procedure, under current law would the tenants do better than they would if the court made that same decision and this law were in effect?

SENATOR YOUNG: Through you, Mr. President. It's actually the same, Senator Squadron, because they can still go to DHCR and file a complaint. So under this scenario the tenant can choose.

SENATOR SQUADRON: If the sponsor would continue to yield.

THE PRESIDENT: Senator Young?

SENATOR YOUNG: Yes.

SENATOR SQUADRON: I may have missed a provision of this law. Would DHCR be bound by this law if it were passed?

SENATOR YOUNG: Pardon me?

SENATOR SQUADRON: If this became a chapter, would DHCR be bound by it or not?

SENATOR YOUNG: Through you, Mr. President, I'll say it one more time. This is actually another avenue for the tenant and the landlord to negotiate. It's an option. It adds to the options that they have. If they choose not to pursue this option, they can still file an overcharge complaint with DHCR.

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

THE PRESIDENT: Senator Young?

SENATOR YOUNG: Yes.

SENATOR SQUADRON: We don't have quite the staff support in the minority that one has in the majority. Can you just show me the citation in the bill for this being an optional avenue for tenants who prefer it? Because it seems to me that's a large part of the crux of our disagreement today.

SENATOR YOUNG: Through you, Mr. President, we don't have the exact section -- and I can look that up -- because it's a multipage bill. But I can give the response.

The tenant response to the owner notice is that within 35 days the tenant must respond to the above notice. The tenant actions in response also are, number one, they can agree to the owner's calculations, or they can agree to a different calculation with the owner, or they can -- and this is a third option -- they can file a complaint with DHCR.

SENATOR SQUADRON: Would the sponsor continue to yield?

SENATOR YOUNG: And by the way, just to finish that thought, if the tenant selects the first or second option and the owner makes refund, then neither the legal rent nor the refund can be challenged by the tenant or subsequent tenant. However, if the agreement mandates that the tenant vacates, then subsequent tenants can challenge the rent.

Also, within six months after the effective date, the owner must offer refund to the tenant. The owner's good-faith calculation and refund offered is to avoid treble damages and other penalties.

SENATOR SQUADRON: Would the sponsor continue to yield.

THE PRESIDENT: Senator Young?

SENATOR YOUNG: Yes, Mr. President.

THE PRESIDENT: Senator Young yields.

SENATOR SQUADRON: First of all, I'm happy to wait, and I'm sure our colleagues are as well, while we look for the citation suggesting this is optional. That that citation there, as I read the bill, deals with the Roberts component of this bill, not the special IPN section of this bill.

So when we talk about an avenue for my constituents who would be negatively impacted by this bill because the Legislature would be swooping in and stopping the court from ensuring that the current law is followed, I don't understand how that provision -- I have some serious question with whether that provision is in fact optional. It seems to me that's essentially the DHCR system.

But it also doesn't apply to my constituents, correct?

SENATOR YOUNG: Through you, Mr. President, I would have to take a closer look at the bill to determine the section. But we

would certainly take that, you know, under advisement and I'll check it out.

SENATOR SQUADRON: On the bill, Mr. President.

THE PRESIDENT: Senator Squadron on the bill.

SENATOR SQUADRON: I have to tell you, when we're talking about the lives and the homes of 3500 of my constituents, being told that a closer look needs to be taken at the bill is really, frankly, not acceptable.

The truth is, when the sponsor takes a closer look at the bill she will see that the argument that this is simply a voluntary avenue for tenants who would like to pursue it is not true. In fact, that would not reach the ultimate goal of this bill, which is clearly to give relief to a landlord who doesn't like the current law.

If it were an optional avenue, no tenant would take it, because the provisions in this bill will cost the tenants. It will cost the tenants in terms of dollars they are owed from overcharges of rent. It will cost them in terms of what they are paying on a monthly

basis. And for many of my constituents, this bill would cost them their homes.

So I think we all are pretty clear. The idea that this is an optional avenue for tenants may be a way to get through a debate on the floor of the Senate on a one-house bill. It's not accurate. It's not fair to my tenants.

The idea that a bill would be put forward that affects 3500 of my constituents and the sponsor needs to look more carefully at what effect it would have on their homes is really, frankly, in a very surprising year and an often surprising place, shocking.

It's very clear what this bill is about. We have a landlord who bought a building hoping to evict the tenants, raise the rents to market rate and make a killing. We have a landlord who got a little too greedy and tried to take some tax benefits on top of what he was trying to get otherwise. And unfortunately for him, under the laws of this state -- clearly defined by the highest court in the state, affirmed by Justice Friedman in this case -- that landlord now has tenants who are protected by rent regulation. Period, simple, no chaos, no

questions.

But the landlord doesn't like it, so the landlord is coming here and asking for a bill to line his pockets at the expense of 3500 New Yorkers. It's that simple.

Now, look. Thank goodness this is a one-house bill. Thank goodness this is being put out for political theater and there's no chance this bill would ever become law. But I don't think that means we should ignore the bill. I don't think that means we should just let the bill pass and not worry about it.

This is an instance in which you are talking about someone who does not represent these constituents, someone who is not familiar with this community, writing a bill that would risk the homes of 3500 people. And I have to tell you, even though this is a one-house bill, even though this is basically no more dangerous than a press release at this point, it is critical that we stand up and say this is not the way to serve the people of our state.

If Senator Young is interested in the people of IPN, I would be happy to bring her down to IPN, I would be happy to give her a tour

and introduce her to the tenants. If she's worried that chaos will ensue there, I would be happy to partner with her as the chair of the Housing Committee and ensure that there is no chaos.

But let me just allay any concern Senator Young has or any other member of this body has. There is no chaos at IPN. What there is is there is a good law being appropriately interpreted by the courts in a way that gives residents the protections for their homes that this legislative body, that this state government has afforded them. Let's not go in there and do a private bill giveaway for a landlord who doesn't like the law.

I urge all of my colleagues on both sides of the aisle, please vote against this bill. Vote against this bill both on the basis of fairness and equity for these tenants and also on the basis of an understanding of protecting your own constituents. Imagine another member of this legislative body came in, chose a neighborhood in your community, 3500 residents in your community, 1300 homes in your community, said, "You know what, I want to make it harder

for these people to keep their homes." You too would be appalled. You too would vote against this bill.

Thank you, Mr. President.

THE PRESIDENT: Any Senators wishing to speak on the bill?

Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

Though I hope and I believe she knows this, the sponsor of this legislation, I have tremendous respect for her and her fierce defense of and advocacy for the district she represents and the interests of the people in that district and its impact on other people throughout the Southern Tier and Western New York. I understand her and respect her passion on issues which she feels so strongly about and which she fights for in order to help improve conditions, make her district an even better place to live and work.

That said, this bill is absolutely nonnegotiable. It is a vote which my colleagues on both sides of the aisle have to vote no on.

Mr. President, rent regulation is

both price controls -- and often the debate or the discussion in the media is just about the price control part of it. And frankly what's happening now is rent control. Tenants who tend to be elderly are given regularly an even higher rent, generally 7 percent plus each year. As opposed to rent-stabilized tenants, who always get increases. They've never not gotten increases.

So there's the price controls. The rents always go up when units are regulated. What's another important part of rent regulation? It protects New York City's and the surrounding counties that have regulation, it protects housing stock. Why? Because part of rent regulation ensures that a tenant is entitled to continue to live in their home. They pay rent to the person or the company or whoever owns the building, but regulation permits them to stay in their home.

Why is that important for regulation? Well, if a landlord stops providing heat or hot water or the locks on the front door are broken or the lighting in the hallways has gone out, there isn't any, there's no one to act

as the superintendent. Many of us here from New York City and the surrounding counties, much of the help that's asked for by our constituents has to do with tenants who are living in regulated apartments.

And because they have the right to stay in their homes, they have the right to complain about conditions which make their homes uninhabitable. So when units are deregulated, let's even put aside how high the rent could go for the moment. It means that the tenant who moves into that apartment is now afraid to say anything if the landlord is not providing heat, hot water, security, any of the other parts of the warrant of habitability that the courts have ruled a landlord must provide.

If that tenant does not have the right to renew the lease, they're taking a big risk in pointing out to a landlord that there's a problem, because the landlord can then refuse to let them stay in their homes.

And so this deregulation of units is not just about price control, although that is a part of it. It's also about the ability of the city and the state to regulate housing and make

sure it stays in good condition for the tenants who are living there.

Now, generally most landlords are fine, there are no problems. The tenants are happy, the landlord is getting their rent on a regular basis, they like tenants who pay their rent on a regular basis. The vast majority, everything is fine, everyone is happy.

We all in our districts, though, have some terrible landlords, and they account for 90 percent of the calls that we get in our offices with landlord-tenant problems. We know who they are. I could name them. There are coalitions and groups that fight against them. I actually think the landlords are ashamed that they are a part of their group, but I don't think the RSA is allowed -- I don't know, maybe they can turn people down or throw people out. They should, for some of these landlords.

But the purpose of regulating apartments is that tenants need not be afraid that they're going to be thrown out of their homes if they are complain because they're not getting heat or hot water or the locks on the front door are broken or a unit in the building

is being rented to a drug dealer. It protects the homes of tenants. And rent-stabilized tenants generally have lived in their apartments for a long time. Rent-control tenants, usually even longer. They've paid a tremendous amount of money through the years in rent, probably enough money they could have even bought the building if they had pooled their money. It's a system that has worked well and helped to preserve affordable housing.

Now let's talk about J-51 for a moment. Which is a landlord, a building owner, a development owner takes a J-51 tax abatement. It's generous. It's generous. And when they decided to take a J-51 tax abatement, they agreed that they would keep their units in regulation. My colleague Senator Squadron has talked about Independence Plaza and the terrible impact this legislation would have on really his neighbors, our neighbors, in Independence Plaza. I used to represent Independence Plaza before redistricting. I now represent Peter Cooper and Stuyvesant Town. Senator Liz Krueger used to represent them before that. We all share in our fierce protection of the people that live in

these units.

So the property owners take this generous tax abatement, and they agree to abide by the rules of rent stabilization. Taking a risk, because -- you know what, I can't speak for them. Originally it was MetLife and Tishman Speyer. They actually don't even own the buildings anymore. Now, a consortium, a capital company owns Peter Cooper Village and Stuyvesant Town. But anyway, they took a bad risk and a risk they should have known was doomed to failure by making it so units in that development seem to be deregulated. They made a bad bet.

Now, this affects Independence Plaza, this affects Peter Cooper Village and Stuyvesant Town, but it also affects -- probably in every district throughout New York City landlords took J-51, a very generous tax incentive. But tenants in Peter Cooper and Stuyvesant, when they realized that what the owners were doing was illegal, they went to court, they went all the way up to the state's highest court.

The New York State Court of Appeals is not -- it's a very conservative court.

Believe me, I have generally not been happy with their decisions. I think maybe people on the other side were happier with their decisions; I have not been happy with their decisions.

So this very, very conservative highest court in the State of New York ruled that what the property owners, what the landlords had done was wrong and that these units, which they had deregulated, should be reregulated. That's what they said.

Now, just one element of the bill that's before us. It provides no relief for tenants who were -- couldn't afford to stay in their homes because the landlord made believe that they were deregulated. And we may never find them, and they will never get back the overcharges that they were charged by the landlords that don't even own, for instance, Peter Cooper/Stuyvestant Town anymore.

So that's money that will be kept by people who the court says don't deserve to keep that money, that money belonged to the tenants who lived in units that were illegally deregulated. And that's just wrong.

You know, in the course of this,

when the original owners -- and they're very good, civic people. Tishman Speyer, they are -- they just -- they overpaid for Stuyvesant and Peter Cooper Village because they thought they were going to be able to get rid of everybody who lived there. And it was a bad bet, and they lost. I thought they acted -- I didn't like it, and it's no secret to them. The way they acted there, they send notices to like almost everybody there saying this isn't where you really live.

So, for instance, if there was a Tom Duane living there and then there was a Tom Duane living in Duanesburg, they would make believe that the Tom Duane that lived there lived in Duanesburg, and they'd try to evict them. And the tenant would have to hire a lawyer and pay money and save their home. They did it to thousands of people, and they lost. Most of the time they lost. And they could not afford to pay the enormous amount of money, the bad deal they had made on this building.

It probably wasn't their money, it was probably a consortium of -- in fact, I know it wasn't. It was -- you know, they got other people to invest in it. It was a bad

investment. And they thought they were going to be able to recoup their investment by throwing people out, and it didn't work.

And they knew full well that they were skating on thin ice when they claimed that these units could be deregulated. They knew. Maybe they thought they weren't going to get caught. I don't know what it was. Because generally they're pretty good guys. But what they did here was wrong. It was terrible.

And I just -- you know who lives in Stuyvesant Town and Peter Cooper Village? Retired firefighters and police officers and teachers and secretaries and hardworking middle-class New Yorkers who signed a lease with the promise that they -- or they thought they could stay in their apartments. The ones that signed it more recently, they're the ones that unfortunately maybe they moved in and then the rent was raised so high they had to move out, so they're like gone forever. We don't know where they are, and they'll never get their money paid back.

But this case went up to the Court of Appeals. And the Court of Appeals could not

be clearer in what they said. They said to the landlords: You took the tax abatement, now you got to play by the rules.

To try to reverse something legislatively that was declared so clearly by the State Court of Appeals, it's a disgrace. It's terrible. It's an awful thing. It's a terrible precedent. This is not a matter for the Legislature to try to reverse what the State Court of Appeals so strongly decided.

Now, as I say, it affects other buildings, ones that I represent and my colleagues Senator Krueger, Senator Squadron, others. And honestly, the tenants who are now -- who have been able to remain in Stuyvesant town and Peter Cooper Village because they fought for their rights -- the management there is Rose Associates. Actually, they are very good and kind. They're good managers. They provide good maintenance. They keep the place up. I mean, not -- there's always going to be complaints, but they're a piece of cake compared to some of the other problem landlords that many of us have -- and they just manage the buildings.

So it is just -- it's just plain

wrong to try to reverse, to try to change something because landlords who took these incredibly generous abatements and then didn't play by the rules want to change the rules.

And I believe I heard the sponsor say something about, you know, this is causing chaos or something. No, it would be -- this legislation would really cause chaos because it would go right back up to the Court of Appeals, and in the meantime there would be, you know, terrible landlord/tenant disputes which we don't need more of. And it would lose, because they're not going to change their decision. The Roberts decision, it's not going to be any different.

But what this is doing is it's worrisome to people. It's worrisome to the people in Independence Plaza, it's worrisome to the people who live in Peter Cooper Village and Stuyvesant Town. Because even though I'm right, the Court of Appeals is right, that this is even under discussion after everything they have gone through, after their neighbors have been evicted or couldn't stay because the rents were illegally put up too high or that they had to hire lawyers because the landlord went after them and said

that they didn't really live there -- and I'm telling you, it's people in all walks of life. Teachers and cops and firefighters and sanitation workers and secretaries and kindergarten teachers. I mean, you name it. They're living here and in Independence Plaza and in buildings in everyone's districts throughout New York City.

Rent regulation is a good thing. J-51 is generous. It's generous, and when a landlord takes it, they should play by the rules. And that is exactly what the state's highest court said.

So in the interest of justice, of what is fair and just and playing by the rules and not, frankly, being sore losers because you lost a bet which you should never have made, I urge my colleagues to vote in the negative on this legislation. And let's, for once, make this be the end of it. Let's not put them through this worry anymore. Let's let them live in their homes in peace. There's a system in place that's going to make what the rent should be, or there will be. There's suggestions on how to do it. It will be fair, it will be just. Some people will be unhappy, some will be happy. It's going

to work out. Leave it alone. Please, vote no on this legislation.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

Senator Krueger.

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

Well, we've heard my colleague Senator Squadron talk about the impact of this legislation, or what it could have if it became law, on the people of his district. And we've heard Senator Duane speak very articulately about the impact that this legislation could have on Stuyvesant Town and Peter Cooper Village, which in fact he has in his district now but I once had in my district.

But I want to highlight that if this bill ever became law -- and again, I am very happy that this does appear to be a one-house public-relations bill -- that the way this law is written, it could actually end rent regulation for hundreds of thousands of people who live not in Independence Plaza, not in Peter Cooper/Stuyvesant Town, but in Toby Stavisky's district, in my district, in Adriano Espaillat's

district, in Jose Peralta and Jose Serrano's, in Tony Avella's and Senator Diaz and Senator Hassell-Thompson's, in Senator Golden's, in Senator Lanza's districts.

Because this bill is written such that while aiming to provide landlords with relief from the unintended consequences of the Court of Appeals decision in Roberts v. Tishman Speyer, which Senator Duane just so articulately argued the points of, that in fact this bill could actually totally gut and nullify rent-regulation obligations associated with the receipt of J-51 benefits for all assisted apartments, including hundreds of thousands of apartments that were never before threatened with deregulation up until this moment in time if this were to become the law.

That's because the Roberts decision affected only those buildings that would have had a rent-regulated apartment even if they never received J-51 benefits, while the bill contemplates the deregulation of apartments that became or become stabilized only because of the receipt of J-51 benefits.

There's a long history to the J-51

program. Senator Duane articulated that it's a generous program. It has always been a voluntary program to go into. We never made any landlord take J-51. It was their decision because it was to their financial advantage.

But the intention of this Legislature and of the New York City legislature, the City Council, has been clear and consistent actually since the '50s that receiving J-51 is a contract obligating you to provide and protect affordable housing options in the City of New York.

It's impossible to overstate the magnitude of the unearned windfall that would be given to landlords under this bill or the devastation that would threaten hundreds of thousands of tenants who are now protected because of the J-51 program.

The rent-regulatory obligation that is a principal thing the public is supposed to receive in change for spending billions of dollars, billions of dollars on J-51 benefits, would become an illusion. In those buildings that are solely unregulated because of J-51, any tenant who succeeds in challenging an illegal

rent would find the rules changed on the landlord's mere say-so simply by means of repayment of a J-51 benefit.

There would no longer be any meaningful consequence if the landlord refused to register the rents, refused to notify the tenants of the receipt of benefits, refused to provide renewal leases or refused to make repairs. No matter what the landlord might have done, no matter what he or she might have been found guilty of doing, all he or she would have to do is to write a check and the tenants' rights would instantly disappear.

The windfall goes far beyond the landlord's potential liability for overcharges under the Roberts case. By holding that apartments in J-51-assisted buildings cannot be deregulated, Roberts extends a shield of protection around hundreds of thousands of working-class tenants who now pay affordable rents and who would otherwise be targeted for harassment, threats, and baseless eviction proceedings.

The Roberts case decision took away a significant part of the incentive that has

driven some owners to resort to illegal tactics to obtain vacancies. The elimination of that incentive did not by itself cost any landlord any money. Nevertheless, the bill's sponsors now wish to paint a fresh target on the backs of these tenants.

The rationale of the bill is based upon a myth. It was never legal to deregulate apartments in J-51-assisted buildings. And as has been noted by several of my colleagues, the pre-'93 law that required all apartments in J-51-assisted buildings remain regulated was never changed. The Court of Appeals has spoken. The plain meaning of the statutory language indicates J-51-assisted apartments are exempt from deregulation.

DHCR's initial reaction to the deregulation statute was to hold that all assisted apartments were required to remain regulated. We've had a series of lawsuits. We know what the courts have decided. What is critical to understand is that this bill's impact, Mr. President, would have almost an incalculable negative impact on hundreds of thousands of units throughout the City of

New York, my district and every other Senator's district.

And I suppose, in closing, what is most important to understand about this debate today is that this bill would reward law-breaking, would encourage landlords to engage in even risker and less justified evasions of rent-regulation laws, would encourage the public to view the requirements of rent-regulations laws as having less force than other laws we pass in this house, creates uncertainty about whether landlords will be relieved from other legal obligations that are imposed upon them by current law, and deprives the public of rent-regulated housing that has been the quid pro quo for receipt of J-51 benefits since the 1950s. It threatens the immediate deregulation of literally hundreds of thousands of presently rent-regulated affordable housing units, which would render them permanently unaffordable to ordinary New Yorkers.

And this one-house bill is being brought to us today on the same day where it appeared we might actually have a negotiated agreement on moving forward with extending and

strengthening the rent regulations.

So I suppose if I was not used to this town and the business operations of how Albany works, it might seem surprising to me that we would have offered to us on the floor of the Senate today a bill that so strikingly runs counter to good public policy and to what I believe this house, the other house, and the Governor will ultimately be passing through a different law, perhaps sometime within the next 12 to 24 hours.

I also urge a no by everyone. And I'm fairly appalled that we're having to have to fight about this bill today.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

Senator Espaillat.

SENATOR ESPAILLAT: Thank you, Mr. President. On this bill.

You know, once again, here we are circumventing a court decision that ruled on this particular case, a court decision that was awaited by many, many tenants as well as the owner. And the Roberts decision spoke clearly on what should be done with these buildings that are

dramatically impacted by this legislation proposed by our Housing chair. In fact, Stuyvesant Town and Peter Cooper Village, as well as Independence Plaza, will be adversely affected if we were to enact this into law.

But I further have to question the logic of why other buildings, why should any owner who was not affected by the Roberts decision be relieved of its obligations to be rent-stabilized without vacancy and high-income deregulation during the period that it receives J-51 benefits?

The J-51 benefits are benefits that many landlords across the State of New York seek. They allow them to do improvements in the building, install new windows, if you may, major capital improvements as well. And as a result of this particular program, the landlord is then compensated for these improvements and the tenants are held harmless. So that landlords often choose to be part of this particular program.

But again, by participating in this program you are also held accountable to certain rules of the game. And this particular bill

tries to circumvent a court decision. That's the Legislature getting involved in the judicial process. And it will impact on thousands of New Yorkers.

So I will be voting in the negative, Mr. President. I think that we should not establish this precedent. That in fact the court requested HCR, our housing agency, to calculate what some of the rollbacks will be for tenants, and that in fact that should be accomplished.

This is just a scheme to try to go around a duly and well-respected court decision and try to undo what many tenants expected to be a salvation of their circumstances.

So, you know, I will be voting in the negative and I will asking my colleagues to do the same.

THE PRESIDENT: Thank you, Senator.

Any other Senators wishing to speak?

Seeing none, Senator Young to close.

SENATOR YOUNG: Thank you, Mr. President.

This is a very important piece of legislation because it actually answers the questions that were left open by the Roberts

decision that was made in 2009.

Now, I just listened intently to some of my colleagues on the other side of the aisle, and I have to strongly disagree with many of the statements that were made.

Because Senator Espaillat, for example, who I respect, said that this would circumvent the court decision. Actually, just the opposite is the case. This resolves the issues that the court asked the Legislature to resolve. This answers those questions, and at the same time it provides solutions, solutions that are left open.

You know, when the court made this decision, it actually impacted 40,000 -- up to 40,000 units in New York City. And these units are left in limbo right now because the Division of Housing and Community Renewal does not have the staff or the resource to deal with each case individually.

THE PRESIDENT: Senator Espaillat, why do you rise?

SENATOR ESPAILLAT: Mr. President, will the sponsor yield for some questions, please.

THE PRESIDENT: Senator Young?

SENATOR YOUNG: Certainly.

THE PRESIDENT: The Senator yields.

SENATOR ESPAILLAT: Thank you, Senator Young.

I want to know why is it that the owner of Independence Plaza was given a special treatment under this bill when the project itself was not involved in Roberts, since it was not rent stabilized prior to his receipt of J-51 benefits. Why is Independence Plaza, the owner of this particular complex, included in this when in fact he wasn't part of this Roberts process, decision?

SENATOR YOUNG: Through you, Mr. President. As I stated previously, this impacts Independence Plaza but it also impacts any other buildings that have the same circumstances.

SENATOR ESPAILLAT: Mr. President, through you.

THE PRESIDENT: Senator Young, do you yield?

SENATOR YOUNG: Yes, Mr. President.

SENATOR ESPAILLAT: That is exactly

what I mean. This is overreaching at its very least. That in fact this bill not only does not confine itself to Stuyvesant Town or Peter Cooper Village or the complexes involved in the decision, but that it reaches further out of the defendant and the plaintiff in this particular case and tries to overreach and include other buildings that had nothing to do with Roberts.

I would further want to ask you, if you may, Senator Young, why should the regulations and opinions of DHCR, which is now called HCR, not apply to establish initial stabilized rents at Independence Plaza? Why should the regulations and opinions of HCR not apply to establish the initial stabilized rent at Independence Plaza?

SENATOR YOUNG: Through you, Mr. President. DHCR or HCR's regulations do apply right now.

SENATOR ESPAILLAT: If I may, Mr. President.

THE PRESIDENT: Senator Young, do you yield?

SENATOR YOUNG: Yes.

SENATOR ESPAILLAT: Yes, Senator,

again, I would like to get an answer. Why should any owner who was not affected by Roberts be relieved of its obligation to be rent-stabilized without vacancy or high-income deregulation during the period it receives J-51? I haven't got an answer.

I want to know why any other owner that was not part of this litigation should be relieved. Are the courts not capable of making fair decisions in this particular matter?

SENATOR YOUNG: Through you, Mr. President. Actually, these types of apartments actually are affected, because they also took J-51, so they could be impacted by the Roberts decision. And so this solves all the issues at the same time.

SENATOR ESPAILLAT: Thank you, Senator Young.

If I may, Mr. President, to conclude.

THE PRESIDENT: Senator Espaillat.

SENATOR ESPAILLAT: You know, there are thousands of units of housing that have received J-51 benefits. We are concerned that this particular legislation is overreaching, that

not only does it try to circumvent the parameters of the Roberts decision, but it tries to go further out and have some of the building owners and buildings that have not been directly involved in Roberts be relieved of their obligation.

So I will be voting in the negative.

THE PRESIDENT: Thank you, Senator.

Senator Young to close.

SENATOR YOUNG: Thank you, Senator Espaillat, for your comments.

Actually, this legislation brings certainty to all the apartments that are affected by J-51.

And one thing that I did want to point out. I respect my colleague Senator Tom Duane very much, but he basically characterized the J-51 program as something that's bad or something that is harmful. Actually, it's a very positive program because it allows owners to be able to have the resources to fix up their buildings. So it actually increases the quality of life for the tenants who live in those buildings.

He also said that the owners did not

play by the rules. They in fact did play by the rules. They acted in good faith. They were following regulations that were put out by the Division of Housing and Community Renewal. So they were obeying what the agency told them that they had to do.

The court also welcomes a legislative solution. And to say that this ends rent regulation for hundreds of thousands of people who are not impacted by the Roberts decision is simply not true, because this legislation is narrowly focused on buildings impacted by Roberts, those that received J-51 benefits. And now this is a way to deal with the situation, come up with a positive solution.

Again, I would like to remind my colleagues that these types of solutions were actually put forward last year by Governor Paterson and the Division of Housing and Community Renewal.

I'd also like to remind them that Housing and Community Renewal recently asked the courts to appoint a referee because they were unable to deal with this situation. They're just not staffed enough, they don't have the

resources. They know that if they have to go through 40,000 individual cases it will take years and years and years without a solution, it will cost a great deal of money. And so that's not the way to go. And the court just came back a couple of weeks and said no, we are not going to appoint a special referee, and they kicked it back to HCR and the State Legislature.

So again, this is a positive way to deal with the situation. The owners acted in good faith. This is a way to protect tenants because it gives them a new process in order to deal with their situations. It requires notification by the building owners to the tenants. It allows them to negotiate or take different options. And also, even if an owner pays back the J-51 benefits with interest, the tenants that were not in a stabilized -- or taken out of stabilization will remain in that stabilization now.

So there are plenty of protections for the tenants. This solves a very, very serious issue. And I would encourage my colleagues to vote yes on this bill.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Squadron to explain his vote.

SENATOR SQUADRON: Mr. President, to explain my vote.

As we heard this afternoon, this bill is about nothing more than stepping in where the courts have been clear and giving a handout to those who don't like the law as it stands -- at the expense, as we heard from the sponsor again and again, of 40,000 units, probably 80,00 to 90,000 residents in New York City.

It's really unacceptable. In my own personal case, the idea of going in and saying to 3500 of my constituents that they don't have the housing rights that the court and the current laws say they do is really unacceptable.

I urge a no vote from everyone.

Whether you agree with me on rent regulation or not, whether you agree with me about affordable housing or not, do it on the basis of protecting your own communities, your own constituents from a law coming from afar to make their homes, their neighborhoods less stable and less safe.

I vote no, Mr. President.

THE PRESIDENT: Senator Squadron recorded in the negative.

Would those Senators who voted in the negative please raise your hands again so the Secretary can just take a second count.

The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 1506, those recorded in the negative are Senators Adams, Addabbo, Avella, Breslin, Diaz, Dilan, Duane, Espaillat, Gianaris, Hassell-Thompson, Huntley, Kennedy, Klein, L. Krueger, C. Kruger, Montgomery, Oppenheimer, Parker, Peralta, Perkins, Rivera, Sampson, Savino, Serrano, Smith, Squadron, Stavisky and Stewart-Cousins.

Ayes, 34. Nays, 28.

THE PRESIDENT: The bill is passed.

Senator Marcellino, that completes the controversial reading of the supplemental calendar.

SENATOR MARCELLINO: A worthy job, Mr. President. A worthy job.

THE PRESIDENT: Thank you, Senator.

SENATOR MARCELLINO: Could we now take up the supplemental active list, which should be on your desks. Noncontroversial reading.

THE PRESIDENT: The Secretary will read.

We'll be starting with Calendar Number 419; Number 300 has been completed already.

THE SECRETARY: Calendar Number 419, by Senator DeFrancisco, Senate Print 3181, an act to amend the State Finance Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 445, by Senator Bonacic, Senate Print 4587A, Concurrent Resolution of the Senate and Assembly.

THE PRESIDENT: Call the roll on the resolution.

(The Secretary called the roll.)

THE PRESIDENT: Senator DeFrancisco to explain his vote.

SENATOR DeFRANCISCO: Yes. There are a couple of these bills, actually three, that would increase the retirement age. One actually is to increase the retirement age to age 80.

But they're all constitutional amendments. It's because of that I'm voting for each one of them, so that we can discuss it a little bit more carefully later on whether or not it's good policy or not. But the reason I'm voting for it is because it's a constitutional amendment. It requires another passage, and then going to the voters.

Thank you.

THE PRESIDENT: Thank you, Senator.

Announce the results.

THE SECRETARY: Ayes, 61. Nays,

1. Senator Avella recorded in the negative.

THE PRESIDENT: The resolution is adopted.

THE SECRETARY: Calendar Number 628, by Senator LaValle, Senate Print 3441, an act authorizing the Town of Southampton.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 628, those recorded in the negative are Senators Bonacic, Larkin and O'Mara.

Ayes, 59. Nays, 3.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 810, by Senator Dilan, Senate Print 1340, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 844, by Senator Stewart-Cousins, Senate Print 3264, an act to amend the State Technology Law.

SENATOR MARCELLINO: Lay it aside for the day.

THE PRESIDENT: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 871, by Senator Zeldin, Senate Print 3844A, an act to amend Chapter 397 of the Laws of 1996.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 927, by Senator Young, Senate Print --

SENATOR BRESLIN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 997, on page 22 Senator Zeldin moves to discharge, from the Committee on Rules, Assembly Bill Number 7989 and substitute it for the identical Senate Bill Number 5492, Third Reading Calendar 997.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 997, by Member of the Assembly Murray, Assembly Print Number 7989, an act to authorize.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar 997, those recorded in the negative are Senators Bonacic, Larkin and O'Mara.

Ayes, 59. Nays, 3.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1004, by Senator McDonald, Senate Print 5311, an act to amend the Mental Hygiene Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1032, on page 24 Senator Young moves to discharge, from the Committee on Housing, Construction and Community Development, Assembly Bill Number 4937 and substitute it for the identical Senate Bill Number 4945, Third Reading Calendar 1032.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1032, by Member of the Assembly Lopez, Assembly Print 4937, an act to amend the Multiple Dwelling

Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1033, by Senator Golden, Senate Print 5484, an act to amend the Multiple Dwelling Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 1033, those recorded in the negative are Senators Adams, Avella, Dilan, Espaillat, Hassell-Thompson, Huntley, L. Krueger, Montgomery, Oppenheimer, Parker, Perkins, Rivera,

Serrano, Stavisky, and Stewart-Cousins.

Ayes, 47. Nays, 15.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1068, on page 25 Senator DeFrancisco moves to discharge, from the Committee on Rules, Assembly Bill Number 624 and substitute it for the identical Senate Bill Number 3762, Third Reading Calendar 1068.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1068, by Member of the Assembly Weinstein, Assembly Print 624, an act to amend the Civil Practice Law and Rules.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

Senator Marcellino, that completes

the noncontroversial supplemental active list.

SENATOR MARCELLINO: Thank you, Mr. President.

At this time if we could ask for unanimous consent to recognize Senator Montgomery to speak on a bill that passed the house earlier. That was her bill, and she would like to speak on it at this time.

THE PRESIDENT: Without objection.

SENATOR MONTGOMERY: Thank you, Mr. President. Thank you, Senator Marcellino.

I would just rise to say how much I appreciate that my colleagues were supportive of this legislation which allows nurse practitioners in the State of New York now to be able to sign death certificates.

And I know that it may not sound like a big deal, but certainly for a family who has a loved one who passes away in the middle of the night or on a weekend or at some inopportune time and there is not a physician available to sign a death certificate, and especially in light of the fact that many people are now being cared for in their final days by nurse practitioners, especially in the rural areas as well as the

urban areas, it's going to be possible now for the nurse practitioner who has been taking care of the person to also sign a death certificate so the family can be relieved of the stress of waiting for a physician.

And I must say thank you to Senator Hannon, who was very supportive of this as committee chair.

And I also want to say how much I appreciate the fact that the Nurse Practitioner Association of the state was really very, very instrumental in putting forward this legislation.

It's also been supported by the Metropolitan Jewish Health System, the New York State Health Facilities Association, the New York State Funeral Directors Association, as well as HANYS and a number of other organizations, as well as families in the state who will now be able to count on the fact that the remains of their loved ones will be able to be removed quickly so that they can hold the necessary ceremonial activities appropriately and respectfully.

So again, thank you. I thank my

colleagues, the leadership. And I certainly thank you, Mr. President, and Senator Marcellino for allowing me to speak on the bill. Thank you.

THE PRESIDENT: Thank you, Senator Montgomery. Your comments are so noted.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, at this time may we take up the controversial calendar.

THE PRESIDENT: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 927, by Senator Young, Senate Print 5041, an act to amend the Administrative Code of the City of New York.

SENATOR BRESLIN: Explanation.

THE PRESIDENT: Senator Young, an explanation has been requested by Senator Breslin.

SENATOR YOUNG: Thank you, Mr. President.

Basically this bill requires that you vote where you live. So that if you receive

the enrichment and the benefits of a rent-controlled apartment, that should be your primary residence. And primary residence is where you're supposed to vote.

THE PRESIDENT: Senator Krueger.

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

THE PRESIDENT: Senator Young, will you yield?

SENATOR YOUNG: Certainly.

THE PRESIDENT: The Senator yields.

SENATOR KRUEGER: Thank you.

So in existing law we already have a process landlords can and do go through to document whether in fact the apartment you're living in is your primary residence. But in this bill we seem to remove much of the due process that is currently involved.

So is it correct is that under this bill a tenant could be evicted simply on the grounds --

SENATOR MARCELLINO: Excuse me, Liz.

SENATOR KRUEGER: Certainly.

SENATOR MARCELLINO: Mr. President.

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Would it be possible if we could direct that the doors be closed to the balcony, please. It's very difficult to hear.

THE PRESIDENT: The Sergeant-at-Arms will close the doors.

SENATOR MARCELLINO: Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

Senator Krueger, resume.

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

So in this bill am I correct that a tenant could be evicted from their home simply on the basis that the election district they appear to be registered in is not the same as the election district for the apartment address?

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

First of all, just a couple of things. Senator Krueger made the statement that it eliminates due process. That's not a correct statement. Actually it does maintain due process, but it simply shifts the burden to the

tenant to show where he or she lives.

Secondly, the statement -- the second statement that Senator Krueger made is not correct. Because a person could not be evicted simply on this. The court looks at the totality of the picture. So this would be a piece of it, but it also would be based on things like bank records and utility bills and those sorts of things. Tax returns.

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

THE PRESIDENT: Senator Young?

SENATOR YOUNG: Certainly.

One more thing that I'd like to add to the statement that I just made. No one would be evicted. They would just lose -- if it was found that they were voting in a place other than where they're receiving their rent-regulation benefits, that the apartment would simply be deregulated.

THE PRESIDENT: Senator Krueger, Senator Young yields.

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

The bill would allow for a

primary-residency eviction proceeding based on the tenant not voting in the ED where the apartment exists. So how is this not an eviction?

SENATOR YOUNG: Through you, Mr. President. The test of the court remains the same. So the court would review the totality of the requirements. So that it would be things that I mentioned before -- bank records, tax returns, utility bills, those sorts of things.

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

THE PRESIDENT: Senator Young?

SENATOR YOUNG: Yes.

SENATOR KRUEGER: Thank you.

I agree that under current law that is the role that the court is supposed to play in evaluating in a more thorough way the different possible scenarios for proving that you are a primary resident or not a primary resident. But I believe what this bill does is actually allow the sole basis for an eviction proceeding to be that the tenant voted in an election district other than the election district the apartment is located in. Am I not reading this bill

correctly?

SENATOR YOUNG: Through you, Mr. President, I will repeat myself. The totality of the situation still would be considered by the court.

But basically what the bill says is that tax returns and place of voting would be weighted more than the other factors. But if there was some kind of discrepancy, the other factors would be considered by the court.

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

THE PRESIDENT: Senator Young?

SENATOR YOUNG: Yes.

THE PRESIDENT: The Senator yields.

SENATOR KRUEGER: Thank you.

So in the new language of this bill it says "For purposes of determining primary residency, as such term is used in this chapter, the following shall apply: (i) the failure to file a city resident income tax return by an individual required by law to file such a return, shall result in a determination the tenant does not occupy the housing accommodation as his or her primary residence; provided, however, that

this provision shall not apply to an individual who has requested an extension of time," et cetera, et cetera, "and provided, further, that the timely" -- excuse me, I'm reading the wrong section to you. One moment, please.

Sorry, it is the correct section that starts on page 1. It's (10), there's underlines, it continues to page 2, and it's the final section of the paragraph where it first goes through the tax questions and then it goes ""or": "Or (ii) a vote is cast by a tenant during their tenancy in any election held in accordance with the provisions of election law conducted in any election district other than the one designated for the housing accommodation located in the city shall result in a determination that the tenant does not occupy the housing accommodation as his or her primary residence."

So I see it as fairly explicit that you could be evicted based solely on a vote is cast by a tenant during their tenancy in an election district other than where the apartment is listed.

So again -- if through you,

Mr. President -- does the sponsor read the section of her bill as being if you vote in an ED different than the ED the apartment is in, that that by default results in a basis for eviction with no other determinations considered?

SENATOR YOUNG: Through you, Mr. President. That's true if the tenant votes somewhere else, unless you can prove otherwise.

I'm sure that Senator Krueger would agree that rent-regulated apartments are places -- if people are receiving that benefit and they don't really live there, then they shouldn't be living in a rent-regulated apartment.

What I hear from the other side all the time about rent control is the fact that they think that it helps alleviate a housing shortage in New York City, which of course I have a philosophical disagreement with. But if you go along with that premise that the other side has that that's why we have rent regulation, then again I'm sure my colleague would agree that if you have the benefit of a rent-regulated apartment that that should be your primary residence. If that's your primary residence,

then that's where you should be voting.

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

THE PRESIDENT: Senator Young?

SENATOR YOUNG: Yes.

SENATOR KRUEGER: That's an interesting digression, but that's actually not the debate I'm trying to have on this bill. It's not a judgment call about whether, if you have an alternative primary residence, you should be entitled to a rent-regulated apartment. I agree with the sponsor. If you have a different primary residence than the rent-regulated apartment, the law is clear: You're not entitled to rent-regulated status.

That is not the debate I am raising on the floor. I'm raising on the floor where in this bill we're trying to change the law so that the one factor that you have voted in an election district other than the district your apartment is in is, ipso facto, the evidence that you don't live there and that you should be evicted.

I have been involved in several elections where there have been literally court

cases on whether a person voting in the wrong election district through perhaps no fault of their own, through a mistake by advice of a Board of Elections, through incorrect filing of the information on one side of an avenue versus the other side of an avenue, I'm going to one polling site versus another polling site next to it. That they have in fact voted in an election district different than their home address is a sign that is particularly common in a paper ballot, emergency ballot, or affidavit ballot situation.

So my question to the sponsor is, does this law require a court to evict you because there was some difference between the election district you voted in and the election district that your apartment's address is in?

THE PRESIDENT: Senator?

SENATOR YOUNG: Through you, Mr. President. Senator Krueger, I'm very, very glad that you brought up that particular question, and I'd love to answer it for you.

Actually there are cases, you are correct, where someone may mistakenly go to the incorrect voting district and they have to use a

paper ballot. If that is the case, then the procedure is that in order to vote, that person has to fill out this paper ballot with their name and their proper address. And once they do that and submit their vote, the Board of Elections will apply it to the proper election district. So even if they are in the wrong election district, the Board of Elections will fix that and apply it.

But the point is they have to use the address of their primary residence.

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

THE PRESIDENT: Senator Young?

SENATOR YOUNG: Yes.

SENATOR KRUEGER: Thank you.

What if the Board of Elections has made a mistake? Where is the tenant's opportunity to cure this and document it before there is a seemingly mandatory ruling of eviction in this law?

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

First of all, if the Board of Elections makes a mistake, they have to use the

correct address. But say that they do make a mistake. The tenant still has the opportunity to submit the evidence to show where he or she lives. And the court will look at the totality of the situation.

So as I said, if you use a paper ballot and you write down your correct address and it's a rent-regulated apartment, everything should be okay.

But what this bill simply does is say that the tenant is required to prove where they live, and they can do it through a number of methods. So if you don't file a tax return and you don't vote, you can still use other methods to prove where you live, such as utility bills, bank accounts, bank records, those sorts of things.

But overall, as I said, if you go to the wrong election district and you vote by paper ballot and you put down your correct address, then you would not be impacted.

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

THE PRESIDENT: Senator Young?

SENATOR YOUNG: Yes.

SENATOR KRUEGER: I can name any number of tenancies in my own district where a person who is on the lease of the rent-regulated apartment is also a college student in some university campus not in New York City and they make the decision to vote from their college campus address.

Under this law, would the household be evicted because a college student who was on the lease was in fact choosing to vote from their college campus? Which I believe the courts have explicitly made clear that college students have the right to choose to vote from their address of their college.

SENATOR YOUNG: Through you, Mr. President. Again, you vote where your primary residency is. So if that college student decides that his or her primary residence is at college and that's where they vote, that's where their primary residence is.

You know, but however, if the parents live in the rent-controlled apartment, then the parents can vote from that rent-regulated apartment.

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

THE PRESIDENT: Senator Young?

SENATOR YOUNG: Yes.

SENATOR KRUEGER: So if I understand the sponsor's answer, if there's multiple people on the lease and one of them is a college student voting from somewhere else, they could be evicted based on this law, but the other signers of the lease who are living in the apartment wouldn't be evicted? How would that eviction follow through?

SENATOR YOUNG: Through you, Mr. President. In the scenario that Senator Krueger is laying out, I would imagine that the college student is not on the lease, that that college student's name is not on the lease. And this applies to the people, you know, whose name is on the lease. So if a college student makes a choice to move somewhere else, that's where they live, that's their primary residence.

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

THE PRESIDENT: Senator?

SENATOR YOUNG: Yes.

THE PRESIDENT: The Senator yields.

SENATOR KRUEGER: Well, actually, sometimes college students' names are on the leases. Sometimes it's a household with multiple young adults, and so one may be in school or a parent may have gone back to school -- actually, I think we support adult education, so they may have temporarily relocated somewhere.

But I'd like to switch to the tax-return question. It was in fact the first part of the bill paragraph that I read earlier making explicit that if in fact someone has not filed a tax return or received some extension for filing the tax return, that would be a basis for establishing this was not their primary residence and they would be evicted by the court.

So if the sponsor would please yield. So failure to file your tax return would be the basis for eviction, is that my understanding?

SENATOR YOUNG: Through you, Mr. President. If for some reason you don't have to file a tax form, then again the court would look at the totality of the situation. So the

court would look at utility bills, the court would look at bank records, bank accounts, that sort of thing.

If somebody doesn't file their taxes, then there's, you know, I guess the possibility of two things. One, that they're in this country maybe illegally. That's the only thing I can think of.

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

THE PRESIDENT: Senator Young?

SENATOR YOUNG: Yes.

SENATOR KRUEGER: I like that Senator Young keeps saying the court can look at the totality of other issues, but I don't see that in the bill.

I see it in current law, but I think actually this law would supersede current law and actually not have courts look at the totality of the issue and just simply go on the basis of the person should legally have filed a tax return, no tax return was filed, hence that person is not living in the regulated apartment as his or her primary residence.

But the question. So if someone is

living in an apartment, is legally obligated to file a tax return, has failed to do so and has failed to request an extension from the Tax Department to do so -- hence we might agree is in violation of some assortment of tax law -- should that be the basis for evicting someone from their home, failure to correctly file their taxes?

SENATOR YOUNG: Through you, Mr. President. Again, what this law requires is that it's up to the tenant to prove where they live. And under New York State law, city law, that a resident is required to file income tax, that's a way to show where you live. But the burden of proof is on the tenant.

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

SENATOR YOUNG: Yes.

THE PRESIDENT: The Senator yields.

SENATOR KRUEGER: Thank you.

Can't we agree that under most law the burden of proof is on the plaintiff, not the defendant? But in this case you just said the burden of proof is would be on the tenant. So this would be a change from my status quo understanding of how most courts work in most

situations.

SENATOR YOUNG: Through you, Mr. President, this is not a criminal proceeding. This is just that the tenant, if they're voting somewhere, they have to show that that's where they vote. I think that that is a reasonable thing to do, that if you're voting in a certain place that's supposed to be your primary residence and all you have to do is show that that's your primary residence.

And the way that you do that is that you do it through showing your tax return. If you're in a rent-regulated apartment and you're receiving those benefits, then that should be your primary residence and that's where you should vote.

There's other factors, as I said, that could be taken into consideration, such as utility bills and so on. But, you know, this is a pretty simple law. You vote where you live.

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

THE PRESIDENT: Senator?

SENATOR YOUNG: Yes.

SENATOR KRUEGER: Thank you.

I had gotten past the voting questions into the where you pay your taxes questions. So again, to repeat my question, does failure to file your tax forms -- that may in fact be an absolute violation of city, state and federal tax law; it depends. Sometimes people are just late. Sometimes people think they weren't required to file and then learn later they are required to file. There's an endless set of laws we can discuss around failure to correctly file your taxes.

But is failure to file your taxes evidence that you don't live someplace?

SENATOR YOUNG: You know, again, Senator Krueger, you keep repeating the same question over and over again, and I keep giving you the same correct answer.

But not in and of itself. As I said, the court could look at other factors. There are other ways that you can prove where you live -- things like utility bills, things like a driver's license, things like bank records.

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

THE PRESIDENT: Senator Young?

SENATOR YOUNG: Yes.

THE PRESIDENT: The Senator yields.

SENATOR KRUEGER: Thank you.

Following up on the burden of proof is on the tenant or on the landlord or on whomever, does this bill say you filed your taxes from a different address and that is in fact proof that you don't live in your regulated apartment? Or does it simply say if you didn't file taxes and somebody thinks you should have, that's basis for eviction?

SENATOR YOUNG: Through you, Mr. President. Generally you're supposed to file your taxes through where you live, you use your address where you live. And again, this is not a tax bill. It's just that filing of taxes is a way to prove that that's your primary residence.

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

THE PRESIDENT: Senator Krueger on the bill.

SENATOR KRUEGER: Thank you.

There are several problems with this bill. I don't think that surprises you.

One, I don't think the sponsor

understands that her bill would actually do away with the current authority of the court to review any number of pieces of evidence in a proceeding challenging the primary residence of someone who has a rent-regulated apartment.

I agree with the sponsor, rent-regulated apartments are a precious and rare commodity -- rarer each day, it seems -- and they should be for people who are eligible to live in them, people whose primary residence is the regulated apartment. And there is existing law and endless court precedents of how courts determine whether a landlord has met their burden of proof to determine that a resident does or does not live in the apartment that they say they live in.

I actually think in New York City there's a whole industry of law firms who specialize in trying to document that tenants don't live in the rent-regulated apartments that they have leases for. The housing courts in our city, the City of New York, are filled with these challenges. They are filled with cases going back and forth of lawyers having to go and defend tenants' residency status.

I think the good news is most of the time, statistically, the courts find that the landlord has not proved their burden of proof. And I believe, without having the statistics with me today, that the majority of challenges to tenancy that go through the New York City court system are in fact found in favor of the tenant, not the landlord.

My concern with this bill is some people are bothered by that fact, that they have not been able to meet the burden of proof in court that they bring these cases. Some people say they're harassment cases, that they bring these cases and they lose them.

And so with this bill we want to get rid of all those problematic burden-of-proof issues and simply set up a default situation where, if you voted in an ED that is not the ED of your apartment, that is, quote, the basis for a court to order an eviction.

And again, there are endless examples of somebody having voted in an ED different than where they officially live, and there are endless justifiable reasons under election law. And there are also endless

mistakes that can be made that anyone who has been in a close election in this chamber understands in intimate detail the impact of trying to prove voters do or do not live where they have voted, ED AD, right pulpit, wrong pulpit, right church, wrong pew, all the terminology that's used in election law and close elections.

So my concern is if that is going the sole basis for someone to be evicted from their home, that is very disturbing to me.

And second, the other alternative -- not "and/or" but "or" alternative -- for an eviction is that somebody failed to file a tax return. Not that they filed a tax return from some other home somewhere else, simply that they didn't file a tax return.

Now, I think you already know, Mr. President, I spend a lot of time talking about tax equity, the importance of the state getting the tax revenue we need for public services, the detailed debates about regressive taxation versus progressive taxation, when is a tax exemption justifiable, when is it not. I actually love to debate tax policy. And I don't

support people who don't pay their taxes and try to cheat the state, because we all pay for it.

But we have laws to address those concerns. And maybe we should make them stronger, and I would love to have discussions about that on this floor. But the concept that this bill is saying simply the absence of filing a tax return is the basis for determining you don't live where you may have enormous evidence you live, and you should be evicted from your home, is simply not a justifiable change in our law.

Now, maybe we want to have a discussion that people who fail to follow A, B, C, D laws should lose their right to their tenancy. But I don't think that's how this bill or the memo to this bill has been presented. It's not an argument that somebody who may or may not have a legal problem around their taxes should not be entitled to residency in their home. It does not address the question suppose there are significant numbers of family members but one family member has had some problems understanding tax law or being able to pay their taxes or just got caught up in the confusion of

complicated tax forms.

That the basis for an eviction perhaps of an entire family should be that someone didn't file their taxes, even if the law would be clear that they owe the state taxes, that should not be the basis for a court to have to evict someone from their home.

And so I don't think this is a clearly written bill. I don't even think the bill actually does what the sponsor believes it does, which leaves all these other alternatives available to a judge when considering an eviction case. And so I certainly hope my colleagues will vote no on this bill, because it's a bad bill.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

Senator Nozzolio.

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

In this country and in this state, you vote where you live and you live where you vote. A very simple premise. You vote where you live and you live where you vote.

In this thing you call rent control, that we could argue for days about its merits, it

seems as though the one qualification in this entire upside-down system is that it be a primary residence. You are rent-controlled in a primary residence.

Well, then I don't understand what Senator Krueger's smoke screen du jour was all about. We heard comments about courts and comments about income tax returns. What more simple a process could we engage in? You live where you vote; you vote where you live.

THE PRESIDENT: Senator Espaillat, why do you rise?

SENATOR ESPAILLAT: Would Senator Nozzolio yield for a couple of questions?

THE PRESIDENT: Senator Nozzolio, will you yield?

SENATOR NOZZOLIO: I'll yield.

THE PRESIDENT: The Senator yields.

SENATOR ESPAILLAT: Thank you, Senator Nozzolio. Thank you, Mr. President.

Senator Nozzolio, I know that you're quite familiar with redistricting and the redistricting process. And we are about to engage in a redistricting process this year and next year. And usually, after redistricting, the

numbers of election districts change. You know, what used to be the Third Election District could now become the 24th Election District, and what used to be the 31st Electoral District --

THE PRESIDENT: Senator Marcellino, why do you rise?

SENATOR MARCELLINO: With all due respect to my colleague, we're talking about things as is. We're not talking about what might be sometime next year in the future when redistricting is completed and finished. That hasn't even happened yet. It only happens every --

SENATOR ESPAILLAT: (Inaudible.)

SENATOR MARCELLINO: Excuse me. Excuse me, Senator.

SENATOR ESPAILLAT: (Inaudible.)

SENATOR MARCELLINO: Excuse me, Senator. I have the floor.

SENATOR ESPAILLAT: Did you give him the floor, Mr. President?

SENATOR MARCELLINO: If I may be given the courtesy to speak, I'm asking --

SENATOR ESPAILLAT: Did the President yield the floor to Senator Marcellino?

SENATOR MARCELLINO: Yes, he did. I'm asking him on a point of order.

SENATOR ESPAILLAT: Okay. Thank you, Mr. President.

SENATOR MARCELLINO: The redistricting has not happened. It happens once every 10 years. It's not going to happen for another year. It has nothing to do with this bill at this point in time. When redistricting occurs, the election lines will be redrawn and the election districts will be changed so people will be able to know what election district their primary residence is in.

I ask that this line of questioning be declared non-germane and we can move on.

SENATOR ESPAILLAT: Mr. President, if I may. I think that it is very much germane, because the content of this bill proposes that one votes in their election district. And I am about to make a point about the changing of election district numbers that I think is very relevant to this point. If you allow me to do that, Mr. President.

THE PRESIDENT: Senator.

SENATOR ESPAILLAT: Thank you,

Mr. President.

So as I was saying, district numbers change --

SENATOR MARCELLINO: Mr. President, I asked for a decision on the germaneness of this line of questioning.

SENATOR BRESLIN: Point of order.

SENATOR MARCELLINO: We're asking for a decision on a --

SENATOR BRESLIN: A decision was made and rendered by the chair.

SENATOR MARCELLINO: No. No, there was no decision. I heard no decision.

THE PRESIDENT: If I could just -- to go to Senator Marcellino's point. Senator Espaillat, if you could just make a connection between this bill and the issue of redistricting, make it a germane point before I rule.

SENATOR ESPAILLAT: I'm getting to that, Mr. President. Thank you for allowing me to do that.

So the fact of the matter is that many people when they go to vote, particularly when election district numbers change, as they are about to occur next year, they are led often

by inspectors to vote in the wrong ED because there is general confusion in the voting place as to which election district you belong to.

In fact, very often voters come in with their own voter registration card that has the old election district in it, and they don't see the number in the voting place, and as a result they may go back home and not vote at all or they may vote in another election district that has a new and different number. And in fact, if they are not found in that election district, they will then be asked to vote through a paper ballot.

So my question to Mr. Nozzolio is if I go to vote next year and I currently vote in ED 41 and through redistricting my ED number is changed and I don't know what that is and I vote in the wrong ED through a paper ballot, will I be subject to an eviction? I think that is a very germane question and a relevant one, Mr. President.

THE PRESIDENT: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, that was a long question. And I understand the foundation which Senator Espaillat is pursuing,

that every election district throughout the state, every election, has confusion about particular voting patterns.

Under this legislation, the court is required to look at the totality of the circumstance. Now, Senator Espaillat, if you had a rent-controlled apartment and you had an address -- pick an -- whatever, I don't know where your address is. But let's just take a hypothetical. Let's say it was 1 Main Street and that was a rent-controlled apartment and that you lived there, but you decided to run on Elm Street because you also owned another residence there.

The court would have to look at whether or not that rent-controlled apartment was your primary residence. And if you voted at a residence that was a non-rent-controlled apartment, that in fact would question the validity of the vote.

And that's what courts are for. That's why there are affidavit ballots, that's why there are ballots that are normally questioned. The process, though, appears to be remote. And that it hides the essence of this legislation, which is one home, one vote. If

your home is a rent-controlled home, then you vote in the rent-controlled home.

That's the premise of this bill. That's the only premise of this bill. And courts would have -- and I think your hypothetical has a great deal of merit. It's something that should be -- certainly a court would have to look at, particularly in the chaos that always occurs as a result of a redistricting year.

SENATOR ESPAILLAT: Mr. President, if Senator Nozzolio would yield.

Thank you for your explanation, Senator Nozzolio. But you may know that currently the courts have access to plenty of data to establish residency. They could look at E-ZPass records, they could look at credit card bills, they could look at utility bills and bank statements. But I want to ask you a particular question.

THE PRESIDENT: Senator Espaillat, can you ask Senator Nozzolio to yield?

SENATOR ESPAILLAT: Yes. Will you yield, Mr. Nozzolio?

THE PRESIDENT: Senator Nozzolio?

SENATOR NOZZOLIO: Yes,

Mr. President.

THE PRESIDENT: The Senator yields.

SENATOR ESPAILLAT: Thank you, Mr. President.

If a soldier is voting from Iraq, as it is common for Americans to vote overseas -- in fact, there are Democrats overseas, there are Republicans overseas, there are institutions and structures that organize these folks to vote all over the world. If a soldier right now voted from Iraq, should he be evicted from his home?

SENATOR NOZZOLIO: Mr. President, again, the strain and effort by Senator Espaillat to determine these hypotheticals reminds me of the days in law school when professors took the most extreme example. And I congratulate him for his creativity under these circumstances.

I think the question can be answered very simply, though. Senator Espaillat's question is answered every year in every election by every absentee ballot. That that absentee ballot is filed by an individual who is traveling or who is living someplace else on a temporary basis. It's not by someone who -- and that absentee ballot travels back to the home where

that person lives. One home, one vote.

SENATOR ESPAILLAT: Mr. President, if Senator Nozzolio may yield for another question.

THE PRESIDENT: Senator Nozzolio, will you yield?

SENATOR NOZZOLIO: Yes, Mr. President.

SENATOR ESPAILLAT: Well, first, I don't agree that it is far-fetched for soldiers to be voting from Iraq. I think that it is a very common practice, one that we should all support and encourage.

But I would like to get to a case of -- and I'm not a lawyer, but I will get to the case of Williams versus Salerno, in which back in 1986 the New York Court of Appeals ruled that students can choose to register to vote on college campuses via absentee ballots. So that thousands of students that live across the State of New York outside of their local residency, that didn't reregister, perhaps, when they moved to their college dorm or that may be living in fact in other states outside of New York State, if they cast a vote -- and they live in a

rent-stabilized apartment -- in their college campuses, will they be subject to eviction?

SENATOR NOZZOLIO: Mr. President, the creativity of Senator Espaillat to bring in all circumstances under the umbrella of absentee ballots leads to the same answer, Senator. And I hope you're listening. It leads to the same answer, Senator, and I hope you're listening.

That same answer I gave to the last question you raised: The absentee ballot travels to one place and one place only. And that's an individual's home, whether they're a soldier fighting in Iraq, whether they're a college student, whether they're, under your hypothetical, someone traveling abroad. Whatever the travel circumstances are or the circumstances in the case of a member of the military that requires them to be away from their residence, we have absentee and military ballots to take care of them.

What this bill gets to is the fact that some people actually are having rent-controlled apartments but living in some other area. Not to travel, not to be gone occasionally, but to actually establish a voting

residence. So if someone has a rent-controlled apartment and they are establishing another residence that is in another jurisdiction that allows them to vote in that other jurisdiction -- in effect, perpetuate a fraud on the rent-control process.

SENATOR ESPAILLAT: Mr. President, if Senator Nozzolio may yield for another question.

THE PRESIDENT: Senator Nozzolio, will you yield?

SENATOR NOZZOLIO: Yes, Mr. President.

THE PRESIDENT: The Senator yields.

SENATOR ESPAILLAT: I find it hard to believe that some of our best soldiers that are fighting in Iraq to preserve our democracy may be engaging in a socialist experiment, as was quoted in another session that rent stabilization was.

But I want to ask, in fact, how far back do we go? Are you asking the court to look back 20 years and determine whether or not someone voted in their ED 20 years ago? There are tenants that reside in the same residence for

20, 30 or 40 years. Is --

SENATOR NOZZOLIO: Mr. President, the answer to that question, there is, under this legislation, absolutely no lookback.

SENATOR ESPAILLAT: Excuse me?

SENATOR NOZZOLIO: There is absolutely no lookback.

SENATOR ESPAILLAT: No lookback. Thank you, Mr. President. Thank you, Mr. Nozzolio, for your comments.

If I may, on the bill.

THE PRESIDENT: Senator Nozzolio has the floor, Senator.

SENATOR NOZZOLIO: Senator Espaillat, I have the floor.

SENATOR ESPAILLAT: Yes.

SENATOR NOZZOLIO: Thank you, Senator.

More smoke screens, Mr. President. More smoke screens about how much cover do you all wish on the other side of the aisle that are supporting the fraud that this bill is trying to eradicate? Is this the Congressman Rangel application process for rent control? Is this the type of rent-control process where an

individual can have more than one rent-controlled apartment? Is this the same process that allows those who are establishing rent control to be voting in more than one place? They may even be voting in Senator Breslin's district but have a rent-controlled apartment in New York City.

THE PRESIDENT: Senator Breslin, why do you --

SENATOR NOZZOLIO: Is this the type of fraud that you seek to perpetuate? I hope not.

THE PRESIDENT: Senator Nozzolio.

Senator Breslin, why do you rise?

SENATOR BRESLIN: I rise to just remind the speaker that we have courtesies and rules that we don't denigrate other elected officials in this body. And it's a well-respected rule. And it's a good rule. And that we should have common decency when we reflect and when we talk on particular issues.

THE PRESIDENT: Thank you, Senator Breslin. Noted.

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President. And thank you, Senator Breslin.

The frustration here is the questioning that refuses to address the essence of what this legislation is trying to prevent, and that is trying to prevent fraud in two places, voter fraud or fraud against this rent-control system. That's the essence of the legislation.

I'm hopeful that those who have even voiced objections to some of the parts of the process will understand that all of us should be fighting to oppose fraud as opposed to defending a process that perpetuates potential fraud.

So, Mr. President, that's why I rose to clarify what the essence of this legislation is. And that I'm hopeful that we will see adequate safeguards placed in the essence of the legislation before us today.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

Senator Rivera.

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

No smoke screens. Certainly no fraud. And not defending fraud. I just want to clarify that for our colleagues.

This bill, the main problem with it -- because I certainly can agree and do agree with my colleagues that we should try to seek out fraud wherever it may lie and try to eradicate it. I also agree that if you have a rent-stabilized or rent-regulated apartment, that you should reside in that apartment.

The problem with this bill is that the way that it uses the mechanisms that it uses to establish such residency leave way too many holes open. They leave way too many questions unanswered.

And more specifically -- and this is why I will vote in the negative in the strongest way that I can and encourage my colleagues to do the same -- it does not allow for consideration by the courts. Because the language of the bill reads, and I shall read a line of it: A vote is cast by a tenant during their tenancy in any election held in accordance with the provisions of the election law conducted in any election district other than the designated for the housing accommodation located in the city shall, shall result in a determination that the tenant does not occupy the housing accommodation as his

or her primary residence.

We can agree that if an individual does not have a primary residence in the place that is a rent-regulated apartment, that they certainly should not keep it. We are certainly not defending the actions or the alleged actions of some individuals who might have had many apartments of this type. But what we are saying is that the current language of this bill does not allow for the courts to make these determinations.

Indeed, it says if I am a judge and I am reading the statute and, based on what we talked about, all the different potential circumstances that might arise where a person is not casting a vote in the ED that he or she resides in -- as a perfect example, I will bring up the situations that happened during my colleague's Andrea Stewart-Cousins's race back in '05 -- '04, excuse me. In said election there were many instances in which the Board of Elections made many mistakes and people went to the right places to vote and were told that they had to go elsewhere, et cetera, et cetera.

If this law went into effect and

such individuals were individuals that lived in rent-regulated apartments, all of a sudden, if I am a judge, this act shall result in the determination that the tenant does not occupy the housing accommodation as his or her primary residence.

So that is the reason why I oppose this piece of legislation. Not because I want to defend fraud, and certainly not because I want to put up a smoke screen, but because the language of the bill is specific enough that it does not allow for any type of judge to make a determination. Indeed, it says that they shall find that this person is not a resident in said house or apartment and therefore that they are now no longer in compliance with the law and they might be evicted.

It is the reason why many of us on this side of the aisle oppose this bill. No smoke screen, no defending of fraud, simply that the law, what it does is it makes people that might, for mistakes that have nothing to do with their actions, all of a sudden find themselves without a home.

I cannot be supportive of a bill

that does that. Mr. President, I will be in the negative on this bill.

THE PRESIDENT: Thank you, Senator.

Senator Young.

SENATOR YOUNG: I just would like to answer a couple of the questions that have been raised here.

Senator Rivera, you just brought up a point about a person being evicted. Basically, under the bill, if a person is evicted, they would still to go through the eviction process. Meaning that it would go before a court and the court, again, would consider everything in its totality.

So say somebody made a mistake or did something else. Under the legislation -- you're shaking your head, but it's absolutely true. Under the legislation the court would look at everything in its totality.

As far as voting, you vote where you're enrolled and you're registered. If you cast a vote where you're not enrolled and registered, it's not a valid vote. However, if you are in a neighborhood and you're confused about which election district is where you're

supposed to go cast your vote and you go to a neighboring election district by accident and you fill out the paper ballot with your name and address, then the Board of Elections will apply that vote to the proper election district.

So some of the issues that have been raised today are not valid because it's not how the system works.

You know, this bill really is about accountability and people being accountable. You know, I'm glad to hear Senator Krueger say that she thinks if people receive rent-regulation benefits that that should be their primary residence. I'm glad that we agree on that. It doesn't happen too often, does it, Senator Krueger? But we do agree on that.

But if you're receiving rent-regulation benefits, you're getting enrichment, you're getting significant benefits. And if you're receiving those benefits and yet you choose to vote at another address, then that proves that that's not your primary residence. If you get rent regulation, it's supposed to be your primary residence.

If you also are legally required to

file taxes and you owe taxes and yet you don't pay those, then again that shows that perhaps that is not your primary residence. Or you're just violating the law. And there should be personal responsibility, accountability. People should follow the law. And people should be voting from their primary residences.

So this bill is pretty simple. It just basically says that you should vote where you live and you should live where you vote. And that just about sums it up, Mr. President.

So I would urge all of my colleagues to vote yes. This is a very good bill, and I hope everyone supports it. Thank you.

THE PRESIDENT: Thank you, Senator.

Any other Senators who wish to speak on this bill?

Oh, Senator Robach. No?

(Laughter.)

THE PRESIDENT: Thank you. A great relief.

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

The Secretary will read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Marcellino to explain his vote.

SENATOR MARCELLINO: Yes, Mr. President, to explain my vote.

I want to commend Senator Young on bringing up this important bill. We are all partners in the electoral process. We all engage in the electoral process. We are all dependent upon that process being fair and impartial. And everybody's vote counted and counted where it belongs.

To require that someone's primary address is the place where they vote I don't think is an exceptional thing. It should be normal. It is normal. And no one, Senator, can legislate away due process rights. So if I accuse you of fraud, you come back and say, Well, I can defend myself, and that's the end of it. That's what the courts are there for, and that's what the courts do.

And Senator Young is perfectly

correct, the courts will look at the totality and say you've paid bills here, you've lived here, you can demonstrate that you've been there, and there is no doubt that that is your primary residence. This one aberration goes away.

This means intentional fraud, not accidental fraud. Not I made a mistake. Not I walked into the wrong place by mistake. That's not going to throw anybody out of anyplace. You know that, I know that. You can't evict a tenant from an apartment in New York City in less than two years. That's the way it works. Any landlord will tell you that.

This is the way it is. We all should be fighting for a clean electoral process, and that's what this bill is trying to achieve. I vote aye and urge everyone else to vote aye.

THE PRESIDENT: Thank you, Senator.

Senator Marcellino's vote will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: In relation to Calendar 927, those recorded in the negative are Senators Adams, Addabbo, Avella, Breslin, Diaz,

Dilan, Duane, Espaillat, Gianaris, Hassell-Thompson, Huntley, Kennedy, Klein, L. Krueger, C. Kruger, Montgomery, Oppenheimer, Parker, Peralta, Perkins, Rivera, Sampson, Savino, Serrano, Smith, Squadron, Stavisky and Stewart-Cousins.

Ayes, 34. Nays, 28.

THE PRESIDENT: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

I'd like to announce right now, since we've finished the calendars, there will be a majority conference at 6:15, at 6:15 in Room 332.

And there will be a Rules Committee meeting. I am informed by the acting chairman of the Rules Committee that committee meeting will take place at 7:30 in Room 332.

And as long as he's acting and pulling my puppet strings, I would like to call on Senator Hassell-Thompson for an announcement.

THE PRESIDENT: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: I'd like

to give you correct information. So if you would just indulge me a moment. Thank you.

SENATOR MARCELLINO: With unanimous consent, we're indulging.

THE PRESIDENT: We stand indulged.

(Laughter.)

SENATOR HASSELL-THOMPSON: There will be a 7:00 o'clock meeting of the Democratic Conference in the Democratic Conference Room.

THE PRESIDENT: So there is a 6:15 Majority conference in Room 332, a 7:30 Rules Committee meeting in Room 332, and a Democratic Conference meeting at 7 o'clock.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 6:00 p.m.)

(Whereupon, the Senate reconvened at 8:29 p.m.)

THE PRESIDENT: The Senate will come to order.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I believe everybody has a supplemental active list. So at this time if we

could have the noncontroversial reading.

Maybe we could get the doors shut and the Sergeant-at-Arms on the doors and ask for only members to come in. And those Assembly members who we'd like to welcome at this moment, including my own.

THE PRESIDENT: I'd ask the Sergeant-at-Arms to close the doors.

And the Secretary will read the noncontroversial Supplemental Active List Number 2.

THE SECRETARY: Calendar Number 374, by Senator Addabbo, Senate Print 3300, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 833, on page 18 Senator Saland moves to discharge, from the Committee on

Investigations and Government Operations, Assembly Bill Number 72B and substitute it for the identical Senate Bill Number 3255B, Third Reading Calendar 833.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 833, by Member of the Assembly Paulin, Assembly Print 72B, an act to amend the Public Officers Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 862, on page 19 Senator Saland moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 2349A and substitute it for the identical Senate Bill Number 4895, Third Reading Calendar 862.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 862, by Member of the Assembly Weinstein, Assembly Print 2349A, an act to amend the Executive Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 912, by Senator Bonacic --

SENATOR LIBOUS: Could we please lay it aside temporarily.

THE PRESIDENT: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 1097, by Senator Nozzolio, Senate Print --

SENATOR BRESLIN: Lay it aside.

THE PRESIDENT: The bill is laid

aside.

THE SECRETARY: In relation to Calendar Number 1347, on page 31 Senator Skelos moves to discharge, from the Committee on Rules, Assembly Bill Number 5744A and substitute it for the identical Senate Bill Number 5653, Third Reading Calendar 1347.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1347, by Member of the Assembly Abbate, Assembly Print 5744A, an act to amend the Administrative Code of the City of New York.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 1347: Ayes, 61. Nays 1. Senator Saland recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1362, on page 32 Senator Robach moves to discharge, from the Committee on Rules, Assembly Bill Number 8445 and substitute it for the identical Senate Bill Number 5778, Third Reading Calendar 1362.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1362, by Member of the Assembly Farrell, Assembly Print Number 8445, an act to provide for the adjustment.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

Senator Libous, that completes the noncontroversial reading of Supplemental Active List Number 2.

SENATOR LIBOUS: Thank you,

Mr. President. At this time could we have the controversial reading of the calendar.

THE PRESIDENT: The Secretary will read the controversial calendar.

Senator Libous.

SENATOR LIBOUS: Mr. President, I need to be more specific, I apologize. Calendar Number 1097 at this time.

THE PRESIDENT: Thank you, Senator.

The Secretary will read.

THE SECRETARY: Calendar Number 1097, by Senator Nozzolio, Senate Print 3538A, an act to amend the State Law.

SENATOR BRESLIN: Explanation.

THE PRESIDENT: Senator Nozzolio to explain.

SENATOR NOZZOLIO: Is that Calendar Number 1097, Mr. President?

THE PRESIDENT: Yes, Senator.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President and my colleagues, as we approach in the next 90 days the tenth anniversary of the September 11th attack, the most horrific crime ever to take place on

American soil, it will certainly be a tribute, it will certainly be a reminder of the loss that we all face and the resolve we have as Americans.

The flag that this legislation is supporting and asking this body to adopt was designed 10 years ago in the wake of that tragedy by Joanne and Steve Galvin, from Wayne County in upstate New York.

The background of that flag on each side represents the color of the state flags for each of the states where tragically those planes were downed: New York, Pennsylvania, and Virginia, each bearing the dark blue color of those state flags. The black in the center of the flag represents the sorrow we feel for the innocent lives lost and all that we suffered as a result of this tragedy -- those on the plane, those working in the towers, those in the Pentagon and the rescue workers who lost their lives during the rescue.

As chairman of the Crime Victims, Crime and Corrections Committee for many years and during the period of that attack, I conducted a number of inquiries and hearings on ensuring that the victims of September 11th were treated

fairly and appropriately by the New York State Crime Victims Board -- again, for the most horrific crime ever to take place in this state -- held many of the victims in my arms, as I know many of my colleagues have, each of you affected by that -- all of us were affected by that tragedy.

The stars on the flag represent the four planes that crashed and the innocent lives lost on those planes. The blue star represents the buildings lost, the Pentagon, and for the innocent passengers who fell from American Airlines Flight 77. The two white stars represent each of the towers at the World Trade Center. And the red star represents the plane that crashed in Shanksville, Pennsylvania, and the innocent passengers who sacrificed their lives to save many.

That this flag is flown in many areas of upstate New York. It is flown because of the generosity of the Galvin family. Steve Galvin, who designed the flag and produced the flag and paid for it himself, is no longer with us. His dying wish, though, as he passed away a few years ago was that the State of New York

would establish a constant, continual daily reminder so that the tragedy that took place on September 11th will not be forgotten.

As Senator Larkin, our colonel, who was so instrumental many years ago when we both served in the State Assembly together for the MIA flag and ensuring that the MIA flag -- which I don't know who designed it, I don't know what the background was in designing it. But the fact is, as that MIA flag flies each and every day, we have a continual reminder of the sacrifices of the MIAs and that they are still missing in action and that we need to have them in focus.

The same is true with this flag, the 9/11, September 11th Remembrance Flag. This is not to have anything other than the memory of September 11th be crisp in the minds of all of us, and not just on the tenth anniversary day. But that is the objective here. And I'd be honored to answer any questions of my colleagues.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

Any Senators wishing to speak on this bill?

Senator Krueger.

SENATOR KRUEGER: Thank you very much. If the sponsor would please yield to a question.

THE PRESIDENT: Senator, do you yield?

SENATOR NOZZOLIO: Yes, Mr. President.

THE PRESIDENT: The Senator yields.

SENATOR KRUEGER: So, Senator, you just explained that this is a flag that was designed by a particular couple who I believe are from your district.

SENATOR NOZZOLIO: I'm sorry, Mr. President, I couldn't hear Senator Krueger. I think she used the word "claimed." I thought I heard that. Would you please repeat that, Senator Krueger?

SENATOR KRUEGER: Certainly.

Am I correct in saying that I heard you say that this flag was designed by a particular couple from your district? Is that correct, Senator?

SENATOR NOZZOLIO: Yes, Mr. President, I mentioned this a couple of times, that Steve and Joanne Galvin from Wayne

County, in the wake of September 11th, in trying to share their shared grief with all of us, took pen to tablet and sat down and designed this flag.

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

THE PRESIDENT: Senator, do you yield?

SENATOR NOZZOLIO: Yes, Mr. President.

THE PRESIDENT: The Senator yields.

SENATOR KRUEGER: So as I read the Senator's bill, it is, to quote, "The national remembrance flag is hereby declared to be the official 9/11 remembrance flag of the State of New York." So it would be taking this flag as described and making it the state 9/11 remembrance flag, because it's already the national remembrance flag.

Through what process was used to determine that this specific flag is in fact the nationally determined 9/11 remembrance flag?

SENATOR NOZZOLIO: Mr. President, I'm sorry, I don't understand Senator Krueger's question.

THE PRESIDENT: Senator?

SENATOR KRUEGER: Thank you. Through you, Mr. President. To read the text of the bill: "70-a. State 9/11 remembrance flag. The national remembrance flag is hereby declared to be the official 9/11 remembrance flag of the state of New York. The national remembrance flag is declared to be blue, with a black center, with two white stars, above them one blue star and below them one red star."

So this is a bill to have this flag recognized as the New York State 9/11 remembrance flag because, as is stated in the bill, it is the national remembrance flag.

I'm wondering what process was gone through where this flag became the national remembrance flag.

SENATOR NOZZOLIO: Mr. President, this remembrance flag has been adopted by a number of states, actually, as a flag that is flown. That it is -- the nomenclature of "national remembrance flag" is not a designation but a description of what that flag represents.

It is not an officially designated flag, to my knowledge, of the national

government. But it is, rather, a flag that unites many states; as I indicated, the blue of the states of Virginia, Pennsylvania, and New York, the stars representing the locations of victims in the attacks. And that this is -- I hope that answers Senator Krueger's question.

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

THE PRESIDENT: Senator, will you still yield?

SENATOR NOZZOLIO: Yes, Mr. President.

THE PRESIDENT: The Senator yields.

SENATOR KRUEGER: Thank you.

Virginia, Pennsylvania, and New York. Those are the three states you named? I'm sorry, Senator. The three states you said -- I just want to make sure you I heard you right -- Virginia, Pennsylvania, New York. Is that correct?

THE PRESIDENT: Yes, Mr. President.

SENATOR KRUEGER: Thank you.

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

THE PRESIDENT: Senator Nozzolio, do you yield?

SENATOR NOZZOLIO: Yes, Mr. President.

THE PRESIDENT: The Senator yields.

SENATOR KRUEGER: Thank you.

And have Virginia and Pennsylvania made this national remembrance flag their state 9/11 remembrance flag?

SENATOR NOZZOLIO: Mr. President, I do not know the answer to that question.

SENATOR KRUEGER: On the bill, Mr. President.

THE PRESIDENT: Senator Krueger on the bill.

SENATOR KRUEGER: No one wants to vote against a flag that honors the memory of 9/11. In fact, I represent the Borough of Manhattan where one of the three attacks that day happened, where the largest number of people who died were in fact from the zip codes I represent.

Of course the district that has the World Trade Center in it is Senator Squadron's district.

I don't know that any of us forget

any day what happened almost three months short of 10 years ago. I'm just a little concerned that we in New York tonight would decide to recognize a specific designed flag as the national 9/11 remembrance flag and then in turn, I guess speaking for the nation, make that our New York State 9/11 remembrance flag.

Certainly there are huge numbers of Americans who have extraordinarily strong views about and strong memories about 9/11. My husband worked at the site immediately upon the bombing. My father's office, directly across the street, had a giant piece of metal that flew from the World Trade Center and landed on his desk. Happily, he was not there that day. So we all bring to this discussion 10 years of experience and memories.

I'm just not sure that the way to approach deciding a national flag for this nationally critically relevant moment in our country's history is to decide as New Yorkers that we're going to pick a specific design. I don't think through any voting of the public or even public discussion -- certainly there hasn't been one in my borough in New York City -- and

decide because someone in fact had strong emotions about 9/11 and chose to design a flag that that by default ought to become the national flag recognized by the State of New York.

But of course I do not mean any disrespect towards the sponsor or towards the people --

SENATOR NOZZOLIO: Mr. President.

SENATOR KRUEGER: If I could finish the sentence.

THE PRESIDENT: Senator Nozzolio, why do you rise?

SENATOR NOZZOLIO: Will Senator Krueger yield.

THE PRESIDENT: Senator Krueger, will you yield?

SENATOR KRUEGER: As soon as I finish my sentence, I would be happy to.

SENATOR NOZZOLIO: (Unclassifiable sound.)

SENATOR KRUEGER: Would you like a cough drop?

(Laughter.)

SENATOR KRUEGER: To repeat, I mean no disrespect of the sponsor or the people who

did this specific design, but I'm actually not comfortable making a vote of the New York State Senate that this in fact is the national 9/11 flag of remembrance to be made the official New York State flag.

And now I'd be happy to answer the sponsor's questions.

THE PRESIDENT: Senator?

SENATOR NOZZOLIO: Mr. President, is the time suitable for Senator Krueger to yield at this point?

THE PRESIDENT: Senator Krueger, will you yield?

SENATOR KRUEGER: I'm delighted to yield to Senator Nozzolio.

THE PRESIDENT: The Senator yields.

SENATOR NOZZOLIO: I just wanted to make sure the lady from Manhattan had finished her sentence, Mr. President.

That, Senator Krueger. I would ask this. Those who -- as we now are in the high school graduation season, that the graduates from high school around the age of 18 were in the third or fourth grade on that fateful day of September 11th. The reminders that you have are

much different than the reminders they have, which are a full generation having not anywhere near as many, and particularly those further and further removed from Ground Zero and Shanksville, Pennsylvania, and at the Pentagon.

Where have you been, Senator Krueger, for the last decade in terms of establishing a continual remembrance? You're criticizing -- Senator Krueger is criticizing, Mr. President, the fact that this flag may have not gone through a process, although I have had this bill introduced for a number of years. That Senator Krueger may indicate that there wasn't an appropriate -- I don't know of any other September 11th flag designed or suggested throughout this state. Does Senator Krueger have specific knowledge of such another flag?

THE PRESIDENT: Senator.

SENATOR KRUEGER: Thank you. Through you, Mr. President. I certainly meant no criticism. I don't believe I was criticizing. But I think, if asked -- well, to answer yes, if you go online, you find any number of different designs where people say it's their 9/11 remembrance flag. And I respect each and every

person's right to design a flag.

I have no problems with the design of flags. I think they're a great symbolic -- they're a great symbol of many things to many people. Looking at two great flags to your right and left above your head, Mr. President. So there are quite a few 9/11 flags that have been proposed. And in fact, I would think that New York State has more than its fair share right of staking a claim or a position or an opinion about what the national 9/11 day of remembrance flag should be.

But it is -- it was an attack on this country. I don't know that I have forgotten it for one day. I clearly don't think Senator Nozzolio has forgotten it for one day.

I think that a better approach to deciding a national flag would be to ask the federal government to make a decision about what a national 9/11 flag of remembrance should be and then for the State of New York to decide whether it wants to accept it as our New York State flag.

Alternatively, I think New York State could create its own New York State 9/11

remembrance flag but not claim it was the national flag.

So either of those, I think, would be satisfactory to me. And again no disrespect meant of anyone involved with this design of this flag or the commitment of good people who want to ensure our children, the next generation, remembers and learns about what happened on 9/11.

And since -- you know, it's an interesting point. I have a niece who's graduating high school, so she's exactly the age you were describing, Senator Nozzolio. And I remember talking to her. And I don't think she's forgotten. And it's an interesting question whether a flag is the right mechanism for remembrance. There's certainly nothing wrong with it being a model for remembrance.

I just think the country should be making a decision about what our national remembrance flag should be, not necessarily each of 50 states.

So with respect for the sponsor's intentions with this bill, I'll be voting no.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

Senator Larkin. Oh, excuse me, Senator Marcellino.

SENATOR MARCELLINO: No, I'll go on the list.

THE PRESIDENT: Senator Larkin.

SENATOR LARKIN: Thank you, Mr. President.

I'm really shocked. We have a group of people up here in the audience. I made a few phone calls while this debate was going on and asked people who were at 9/11 who were combat soldiers in Vietnam. I don't remember anybody ever asking anybody about the MIA/POW flag. And it flies nation -- it's in Afghanistan. It's in Iraq. It's in every other country where we're at.

Just think about it. If you were there on 9/11 you'd like to make sure that somebody in your family knew about it. Now we're sitting here and saying, well, let's design it.

I have a pin on my jacket. It says "Purple Heart 37 cents." Many of you weren't here. John Bonacic, Mike Nozzolio, Chuck Fuschillo, Jimmy Seward said to me "If I see one more of those pins of the Purple Heart stamp, I

know where I'm going to stick it." No laughing, Mike. The person that designed that stamp, nobody knows who that is today. Nobody cares.

It took us three and a half years to get this stamp. There were one million letters from the State of New York in the year 2000 that said we wanted a stamp. And the former First Lady, U.S. Senator, and now our distinguished Secretary of State, was with us all the way. I never heard her say, Oh, Bill, we -- did you, Chuck or Mike, ever hear her say "We'd better find out who's going to design it"? We just wanted a stamp.

And then eight years later, after it went from 37 to 44, we had a new design. The person that designed it, it didn't go out to bid. This lady who made the design -- it's beautiful. Most of our people in our room here have seen it. It says "Purple Heart, Forever USA." That says to everybody in the world this is America. It started with a stamp, started with a badge in 1782. In 1932 MacArthur and Hoover said let's make it a purple heart. We took it all the way to the year 2011 to make it a stamp forever.

Why are we so -- you know, I have to be very honest with you. I'm sitting here thinking what about those young people back in Iraq, Afghanistan? They know why they're there. They're all volunteers. They're there because of 9/11. There's nothing else.

Now we're saying well, maybe we ought to do this, maybe we ought to do that. You know, I'm sorry. I'm thinking about that grunt in that foxhole. And there's only three of us in this room that have ever been in a foxhole. Lee, Mac -- I don't know where he's hiding -- and myself. I'm proud. But as a trooper, I'm disgusted because we're doing something that says we'll wait, we'll wait.

A lot of the people that were involved in that and a lot of those young men and women that volunteered to answer the call of this country are saying, When are you going to pay attention and remind people of what 9/11 was all about?

Well, gee, we've got to design it. Would you mind coming up and putting in your bid? Patty, would you put your bid in? Would you put your bid in? They're laughing at us.

One guy said to me on the phone today, "If that's all the hell you got to do in Albany, you ought to all be fired." And he's right. To take Michael Nozzolio and try to tatter and feather him when he's doing something that he believes is right in response to his constituents -- oh, yes, there's a market on there. It's one of his constituents. I could -- Chuck, your paper, we shouldn't put your paper because they talked about the Purple Heart stamp and all the effort you've put forward.

I think it's time we grew up. Over 3,000 people were killed, most of them Americans. And here we are sitting here tonight at five minutes to 9:00 because we got nothing better to do but to say about a flag, a flag that represents -- and we can't say that it was New York, Pennsylvania, Virginia and DC. Because that's where they were. It's America.

It's just like the MIA. Nobody ever designed it. But the MIA is all about Americans that are missing in combat. And if somebody in your family is in those positions, you won't be worrying about a flag.

Look at the Gold Star mothers. Some

of those people that were in 9/11 that survived have since died as a result of combat action in Iraq and Afghanistan. I don't know what you people think about or -- when I say "you people," my colleagues here. Excuse me. But don't we have something better to do? We ought to be ashamed of ourself. We ought to vote for this and say let's get it done.

I'll be glad to have it. I have an American flag, I have an MIA flag, and I have a 25th Infantry Division flag on my pole at home. I'm looking to put 9/11 on it. I think we owe those who went through this and those that we have to sent to combat -- because we did it. Government officials, President of the United States. And they're over there, they're all volunteers, because they care about this great country of ours.

And I think it's about time we stopped this silly nonsense. And that's what it is. And if you're upset with me, good for you to be upset with me. Because I'm upset with you. I think it's time that we passed this bill in honor of those who were at 9/11.

Thank you. And I apologize for

raising my voice. And to you too, Carl.

THE PRESIDENT: Thank you, Senator.

Senator Marcellino.

SENATOR MARCELLINO: Senator Larkin, you never have to apologize to me.

Mr. President, I commend Senator Nozzolio for bringing this bill forward. I think it's worthy.

Senator Krueger, I -- Senator Krueger, I disagree with you to one extent. I believe New York State should take the lead. If this flag is going to be a national issue and a national memorial, this state is the only state to take the lead. I don't want the federal government doing this. This is something that impacted New Yorkers. We were the target. We were the persons that lost the lives of friends, relatives and neighbors. This state is unique in that respect. And it should be our design, our push and our movement. So in that respect, I disagree.

Those of us who went to that site, as many of us did, will never forget the sights, the sounds, the smell of that place only a few days after the attack. It's something that stays

with you. To this day I can taste that air that was there at the time.

So yeah, New York State should take the lead, Mr. President. And if there is to be a national flag, it should be one of our choosing and of our design, because it was our friends and neighbors that paid the supreme price on that fateful day.

Thank you.

THE PRESIDENT: Thank you, Senator.

Senator Robach.

SENATOR ROBACH: Yes, Mr. President, let me too commend Senator Nozzolio.

The one thing I will agree with my colleague Liz Krueger, it is true for us in New York, everybody felt that impact. John Moran, who was the youngest battalion chief ever made, the cousin of our colleague, Joe Crowley, who served in the Assembly for years, now in Congress, lost his cousin who wasn't even on duty, went in to be with his guys, lost his life.

A roommate I had, Pete Milano, Foster avenue in Brooklyn, New York, was making

more money and more successful than he ever imagined as a young person working for Cantor Fitzgerald, to get struck down at age 41 and lose his life.

So we all were impacted by that. That's true, Senator Krueger. But I think that's where I part ways with your logic. As it's been said before, clearly New Yorkers were impacted more directly, more personally than any other state.

And while I applaud Senator Nozzolio, not only do I think we have the right to take the lead, the federal government has not. So why wouldn't we, given the personal impact everyone that spoke has talked about -- and I know the rest of my colleagues have -- take that lead, have that remembrance for a number of reasons, both for healing, not forgetting, all those things, and do this.

And while I do greatly respect other people's opinion, I do really have to strain to understand why anybody would be against a flag created by a New Yorker for the loss of New Yorkers when no one else is doing it. I would encourage all my colleagues to vote in the

affirmative.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

Senator Stewart-Cousins.

SENATOR STEWART-COUSINS: Yes, thank you, Mr. President.

I, like everyone, remember 9/11. I don't think there's anybody here who doesn't personally and intimately remember what that day meant, doesn't personally know someone or many people who didn't come home, whose families today mourn. And so yes, I commend you, Senator Nozzolio, for bringing this forward and putting it in our attention as a state.

I voted against it in committee because of the same reasons that my colleague Senator Krueger mentioned. Because this was one of many flags. I walked into a hospital and saw a beautiful American flag that commemorated 9/11, and it had the name of every victim lost during that terrible tragedy. I'm sure there's a lot of people who think that's a perfectly fine flag.

So the reality is that this is important, commendable, laudable. And I agree that New York State should take the lead. But I

don't think that we should be not as mindful about our flag -- especially since it represents what happened here at home, at home to so many of us -- I think we should at least be as mindful as we were when we tried to decide between sweet corn and sweet onion.

We had a vote on that. People were talking about is it corn or onion. And we thought that was fun, but we thought enough of our neighbors to ask. I don't understand why, while the concept is wonderful, we wouldn't think enough to ask our neighbors who were as impacted as we were to weigh in on this.

As Senator Krueger said, it's very hard to vote against a flag commemorating a national and local tragedy. But again, I would urge us to approach this because it is our place to take the lead and so many of us here in New York were impacted.

Thank you.

THE PRESIDENT: Thank you, Senator.

Senator Krueger.

SENATOR KRUEGER: Thank you.

This lady from Manhattan will never have to be reminded about what happened on 9/11.

Nor do I really mind being lectured by my colleague who thinks that he always knows better about national issues.

But for the record, Senator Larkin, the POW/MIA flag, August 10, 1990, the 101st Congress passed a U.S. public law, 101335, which established the League's POW/MIA flag and designated it as a symbol of the nation's concern and commitment to resolving as fully as possible the fates of Americans still prisoners missing and unaccounted for in Southeast Asia, thus ending the uncertainty for their families and the nation.

I tonight have suggested a parallel model be used here. New York State may take the lead, as my colleague Senator Andrea Stewart-Cousins just suggested. We should have a broad participatory discussion, and we have -- and I have no problem, as I said on the record a little while ago, creating a New York State 9/11 remembrance flag.

But I believe, as I stated earlier, that the right process would be for the U.S. Congress to make a final determination of what the national flag of remembrance would be. And

it seems that they have an established precedent for doing so, having done exactly that when it came to the MIA/POW flag.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

Senator Adams.

SENATOR ADAMS: Yeah, thank you, Mr. President. Really, I could have just explained my vote, but since I asked to speak, I want to speak.

First of all, we're 90 days from the remembrance ceremony. And I was a police officer during that time. And I commend Senator Nozzolio, and I will be voting in favor of this bill.

And basically I'm voting in favor of the bill because of a seamstress. Her name was Betsy Ross. There was no committee put together. There was nothing special about what happened. She decided to sew the American flag. And we still salute that flag.

I think what's beautiful about this is that this is not coming from a committee. It's not coming from a group of Senators. It's not coming from a group of mayors. It's coming

from just everyday citizens that said I want to contribute to what happened on September 11th.

And if there are other flags that people wanted to do, you know what? They could have wrote their Senators. Nothing stopped any one of us from doing what Senator Nozzolio is doing now.

So to sit back now and state why is he doing it -- no one in the 20th Senatorial District sent me a flag. No one asked me to present this bill. He's doing what his constituent asked him to do. Just everyday New Yorkers wanted some way to commemorate a very tragic event.

And to make it anything more than that, it's just seeing that as wrong. I will hope every day a seamstress, mechanic, plumber will contribute in some way to what's great about this state and what happened on that day. We all could have had the opportunity to present a proposal. All Senator Nozzolio is stating: My resident sent me a flag design, I would like to make this flag design a symbol of the State of New York.

If you didn't like this design, you

had an opportunity to do the same. So now to criticize him for doing something that we all had almost 10 years to do is wrong. I'll be voting in favor of this. I commend the original artist in the same spirit that I commend Betsy Ross that gave us our original American flag. This is the American way of doing things.

THE PRESIDENT: Thank you, Senator.

Any Senators wishing to speak on this bill before Senator Nozzolio closes?

Senator Nozzolio to close.

SENATOR NOZZOLIO: Thank you, Mr. President.

I wish to thank all of my colleagues for their respectful debate on this issue and thank my colleagues in particular that have supported this proposal.

And, Senator Adams, a special thanks to you as characterizing exactly what is taking place here. That all of us were affected by September 11th. No one has a higher degree of affect or greater degree of affect than anyone else. We all were affected in very personal ways.

But two patriots in my district in

the wake of September 11th, within hours of the event, who are not professional artists, were not commissioned by any particular organization or group, had nothing in mind but to be patriotic, established this remembrance, this flag. It is a state flag, under the legislation drafted here today, that recalls, embraces and honors a national event. A national event that affected our country in many ways more than any other event in our lifetimes has affected us.

This is not the result of a commission. This is not the result of a government-run operation. This is simply two patriots, Joanne and Steve Galvin from North Rose, New York. And I took this cause up because I saw that remembrance within days of September 11th and said, yes, we need to remember.

Memory is the most important component of honor. We honor those by remembering them. We honor the sacrifices of all who were part of 9/11 by remembering them. And this flag is to be used as a component of remembrance and honor.

I thank my colleagues for their consideration of this. I'm sure there are other

flags who are worthy, there are other flags that could fly. I ask them all to fly, but I ask New York to take the lead and say we have a design, we have something here. It's the tenth anniversary of September 11th; let's act.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

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

THE PRESIDENT: The Secretary will read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator DeFrancisco to explain his vote.

SENATOR DeFRANCISCO: Yes, I think Senator Nozzolio should be commended, as well as his constituent be commended to take the initiative to design a perfectly appropriate flag to remember 9/11.

If the criticism is that we should have a different procedure, it's almost ten years after the event. When was someone going to

propose that procedure?

The initiative should be not only recognized, but it should be promoted by this particular body by approving this flag. I'm going to give you an analogy out of Senator Valesky's district.

There's a little village in Senator Valesky's district called Canastota. A group of about three people decided they were going to have the National Boxing Hall of Fame in Canastota, New York. Most people thought they were insane. The only Canastota boxer, at least when they started, was Carmen Basilio.

Well, long story short, they not only got the National Boxing Hall of Fame, but about a week ago, because they did they initiative, Mike Tyson was there, Sylvester Stallone was there, Jake LaMotta, the famous fighter, was there. They took the initiative and people ran with it.

That's what Senator Nozzolio is doing now. That's what his constituent's doing now. We should all support this, not claim that there should have been something done when you didn't do a darn thing in 10 years.

Thank you, Mr. President. I vote yes.

THE PRESIDENT: Thank you, Senator.

Senator DeFrancisco's vote will be recorded in the affirmative.

Senator Squadron to explain his vote.

SENATOR SQUADRON: Thank you, Mr. President.

I want to commend Senator Nozzolio for the thought here and the concept. I think that the goal of a national September 11th flag, a memorial, as we come up to the tenth anniversary is exactly right.

I do note this is but a one-house bill at the moment. And so I would urge the sponsor, before this becomes law, since it seems it's not on the edge of becoming law, to please come on down to my district, which is where the site of the September 11th attacks were. Senator Krueger's district, I believe her district suffered one of the most if not the greatest number of losses. I know Senator Lanza's district suffered an enormous number of losses as

well on September 11th.

Please do come and communicate this. I know that Community Board 1, the most local body in my district, would love a presentation on this.

I will vote yes today and also urge and request that the sponsor, in the spirit in which this bill is presented, do spread the word and communicate it both ahead of time and after this vote.

I vote yes, Mr. President.

THE PRESIDENT: Thank you, Senator.

Senator Squadron's vote will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 1097, those recorded in the negative are Senators L. Krueger and Rivera.

Absent from voting: Senator Golden.

Ayes, 59. Nays, 2.

THE PRESIDENT: The bill is passed.

Senator Libous, that completes the controversial reading of Supplemental Active List

Number 2.

SENATOR LIBOUS: Mr. President, there will be an immediate meeting of the Rules Committee in Room 332. Upon the completion of the Rules Committee, we'll come out and report some bills and pass them. And then I'm told that there may be a couple of other pieces of legislation that we will take up before the evening is over. So we'll be here a little bit. I just want everybody, for planning purposes, to understand that.

So right now, there will be an immediate meeting of the Rules Committee in 332.

THE PRESIDENT: Immediate meeting of the Rules Committee in 332.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 9:24 p.m.)

(Whereupon, the Senate reconvened at 9:54 p.m.)

SENATOR LIBOUS: Mr. President.

THE PRESIDENT: The Senate will come to order.

Senator Libous.

SENATOR LIBOUS: Mr. President, I

believe there's a report of the Rules Committee at the desk. Could we have the report read, please.

THE PRESIDENT: There is a report of the Rules Committee at the desk.

The Secretary will read.

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

Senate Print 1803B, by Senator LaValle, an act to amend the Education Law;

2328A, by Senator Lanza, an act to amend the Education Law;

2471, by Senator Lanza, an act to amend the New York City Health and Hospitals Corporation Act;

4067A, by Senator Golden, an act to amend the Education Law;

4489, by the Committee on Rules, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law;

4529D, by Senator Nozzolio, an act to amend the Penal Law;

5388A, by Senator Golden, an act to amend the Social Services Law;

5736, by Senator Ranzenhofer, an act to amend the Public Service Law;

5836, by Senator Golden, an act to amend the Retirement and Social Security Law;

5837, by Senator Golden, an act to amend the Retirement and Social Security Law;

And Senate Print 5847, by Senator Skelos, an act to amend Chapter 576 of the Laws of 1974.

All bills reported direct to third reading.

THE PRESIDENT: Senator Libous.

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

THE PRESIDENT: So moved. All in favor of accepting the report of the Rules Committee signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Any opposed?

(No response.)

THE PRESIDENT: The report is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, at

this time could we take up Supplemental Calendar 58B and have the noncontroversial reading of the calendar, please.

THE PRESIDENT: The Secretary will read the noncontroversial Calendar 58B.

THE SECRETARY: Calendar Number 1511, by Senator LaValle, Senate Print 1803B, an act to amend the Education Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1512, by Senator Lanza, Senate Print --

SENATOR LIBOUS: Lay that bill aside for the day.

THE PRESIDENT: Lay it aside for the day.

THE SECRETARY: Calendar Number 1513, by Senator Lanza, Senate Print 2471 --

SENATOR BRESLIN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1514, by Senator Golden, Senate print 4067A, an act to amend the Education Law.

THE PRESIDENT: Read the last section.

SENATOR LIBOUS: Lay the bill for the day.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: In relation to Calendar Number 1515, Senator Skelos moves to discharge, from the Committee on Rules, Assembly Bill Number 5785 and substitute it for the identical Senate Bill Number 4489, Third Reading Calendar 1515.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1515, by Member of the Assembly Abbate, Assembly Print 5785, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Savino to explain her vote.

SENATOR SAVINO: Thank you, Mr. President.

This is on the bill that would extent health insurance to OTB retirees, correct, Bill Number 4489?

THE PRESIDENT: Yes, Senator.

SENATOR SAVINO: Thank you. Briefly on the bill.

I would just like to thank Senator Rules, whoever he happens to be, for bringing this bill forward to rectify an injustice that was perpetuated by this body just about a year ago when we failed to extend OTB. And at the time when we did so, we inadvertently failed to provide health insurance for OTB retirees. And we are correcting that tonight.

So Senator Rules, whoever you are, thank you for rectifying an injustice.

THE PRESIDENT: Thank you, Senator.

Senator Savino's vote will be recorded in the affirmative.

Senator Bonacic to explain his vote.

SENATOR BONACIC: Thank you, Mr. President.

I have a different take on this legislation. First of all, I do believe that we have a moral obligation to take care of our promise for the health retirement benefits for the New York City OTB union. That's point number one.

But I think we have to make structural changes in the way racing is operated in the State of New York. It needs reform drastically. And what is happening under the current system is that it's in slow decline. We saw New York City OTB go out, we saw Suffolk OTB go out. And unless we step up and do comprehensive structural changes and bring efficiencies to this system, it's going to continue to decline.

And this component piece gives great leverage in an omnibus bill to get things done.

But when you do things piecemeal like this, you lose partners in trying to do an omnibus bill.

And once that omnibus bill comes -- and it will come, it's just a matter of time. Whether we do it sooner or later, this should be a part of it. That's when we should take care of the retirees and their health benefits in New York City. For that reason, I vote no.

And thank you, Mr. President.

THE PRESIDENT: Senator Bonacic to be recorded in the negative.

Senator Golden to explain his vote.

SENATOR GOLDEN: Thank you, Mr. President.

I briefly stand to also thank Senator Rules, because this is something that this body did by allowing OTB to go out of business in the City of New York and putting these people out of work and out of insurance. This is the right thing to do for this body, and I applaud the body for doing that.

I also agree with my good friend Senator Bonacic that we do need to do some comprehensive reform, get some real operation for gambling here across the State of New York, put

people back to work, and make this the greatest state in the nation when it comes to a number of different issues, and gambling is one of them.

We should have horse racing -- this is the premier state. We should have horse racing across this state. It should be in New York, it should be in Suffolk, it should be across this state and we should be making money with it.

So I applaud Senator Bonacic and hope to work with Senator Bonacic and other Senators in putting together a committee shortly to work on coming together with a real task force that will bring comprehensive racing to the State of New York.

I vote aye.

THE PRESIDENT: Senator Golden will be recorded in the affirmative.

The Secretary will now announce the results.

THE SECRETARY: Those recorded in the negative on Calendar 1515 are Senators Ball, Bonacic, DeFrancisco, Fuschillo, Johnson, Martins, Nozzolio, Ranzenhofer, Saland and Zeldin. Also Senator Robach.

Ayes, 51. Nays, 11.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1516, Senator Nozzolio moves to discharge, from the Committee on Rules, Assembly Bill Number 4362C and substitute it for the identical Senate Bill Number 4529D, Third Reading Calendar 1516.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1516, by Member of the Assembly Morelle, Assembly Print 4362C, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: The Secretary will announce the results.

THE SECRETARY: In relation to Calendar 1516, those recorded in the negative are Senators Adams, Dilan, Duane, Hassell-Thompson,

L. Krueger, C. Kruger, Parker, Perkins, and Serrano.

Ayes, 53. Nays, 9.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1517, by Senator Golden, Senate Print 5388A, an act to amend the Social Services Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Savino to explain her vote.

SENATOR SAVINO: Thank you, Mr. President.

As the chair of the Children and Families Committee, I'm going to rise in support of this legislation on condition. And I'm going to explain why briefly.

As someone who actually spent some time working for the Administration for Children's Services, I certainly agree that

everything that we can do to make sure that required family visits are occurring are something that we should do. Now, I don't think that this bill presents the absolute answer all the time. But I do know that this is an agency, particularly the Administration for Children's Services, that responds to two things, litigation and legislation.

We have attempted to discuss with them ways to guarantee that we can prove that workers are making those required visits that are necessary with their children. We also want to do everything possible to limit the confrontation that can occur between workers and the clients that they're visiting.

And last night we took a step in that direction when we passed legislation that would increase the felonies for assaulting social service workers in the field. Having done that work, I can tell you it is incredibly dangerous and difficult.

And again, I don't think that this bill answers all the problems. But I do think it's a step in the right direction. I have committed to work with Senator Golden; with the

union that represents the workforce, DC-37; my own union, Local 371; with the Administration for Children's Services, who developed a program where we can guarantee greater compliance that workers are making those visits.

With increased technology, some support from the Governor's office, Mr. President, we're going to make sure that we can close that loophole so that we can guarantee that children who are vulnerable who we are required to protect and investigate have access to those services.

This is a first step in that direction. It's not the answer. But I think we're going to be moving forward in the next legislative session in solving that problem. So I'm going to vote in favor of this legislation tonight.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

Senator Savino will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: In relation to

Calendar 1517, those recorded in the negative are Senators Hassell-Thompson and Montgomery.

Ayes, 60. Nays, 2.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1518, by Senator Ranzenhofer, Senate Print 5736, an act to amend the Public Services Law.

SENATOR BRESLIN: Lay it aside.

THE PRESIDENT: Lay the bill aside.

THE SECRETARY: In relation to Calendar Number 1519, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 7561B and substitute it for the identical Senate Bill Number 5836, Third Reading Calendar 1519.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1519, by Member of the Assembly Abbate, Assembly Print 7561B, an act to amend the Retirement and Social Security Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1520, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 7605A and substitute it for the identical Senate Bill Number 5837, Third Reading Calendar 1520.

THE PRESIDENT: Substitution ordered.

SENATOR LIBOUS: Lay it aside for the day.

THE PRESIDENT: Lay the bill aside for the day.

THE SECRETARY: In relation to Calendar Number 1521, Senator Skelos moves to discharge, from the Committee on Rules, Assembly Bill Number 8511 and substitute it for the identical Senate Bill Number 5847, Third Reading Calendar 1221.

THE PRESIDENT: Substitution ordered.

Senator Libous.

SENATOR LIBOUS: Mr. President, is there a message of necessity at the desk?

THE PRESIDENT: There is, Senator.

We've got to read the bill first. The Secretary will read.

THE SECRETARY: Calendar Number 1521, by Member of the Assembly Lopez, Assembly Print 8511, an act to amend Chapter 576 of the Laws of 1974.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Mr. President, is there a message of necessity at the desk?

THE PRESIDENT: Yes, Senator, there is.

SENATOR LIBOUS: Thank you. Can we move to accept the message.

THE PRESIDENT: All in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Any opposed?

(No response.)

THE PRESIDENT: The message is accepted.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Espaillat to explain his vote.

SENATOR ESPAILLAT: Thank you, Mr. President.

This is the fifth extender that we've passed on rent regulations. In the middle of the night, once again, not in daylight. And one has to wonder what kind of progress really has occurred in the ongoing negotiations for the extension of rent laws and the strengthening of tenant protection.

If we go by this extender, we may speculate that in fact the negotiation process has not concluded, since we need more time. And perhaps there is still an opportunity to strengthen further tenant protection beyond the possibility of expanding the threshold to $2,500 and beyond doing some minor reforms with individual apartment improvements. We may be able still, that we still have a chance to look

at other important issues such as MCI reform, the vacancy decontrol, as well as the vacancy allowance.

So I will be casting my vote in the affirmative, but I am very concerned that for the fifth time we have to resort to this type of action in the middle of the night to grant tenants another extension of the rent laws.

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

THE PRESIDENT: Thank you, Senator.

Senator Espaillat will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

Senator Libous, that completes the noncontroversial reading of Supplemental Calendar Number 58B.

SENATOR LIBOUS: Thank you, Mr. President.

Could we now have the controversial reading of this calendar.

THE PRESIDENT: The Secretary will

read.

THE SECRETARY: Calendar Number 1513, by Senator Lanza, Senate Print 2471, an act to amend the New York City Health and Hospitals Corporation Act.

SENATOR BRESLIN: Explanation.

THE PRESIDENT: Senator Lanza, an explanation.

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

This legislation would require that the New York City Health and Hospitals Corporation spend a minimum of 10 percent of its operating budget on acute and emergency room facilities in each borough.

THE PRESIDENT: Senator Krueger.

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

THE PRESIDENT: Senator Lanza, will you yield?

SENATOR LANZA: Yes, of course. Of course.

THE PRESIDENT: The Senator yields.

SENATOR KRUEGER: Thank you.

Can you please tell me what the annual operating budget and the annual capital budget of the Health and Hospitals Corporation is?

SENATOR LANZA: I don't have this year's figure in front of me.

Just to further expand upon my explanation of the bill, the New York City Health and Hospitals Corporation was established more than 30 years ago to provide, equally and fairly, health services to the people across the City of New York.

Presently the Health and Hospitals Corporation operates public hospitals in all but one borough, and that borough happens to be the Borough of Staten Island. The Borough of Staten Island has more than 500,000 people, which is nearly 7 percent of the population. And so we think it only fair -- we hear these days about equity and fairness a lot. We think fairness dictates that Health and Hospitals Corporation should provide services to the people of Staten Island who pay, in large part, for many of those services provided across the city.

SENATOR KRUEGER: Mr. President, if

through you the sponsor would continue to yield.

THE PRESIDENT: Senator Lanza?

SENATOR LANZA: Yes, Mr. President.

THE PRESIDENT: The Senator yields.

SENATOR KRUEGER: Thank you.

My understanding is the Health and Hospitals Corporation is primarily the public health and hospitals system for the City of New York, specifically or disproportionately for low-income and uninsured New Yorkers. What percentage of low-income and uninsured New Yorkers -- New Yorkers being New York City residents, for this discussion -- live in the Borough of Staten Island?

SENATOR LANZA: Mr. President, through you. I'll answer it this way. If Senator Krueger is suggesting that there are no low-income or poor people on Staten Island, she is wrong.

SENATOR KRUEGER: Mr. President, through you, that's certainly not what I was suggesting. I was asking the sponsor if he knew what percentage of low-income and uninsured New Yorkers live in the Borough of Staten Island.

SENATOR LANZA: Mr. President, a

greater percentage than is the Health and Hospitals Corporation's spending money in the Borough of Staten Island.

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

THE PRESIDENT: Senator?

SENATOR LANZA: Yes, Mr. President.

THE PRESIDENT: The Senator yields.

SENATOR KRUEGER: Thank you.

My understanding is that this could be estimated to require a shift of $700 million are in Health and Hospitals Corporation funding from other sites to Staten Island. Is that possibly correct as far as the sponsor's understanding of what his bill would do?

SENATOR LANZA: Mr. President, through you. When you have institutional discrimination, in order to fix that inequity there is a shifting of resources involved.

SENATOR KRUEGER: On the bill, Mr. President.

THE PRESIDENT: Senator Krueger on the bill.

SENATOR KRUEGER: Thank you.

I find it a little unusual we're

bringing bills to the floor of the Senate that are in fact fiscal bills, all about the numbers: How many dollars would be required to move to Staten Island, how many dollars would be moved out of the other four boroughs' Health and Hospitals Corporation facilities, what percentage of the population eligible to receive their healthcare in a Health and Hospitals Corporation facility is in fact a resident of Staten Island versus residents of the other four boroughs.

We really ought to know that information, Senator, before we make a decision that will in fact have winners and losers. I understand, I have been here long enough to know that Staten Island elected officials don't believe they get their fair share of HHC operational programs or capital facilities. I have memos here that unfortunately don't date from this year, perhaps because people were taken by surprise that this bill might move tonight, arguing -- this is a memo from the Health and Hospitals Corporation and a memo from the Healthcare Association of New York State documenting what investments HHC has made in

Staten Island and what negative impacts would be from cutting this amount of money out of the other Health and Hospitals Corporation facilities.

New York City has, I believe, one of the best public health systems in the country. I'm very proud of our Health and Hospitals Corporation, particularly with how they do so much with so little. And I agree that there's not enough money being spent on public health, period, in the City of New York.

But I can't accept at face value that we're supposed to dictate from this chamber a specific formula for all New York City funding through its Health and Hospitals Corporation just because somebody says there should be 10 percent of the money spent in Staten Island.

I don't see where it's based on priorities of need for the entire city. I don't see how it's based on planning for hospital delivery where you don't necessarily have to have exact parallel facilities from borough to borough to borough within a city. And I really think that this house should have far more detail about healthcare, what the win and loss of this kind of

proposal will be.

I'm pretty sure that it will mean an enormous cut in funding to Bellevue Hospital, which is technically on the border of Senator Duane's and my district because of the FDR Highway and the land and the water. So I'm pretty sure this would mean a significant cut to Bellevue, to Harlem Hospital, to the Bronx Health and Hospitals Corporation hospitals, to the Queens Health and Hospitals Corporation hospitals, and to the Brooklyn Health and Hospitals Corporation hospitals.

We are representatives for the State of New York from the City of New York, and I simply can't justify voting a yes on a bill that I don't have the details, because we don't have them available, but I know will mean cuts in all the other Health and Hospitals Corporation facilities. Because I don't see anywhere in this legislation where we're going to come up with a new $500, $600, $700 million to move to Staten Island.

So I feel that it would be irresponsible in the perspective of the entire Health and Hospitals Corporation system and the

entire public health system in New York City for me to, without more information and detail, simply vote to cut all these other programs in order for this bill to pass. I'll be voting no.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

Any Senators wishing to speak on the bill?

Senator Savino.

SENATOR SAVINO: Mr. President, thank you.

I rise in support of this legislation. And while I certainly understand the concerns of my colleague from Manhattan, Senator Krueger -- where there are certainly far more people than there are in the Borough of Staten Island -- Staten Island is a part of the City of New York.

And the HHC was created more than 30 years ago, almost 40 years ago, as a public benefit corporation for the express purposes of providing for the healthcare of the citizens of the City of New York. That's all the citizens of the City of New York. That includes the County of Richmond. And now perhaps at the time when

the HHC was created, the County of Richmond was maybe about half of the size of the population that it is now. Queens was always bigger, Brooklyn certainly bigger than all, the Bronx and Manhattan lagging behind the other three boroughs.

Richmond County was a part of the City of New York, but we didn't have a public hospital there. At the time there was the thought that maybe we didn't need a public hospital, because we had five hospitals then. They were private hospitals. Well, here we are almost 35 to 40 years later. We now are down to two hospitals, one of them being on life support, and no public hospital.

Now, is 10 percent of the budget of the HHC too much to bear for a borough that has more than tripled in size since the HHC was created? I don't think so.

And I want people to keep in perspective what it means for the residents of the Borough of Richmond, who are part of the City of New York, that we don't have a public hospital.

We, as women, do not have a rape

crisis center on Staten Island. There is no rape crisis center in Richmond County because we don't have an HHC hospital there. So while we may not be entitled to 10 percent of the overall HHC budget in some people's minds, I want you to keep in mind that the women of Staten Island who are assaulted sexually have nowhere to go but off the island to be treated. And when that doesn't happen, they're not getting treated, they're not filing that complaint, and that rape assault is going undetected and that person is going to attack someone else.

So if you think 10 percent of the HHC's budget is too high of a price to pay, think again. I vote yes.

THE PRESIDENT: Thank you, Senator.

Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President. Senator Savino just answered the question that I was supposed to ask.

THE PRESIDENT: Senator Lanza.

SENATOR LANZA: Yes, thank you, Mr. President. Very quickly.

First let me associate myself with the good remarks of my friend Senator Savino.

You know, I listened with envy as Senator Krueger talked about the many public health facilities in Manhattan. There isn't a single one on Staten Island. Perhaps she thinks that is fair. That is not. There are poor and indigent people on Staten Island. They have faces and they have names, and they have needs.

And if we're going to talk about fairness continually in this chamber, then it means that we've got to treat all the people of the City of New York fairly, all the people of the State of New York fairly. And that's why so often when folks stand up here and talk about fairness and equity it really falls on deaf ears, because nobody really believes you sometimes because we continually hear this Manhattan-centric notion that what happens on Staten Island doesn't really matter.

Well, it does matter to more than 500,000 people. The Health and Hospitals Corporation was incorporated to provide healthcare equitably to all the people of New York City, just not just the people on the other four boroughs. And so this is about fairness, this is about decency, this is about

protecting those who need protection the most, the poor and indigent across the city, including those on Staten Island. And that's why I encourage everyone to support this legislation.

And by the way, another statistic is that three years ago in this chamber, this bill passed 61 to zero. And, Senator Krueger, I'm pretty sure you were here and I'm pretty sure you voted in the affirmative. I ask you to do so again.

Thank you, Mr. President. I'll be voting yes.

THE PRESIDENT: Thank you, Senator.

Any Senators wishing to speak on the bill before the debate closes?

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

The Secretary will read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Krueger to

explain her vote.

SENATOR KRUEGER: Thank you, Mr. President.

I really do wish my colleagues would listen. My point was there's not a documented justification for taking 10 percent of the operating budget or 10 percent of the capital budget of the HHC system and automatically determining it should be for Staten Island. Do I think there should be more resources for Staten Island? Yes, I do, and you didn't hear me say I didn't.

Do I think obviously there should be a rape crisis center in Staten Island? Of course there should be. Although I don't know that you need to build an entire hospital to have a rape crisis center.

So yes, Senator Lanza, I will vote for your bill, under the belief that by the time some legislation actually became law, this would be negotiated based on facts and figures and population needs and the reality in the year 2011 of how to best distribute resources for the Health and Hospitals Corporation. So I will also be voting yes this year.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

Senator Krueger's vote will be noted in the affirmative.

Senator Squadron to explain his vote.

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

I agree Staten Island does need more resources, does need a public health facility. I think it's so unfortunate when the way that we deal with the fact that there's underfunding in one area is to cannibalize other areas that are already underfunded.

If you've ever been to a public hospital in my home county of Kings County, in Brooklyn, if you've been to a public hospital even in Manhattan, which does get so many more resources than the rest of the city in some ways, than Queens and the Bronx, I've got to tell you, they don't have too much funding. They are not these luxurious places. They serve a needy population and use every single dollar they're getting.

Staten Island needs more. The way

to do it isn't to cannibalize the rest of the system, it's to get more money in there. That's the problem with the kind of rhetoric we heard tonight. In order to make the statement that Staten Island does deserve more, I will vote yes tonight. But I got to tell you, I think that this pitting one community against another is not the way to do it.

I vote yes, Mr. President.

THE PRESIDENT: Senator Squadron will be noted in the affirmative.

The Secretary will announce the results.

THE SECRETARY: In relation to Calendar 1513, those recorded in the negative are Senators Ball and O'Mara.

Ayes, 60. Nays, 2.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1518, by Senator Ranzenhofer, Senate Print 5736, an act to amend the Public Service Law.

SENATOR BRESLIN: Explanation.

THE PRESIDENT: Senator Ranzenhofer.

SENATOR RANZENHOFER: Thank you,

Mr. President.

This would allow the 18-A assessment, when the assessment expires, to allow the base assessment to return to what it originally was before it was increased in 2009.

THE PRESIDENT: Senator Krueger.

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

SENATOR RANZENHOFER: Be happy to.

THE PRESIDENT: The Senator yields.

SENATOR KRUEGER: Thank you.

If this bill became law, it wouldn't go into effect until I believe 2013. But what would be the annualized cost to the State of New York of this legislation becoming law?

SENATOR RANZENHOFER: For what year are you interested in?

SENATOR KRUEGER: 2012-2013, the first full annualized year.

SENATOR RANZENHOFER: I believe for this year it would be nothing. For this budget year, it would be nothing. Next budget year, it would be nothing. And the following budget year, it would be $240 million.

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

SENATOR RANZENHOFER: Of course.

THE PRESIDENT: The Senator yields.

SENATOR KRUEGER: Thank you.

Maybe I have my numbers wrong, but my analysis shows that the decrease in state revenue for the fiscal years -- excuse me. My analyst is telling me that it will be $460 million less in state revenue, both in fiscal year 2012-2013 and in 2013-2014.

So could Senator Ranzenhofer repeat for me his understanding of the cost of his bill in two years, 2012-2013 and 2013-2014.

THE PRESIDENT: Senator?

SENATOR RANZENHOFER: First of all, you may be confusing -- there are two things that we're talking about. One is the charge which was imposed -- and, Senator, you're much more familiar with this since you wrote the legislation, but the surcharge is one cost that would coming off, and the second is the base assessment.

With respect to the base assessment, because the surcharge is coming off March 31,

2014, the base assessment, if you go from the 1 percent back to the one-third, which it was originally, would be $240 million.

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

THE PRESIDENT: Senator Krueger on the bill.

SENATOR KRUEGER: Thank you.

Again, I think Senator Ranzenhofer is correct, there is a surcharge that is scheduled to sunset in 2014-1015. But again, my understanding is that we would be losing $460 million in state revenue for 2012-2013 and again for 2013-2014. And then by 2015 that estimated loss would be $150 million a year because, yes, the surcharge was scheduled to sunset.

And in fact, this is correct. Senator Ranzenhofer is also correct that the 18-A assessment was passed into law in a previous budget year in order to try to address the revenue needs of the state.

I don't like 18-A. I didn't actually like it when we created it, and I don't like it now, because it's not a transparent or

progressive tax. It's a tax that's put on utility bills, so utilities collect it, but it doesn't really relate to utilities. It's just another source of revenue for the state because we will never seem to confront having an actual progressive, transparent 21st-century tax structure where we look at the real needs of the state, we look at the population of the state and we shift to a fair, equitable, progressive model, say, the personal income tax.

What we keep doing is coming up with new fees and new things we call taxes sometimes, or we don't call taxes, because we hate to call anything a tax if we're elected officials. And so we slide, onto other bills or other activities, new taxes for ourselves.

So I don't like 18-A. I think Senator Ranzenhofer doesn't like 18-A. So I think we agree.

My problem is if we do this outside the budget process, we're not explaining how we're going to make up the almost half a billion in lost revenue. And if we do a bill in late June 2011 that doesn't kick in until 2013, we get to almost say -- if you're not really looking

very carefully with a straight face -- it won't cost the state anything. Because it doesn't cost the state anything this year, it's making a decision for us in future years to have created a half-billion-dollar hole in those budgets.

So I don't like 18-A. I don't think that's the way to raise revenue for the state. But more strongly than my dislike for 18-A is the concept that we pass cuts to our revenue for our future-year budgets outside the context of a budget discussion or debate without any explanation of what we're planning on cutting a half a billion out of the budget in 2012-2013 and without having it be, again, a transparent process where we the Legislature are saying, okay, we don't like this revenue source so we're going to sunset it, but here's how we're going replace the $460 million in our budget or here's what we're going to cut from our budget equal to $460 million.

So I agree with Senator Ranzenhofer when I believe that he doesn't like the 18-A assessment. But this isn't the way to solve the problem.

I have to vote no on this bill,

Mr. President. Thank you.

THE PRESIDENT: Thank you, Senator.

Senator Gianaris.

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

The 18-A assessment that this legislation seeks to deal with was enacted in 2009. There were two significant revenue enhancements that occurred as part of that year's budget. This was one, and the other was the millionaire's tax.

I voted against both of them as a member of the State Assembly, and I didn't support either of them. What I think is unfortunate is that as part of this year's budget we were able to eliminate the millionaire's tax before we dealt with this 18-A assessment. I think as a matter of making choices between the two, when you can have one option that is a progressive tax that generates revenue in a much fairer way and we take pains to eliminate that option and yet leave the 18-A amendment in place and deal with it a one-house bill at 10:30 at night on the second-to-last day of session, I think our priorities are little bit askew.

I would like to see both of them go back to where they were before 2009. I will be voting in support of this bill. But I did want to make the point that when we're making choices about where revenue should come from for the needs of this state, we should do it in a way that's fair and we should make sure that those that can pay the most pay the most and not impose these hidden taxes and hidden fees on the people of the state and keep them going for years longer.

So I will be voting in favor of this bill, but I wish we'd have taken care of it much sooner. Thank you.

THE PRESIDENT: Thank you, Senator.

Any Senators wishing to speak on the bill?

Senator Ranzenhofer to close.

SENATOR RANZENHOFER: Yes, thank you.

Yes, I want to thank my colleagues for their comments. And that's exactly why we're introducing this bill today.

When the tax and the surcharge was

originally put on, it was put on with just a few minutes' to few hours' notice. This gives us plenty of time and, Senator Krueger, it actually gives us two and a half years to get to that point. As opposed to imposing something at the last minute, this gives us two and a half years to work on the problem.

I think everybody recognizes from the comments that nobody likes this tax. This is really passed on to the ratepayers. It's an unfair tax. And right now, if I have to choose between sending $240 million back to ratepayers or using it for state government, I think for the next two and a half years -- as we did this year, when we closed a $10 billion deficit -- this is certainly ample time to deal with a much smaller amount than we dealt with this year.

So I will be voting yes, and I want to thank my colleagues for their support.

THE PRESIDENT: Thank you, Senator.

With that, the debate is closed. The Secretary will ring the bell.

The Secretary will read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Rivera to explain his vote.

SENATOR RIVERA: Thank you, Mr. President.

I will rise today in support of this bill. I agree with half of my colleague Senator Gianaris's argument regarding revenue for the state. I have argued many times on the floor of the Senate and I will continue to argue that as we look through these very difficult financial times that we must look to raise revenue in the most progressive way possible.

I've argued many times that we should renew and extend the personal income tax surcharge, the so-called millionaire's tax, which would give us almost $5 billion in revenue.

Today I will be supportive of this bill because it eliminates a tax that is regressive, that is a flat tax that strikes everyone who is a ratepayer. And I do not believe that that is the way that we should raise revenue.

But I will again remind our colleagues that as we continue to make decisions about where we spend our revenue and where we get our revenue, that we think about how to get it from a more progressive place and how we spend it in the smartest way possible and the most efficient way possible.

I'll be supporting this piece of legislation. I'll be in the affirmative.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

Senator Parker to explain his vote.

SENATOR PARKER: Thank you, Mr. President.

One, let me just commend Senator Ranzenhofer for this legislation. This is a piece of legislation that I carried in sessions past. I was the leader on the Energy and Telecommunications Committee when they actually brought in the 18-A assessment. I was against it then. The Governor insisted that this was one of the only ways that we could do it. It was a bad tax then, and we never were able to bring it to the floor to eliminate it.

I want to associate myself with my colleague Senator Gianaris's comments that we in fact should be in fact addressing tax policy as a comprehensive conversation during the budget process. This piecemealing it -- although, again, I'm going to vote for the bill and I'm an aye on it -- this is not really the way that we ought to be doing it. We ought to be doing it comprehensively. And we certainly should not be giving billionaires and millionaires in this state a tax cut before we in fact got rid of this tax, which is actually passed down through to ratepayers because of this tax.

I'll be voting aye.

THE PRESIDENT: Thank you, Senator.

The Secretary will announce the results.

THE SECRETARY: In relation to Calendar 1518, those recorded in the negative are Senators Avella and L. Krueger.

Ayes, 60. Nays, 2.

THE PRESIDENT: The bill is passed.

Senator Libous, that completes the controversial reading of the Supplemental Calendar Number 58B.

SENATOR LIBOUS: I'm sorry, Mr. President? It's over?

THE PRESIDENT: It's over. That completes the controversial reading of Supplemental Calendar Number 58B.

SENATOR LIBOUS: Not quite, Mr. President.

Mr. President, at this time the Republicans will conference briefly. I believe Senator Hassell-Thompson might want to make a statement.

THE PRESIDENT: Senator Hassell-Thompson?

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

There will also be an immediate meeting of the Democratic Conference in the Democratic Conference Room.

SENATOR LIBOUS: Mr. President, when we have completed our brief conferences there will be a meeting of the Rules Committee -- but I may have to come back out here to announce that -- in Room 332. Okay?

The Senate will stand at ease.

THE PRESIDENT: The Senate stands

at ease.

(Whereupon, the Senate stood at ease at 10:43 p.m.)

(Whereupon, the Senate reconvened at 11:16 p.m.)

THE PRESIDENT: The Senate will come to order.

Senator Libous.

SENATOR LIBOUS: Mr. President, there will be an immediate meeting of the Rules Committee, immediate, in Room 332.

THE PRESIDENT: Immediate meeting of the Rules Committee in Room 332.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 11:17 p.m.)

(Whereupon, the Senate reconvened at 11:35 p.m.)

THE PRESIDENT: The Senate will come to order.

Senator Libous.

SENATOR LIBOUS: Mr. President, I believe there's a report of the Rules Committee at the desk. Could we have the report read, please.

THE PRESIDENT: The Secretary will read the report of the Rules Committee.

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

Senate Print 5844, by Senator Maziarz, an act to amend the Public Service Law;

5845, by the Committee on Rules, an act to amend the Insurance Law;

And 5846, by Senator Robach, an act to amend the Civil Service Law.

All bills reported direct to third reading.

THE PRESIDENT: Senator Libous.

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

THE PRESIDENT: All in favor of accepting the Rules Committee report signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Any opposed?

(No response.)

THE PRESIDENT: The Rules report is accepted.

Senator Libous.

SENATOR LIBOUS: Mr. President, at this time could we take up the Supplemental Calendar 58C, the noncontroversial reading, please.

THE PRESIDENT: The Secretary will read the noncontroversial reading of Supplemental Calendar 58C.

THE SECRETARY: In relation to Calendar Number 1522, Senator Maziarz moves to discharge, from the Committee on Rules, Assembly Bill Number 8510 and substitute it for the identical Senate Bill Number 5844, Third Reading Calendar 1522.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1522, by Member of the Assembly Cahill, Assembly Print 8510, an act to amend the Public Service Law.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Mr. President, is there a message of necessity at the desk?

THE PRESIDENT: Yes, there is.

SENATOR LIBOUS: Move to accept the

message of necessity.

THE PRESIDENT: All in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The message is accepted.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

SENATOR MAZIARZ: Mr. President.

THE PRESIDENT: Senator Duane.

SENATOR MAZIARZ: Mr. President.

THE PRESIDENT: Oh, Senator Maziarz to explain his vote.

SENATOR MAZIARZ: Thank you, Mr. President. I know I'm short, but I didn't think I was that short, Mr. President.

(Laughter.)

THE PRESIDENT: It's late.

SENATOR MAZIARZ: Thank you very

much. Just to briefly explain my vote.

I think this is going to be the session of energy legislation that's been around for a long time, with Power for Jobs and now an Article X siting bill and the Green Jobs, Green New York bill.

I just want to acknowledge Governor Cuomo and Senator Skelos, the Majority Leader here, for their help in moving along these very important bills. And I want to just acknowledge the ranking Democratic member, Senator Parker, and Kevin Cahill, the chairman of the Assembly Energy Committee.

And also I'd be very remiss if I did not mention the staff people who worked so hard to put this together: Matt Nelligan, from my office, Anne Tarpinian, Steve Taylor and Jill Kasow. They did an excellent job.

This bill, the Green Jobs, Green New York bill, is going to provide a financing mechanism for thousands of homes in New York State to become more energy-efficient, to pay it back at a reasonable interest rate. And really it will be cost-neutral because this will be paid back through energy savings.

And of course, an Article X bill. For years, for years we've gone to energy seminars and conferences and we talked about how difficult it was to do business in the State of New York because of the lack of a siting bill. This is a siting bill that takes into consideration the local interest. It's a siting bill that gives people who want to invest in energy production in the State of New York a process, a permitting process, a reasonable permitting process in a reasonable amount of time to do that.

This legislation is truly, truly historic, Mr. President. This is something that I think a lot of skeptical people at the beginning of the session said it never, ever could come to fruition. It came to fruition because three entities -- the Senate, the Assembly, and the Governor -- wanted to get it done.

Everybody gave up a little, everybody got a little, and in the end I think we have a program that will work for New Yorkers, will make homes, homes more energy-efficient for people, will save people money in the long run,

and we'll be able to site energy production in this state.

I think it is absolutely ironic -- and I really would like my colleagues' attention. Supporting this bill, supporting this bill -- and this may be the only bill this year, this may be the only bill that I can ever remember that has this level of support. It is supported by the Independent Power Producers of New York, the Business Council, the New York City Partnership, the Alliance for Clean Energy, the New York Energy Consumers Council, the Rochester Business Alliance, Unshackle Upstate, the Associated General Contractors, the NFIB, and the Buffalo-Niagara Partnership. All business organizations support this bill from one end of the state to the other.

Labor. The AFL-CIO, Boilermakers, New York Pipe Trades the IBEW, New York City Building Trades, Plumbers, Insulators, New York City Carpenters, New York State Carpenters, the New York State Building and Construction Trades Council. Labor is on board.

And please listen closely. The New York League of Conservation Voters, New York

City Environmental Justice Alliance -- New York City Environmental Justice Alliance. I like them so much I mentioned them twice.

(Laughter.)

SENATOR MAZIARZ: Environmental Advocates. NYPIRG is on board with this bill. I don't know that I've ever seen a bill here before where the Business Council and NYPIRG were both in support of it. And that's just the short list. I could go on for a long time.

This is a historic bill. This is a historic bill. You see, I mentioned all the support. I'm losing votes, they tell me back here, so --

(Laughter.)

SENATOR MAZIARZ: So, Mr. President, thank you very much for your indulgence in letting me go over my two minutes.

Thank you all. This is a good bill.

THE PRESIDENT: Thank you, Senator.

Senator Maziarz will be recorded in the affirmative.

Senator Parker to explain his vote.

SENATOR PARKER: Thank you,

Mr. President.

Let me just begin -- we can't begin enough to thank everybody who was involved in this, but particularly my good friend Senator George Maziarz, who I know worked -- and his staff worked very hard on this. Senator Skelos, the Governor, and our colleagues in the Assembly.

I was one of those, to be honest with you, who was very skeptical that this would actually get done. And this bill actually contains two issues that have been very near and dear to my heart since I've been here. I've spent my entire time on the Energy and Telecommunications Committee. Article X was something that, you know, I was always hoping that we would get done. And not only have we gotten it done, but we've gotten it done in fine fashion.

And this is certainly something that deals with some of the issues that we care about in regards to environmental justice in terms of protecting the communities, but at the same time making sure that we develop an energy industry that's important for the growth of New York and

that is going to produce jobs.

So congratulations to everybody who was involved in it. And of course there's an on-bill-finance part of this, Mr. President, that's critically also important. A bill that I carried last year that we passed in this body, through no small feat, but was not able to make the rest of the rounds, and that's also part of in bill. That's going to be important for creating jobs.

And not really just creating jobs, but really doing three things: Creating jobs, helping to lower the energy bills of consumers across the state, and at the same time lowering our carbon footprint. All three of which are very laudable individually, but together it's certainly the perfect combination.

And so congratulations to this body and to all the members of government who have made this possible.

THE PRESIDENT: Thank you, Senator.

Senator Parker to be recorded in the affirmative.

Senator Gianaris.

SENATOR GIANARIS: Thank you,

Mr. President.

I want to first begin by thanking Senator Maziarz, first for inviting me on the one-way tightrope walk with the Flying Wallendas over Niagara Falls, but also for his work on this bill.

When we brought a one-house version of this before this house, I voted against it earlier for two primary reasons. One was the threshold of 80 megawatts I thought was too high, and secondly because the cumulative impact language was not strong enough.

Senator Maziarz promised at the time that the discussions on the language was ongoing and that a bill with improvements would be forthcoming, and this is that bill.

So I'm proud to stand up in support of it today, to thank him and thank Senator Parker for doing the work on our side of the aisle to produce a really good, well-negotiated product that has tremendous support on all sides of the issue.

THE PRESIDENT: Thank you, Senator.

Senator Gianaris will be recorded in the affirmative.

Senator Ritchie to explain her vote.

SENATOR RITCHIE: Mr. President, I believe that New York needs a new Article X siting law, and there are many good things about this bill.

The on-bill financing will especially benefit the residents of my district. We have among the lowest average income in the state, 20 percent less than the state mean. We also have longer, colder winters. So improving the efficiency of our homes will have a big impact on many of the people who live there.

I also support the creation of the intervenor fund, which will particularly help smaller communities like mine when they are dealing with major companies who want to site facilities in their communities.

I do believe, though, that this bill falls short. I think the 25 megawatts of power is far too low. Virtually every energy project will fall under this category, and I think many in my community will be very upset that there will be no more local control, especially with the wind farms that are coming along the St. Lawrence River.

Thank you, Mr. President.

THE PRESIDENT: Senator Ritchie, are you voting --

SENATOR RITCHIE: I vote no on the bill.

THE PRESIDENT: Senator Ritchie will be recorded in the negative.

The Secretary will announce the results.

THE SECRETARY: In relation to Calendar 1522, those recorded in the negative are Senators Griffo, Ranzenhofer and Ritchie.

Ayes, 59. Nays, 3.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1523, by the Committee on Rules, Senate Print 5845, an act to amend the Insurance Law.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Mr. President, is there a message of necessity at the desk?

THE PRESIDENT: Yes, there is.

SENATOR LIBOUS: Can I move to accept the message of necessity at this time.

THE PRESIDENT: All in favor of accepting the message of necessity say aye.

(Response of "Aye.")

THE PRESIDENT: Any opposed?

(No response.)

THE PRESIDENT: The message is accepted.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: Senator Breslin to explain his vote.

SENATOR BRESLIN: Very quickly. Thank you, Mr. President.

I just again want to applaud Senator Fuschillo for all his efforts on this bill, and Assemblyman Morelle. It's a bill that I worked on in past years, and again this year.

And also the Governor's office for taking quickly a bill that has such important meaning to all of the residents of the State of New York -- because everyone knows someone who has autism. But the Governor's office immediately getting involved and working out an

amendment that's acceptable to all.

Congratulations. It's a wonderful bill, Chuck.

THE PRESIDENT: Thank you, Senator.

Senator Breslin will be recorded in the affirmative.

Senator Fuschillo to explain his vote.

SENATOR FUSCHILLO: Just quickly, Mr. President.

Let me thank Senator Breslin, my colleagues Senator McDonald, Senator Hannon and Senator Duane.

When we first passed this bill the other day, we always looked upon this as landmark legislation. Governor Cuomo's office quickly engaged with just some technical, minor changes.

But I'm proud to say, upon the passage of this, this autism legislation that passed this house, passed the Assembly, will now become law. Thank you very much.

THE PRESIDENT: Thank you, Senator.

Senator Fuschillo will be recorded in the affirmative.

Senator McDonald.

SENATOR MCDONALD: Thank you, Mr. President.

Thank you, Chuck. Thank you, Senator Breslin, all of the people involved in this. This is very important.

It's late at night and we're all going to go home after a hard day's work. But the family members who have these autistic family members, children, their day doesn't stop or start, it's never-ending. We have to remember that. This is just the beginning, not the end.

And if I ever had to pick a team, this is the team I want to be on on this issue. So from the bottom of my heart, as a family member with two grandsons with this problem, and representing so many of your people, I'm thanking each and every one of you for this bill and for the bills to follow. Thank you.

THE PRESIDENT: Thank you, Senator.

Senator McDonald will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1524, by Senator Robach, Senate Print 5846, an act to amend the Civil Service Law.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Mr. President, is there a message of necessity at the desk?

THE PRESIDENT: Yes, there is.

SENATOR LIBOUS: I move we accept the message.

THE PRESIDENT: On the message of necessity, all in favor say aye.

(Response of "Aye.")

THE PRESIDENT: Any opposed?

(No response.)

THE PRESIDENT: The message of necessity is accepted.

Read the last section.

THE SECRETARY: Section 26. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

Senator Libous.

SENATOR LIBOUS: Mr. President, I believe there's a supplemental active list at the desk.

Could we have the noncontroversial reading of that calendar, please.

THE PRESIDENT: The Secretary will read the supplemental active list, noncontroversial.

THE SECRETARY: Calendar Number 195, by Senator Espaillat, Senate Print 3114B, an act to amend the Public Housing Finance Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 267, by Senator Grisanti, Senate Print 3134B, an act to amend the Criminal Procedure Law.

SENATOR LIBOUS: Lay that bill aside for the day.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number

1456, by Senator Hannon, Senate Print 3186A, an act to amend the Public Health Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Hannon to explain his vote.

SENATOR HANNON: Thank you, Mr. President.

Tomorrow we'll bring before this house the bill to begin the implementation of federal healthcare reform; namely, the insurance exchange. Tonight I bring this bill before us so that we have a discussion in regard to the changing nature of how healthcare is going to be delivered.

With the exchange we'll see an eligibility of another million New Yorkers eligible for insurance. We're going to need to have a new view as to the role of healthcare plans, the role of physicians, the role of hospitals.

This bill here would take the role of physicians and recognize the changing nature of the marketplace in New York State. No longer do we have a large number of healthcare plans; we have very few. And in some markets in this state, like Syracuse and Rochester, two plans account for over 85 percent of the market.

What's happened is that physicians are left without recourse when it comes to many of the conditions of how they relate. This bill would, under the careful supervision of the Attorney General of this state, allow for a representative of the doctors to negotiate on those items and in certain cases negotiate on fees.

It's necessary to move ahead because otherwise this state will not be prepared for the large number of the newly insureds. For that reason, I recommend that we vote yes on this bill.

THE PRESIDENT: Senator Hannon will be recorded in the affirmative.

Senator Bonacic to explain his vote.

SENATOR BONACIC: Thank you, Mr. President.

I get nervous when we allow physicians to form unions. In all my Chambers of Commerce that I speak to, the biggest issue facing individuals and small businesses is the rising cost of their healthcare. And I'm suspecting that when you have doctors forming unions, it's going to lead to even greater healthcare premiums on our businesses and individuals and struggling families.

For that reason, I'm voting no.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

Senator Bonacic will be recorded in the negative.

Senator Seward to explain his vote.

SENATOR SEWARD: Thank you, Mr. President.

I agree with the bill's sponsor, Senator Hannon, that there are many, many changes that have been and will be coming forward both in the area of health insurance and in the way that doctors organize their practices.

And this issue in terms of that proper balance in negotiating rates and other terms of relationships between the health plans

and physicians, it's certainly an issue that is worthy of discussion and full airing and vetting.

However, this particular bill at this particular time I think is ill-advised. There is a very strong coalition opposed to this legislation. Business groups such as the Business Council, NFIB, Unshackle Upstate -- Mr. President, the Rochester Business Alliance -- opposed to this bill. Hospitals, many hospitals have come forward, as well as health plans, all concerned with the impact on health insurance premiums, costs going up with this bill and seeing the further erosion of employer-based health coverage in our state.

I share those concerns, and I also vote no.

THE PRESIDENT: Thank you, Senator Seward.

Senator Seward to be recorded in the negative.

Next, Senator Breslin to explain his vote.

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

I applaud Senator Hannon for

bringing this bill to the floor. This bill is pretty moderate, I think. It really gets into the area, number one, of making sure that the HMOs, the bean counters, aren't making medical decisions, they're allowing the doctors to make those decisions.

And secondly, they're allowing doctors to form groups regulated by the Attorney General -- they're in fact not unions -- and to negotiate with HMOs. And as Senator Hannon said, in many areas of this state, in particular, as mentioned, Syracuse and Rochester, the HMOs have a disproportionate share of the market and are able to dictate, dictate to doctors their return, their fees.

And particularly in the area that we suffer the most in our healthcare, with primary care physicians, with internists, who are turning away from New York State, turning away from the underserved areas. They need somebody to negotiate those fees for them.

And I'm very happy to vote aye, and I look forward to this bill being very successful.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

Senator Breslin will be recorded in the affirmative.

Next, Senator Savino to explain her vote.

SENATOR SAVINO: Thank you, Mr. President.

I also want to rise to congratulate Senator Hannon for bringing this bill forward, and I'm going to vote in support of it. It's something I've supported in the past.

You know, New York State has taken a lead more than once in breaking the ground with respect to collective bargaining rights. We were the first stated to past labor laws for children. And last year this body passed the first Domestic Workers' Bill of Rights in the nation -- again, breaking ground, making law, making history.

When the National Labor Relations Act was passed in 1935, three groups were cut out: Domestic workers, farmworkers, and independent contractors. Doctors were considered independent contractors. They didn't need the protection of collective bargaining laws. They

didn't need to join unions. They didn't need to band together for mutual aid and protection to improve their working conditions because they were able to dictate their working conditions by virtue of the ability to sell their services.

Well, that was then and this is now. Doctors today are not the doctors that we remember when we grew up. They no longer have Wednesdays off. They don't play golf every Monday. They work longer hours, they work harder, and they get reimbursed a lot less today than they did 20 years ago.

Because of the proliferation of HMOs or the consolidation of decisions in the HMO industry, where less people make decisions that affect more, more doctors have to work longer hours for the same amount of money. Most physicians have not gotten a rate increase, a rate reimbursement increase since 1995.

Now, we may not have gotten a raise here in the Legislature since 1999, but most people haven't waited that long to get a raise. Think about this. A doctor in 1995 has not gotten a raise but yet is paying 2011 medical malpractice rates, is paying 2011 insurance

rates, is paying 2011 wages for their employees, 2011 payroll taxes, 2011 MTA payroll taxes, all of the things that cost in 2011. They haven't gotten a raise since 1995.

It is driving primary care physicians out of New York State. It is requiring doctors to spend less time with their patients because they have to see more patients to meet 2011 bills on 1995 salaries.

So I'm going to support this bill, Senator Hannon. I don't know if this is the right model for New York State. I don't know if it's the right model for doctors. But I know that anytime working people band together for mutual aid and protection, it can only be in their interest and our interest.

So I support this bill. Thank you, Senator Hannon.

THE PRESIDENT: Thank you, Senator.

Senator Savino will be recorded in the affirmative.

Senator LaValle to explain his vote.

SENATOR LaVALLE: Thank you, Mr. President.

I rise to support Senator Hannon's legislation. He is absolutely right when he says these are changing times. And this legislation recognizes what is already happening out in our respective districts.

Senator Seward listed a whole bunch of people that are opposed to this. Senator Seward, I agree with you almost -- most of the time, but I'll tell you the list of people that you read must be living in a cave. Because it's already happening. It's happening.

And what we're doing with this legislation is we are codifying various alliances, Senator Bonacic, alliances that allow doctors to be relevant in this changing world of healthcare delivery.

So I rise to not only support him but vote in the affirmative.

THE PRESIDENT: Thank you, Senator.

Senator LaValle will be recorded in the affirmative.

Senator Duane to explain his vote.

SENATOR DUANE: Thank you, Mr. President.

I rise in strong support of this

legislation and as a champion of this legislation, and I'm very pleased that Senator Hannon has shepherded it to the floor.

Much has been said about the legislation. And while the benefits accrued to physicians potentially -- and really only potentially -- are a part of this legislation, I also strongly believe that physicians are called to do the work that they do. And there's no doubt in my mind but that this legislation will go a long way towards making sure that consumers and patients will get the attention and the care that they need and deserve, and that authorities that have composed unrealistic parameters upon physicians will get some pushback. And that will only help those who need healthcare to get better healthcare.

And there are many times when we here in this body have imposed, and with good reason, mandates onto physicians. And oftentimes they are not given what they deserve for fulfilling those mandates, and this legislation will also help them to get that. And they deserve it. And this is a helpful tool that we owe to physicians because they are called to help

us.

So I'm encouraging my colleagues to vote in the affirmative, and I want to thank again Senator Hannon and all of the other champions in this Senate of this legislative.

I'll be voting aye, Mr. President.

THE PRESIDENT: Thank you, Senator.

Senator Duane to be recorded in the affirmative.

Senator Krueger to explain her vote.

SENATOR KRUEGER: Thank you, Mr. President.

I'm also rising to thank Senator Hannon and to support voice my strong support for this bill.

As has been pointed out, the world of medicine and healthcare, hospital care versus doctors, office care, the insurance system to pay for healthcare is all changing. But what has also been clear to me over the years is where we've made some mistakes with healthcare policy and insurance policy. We keep taking the doctors out of the formula.

And it's critical that doctors are participants, active participants in the policy

making over healthcare, the decision-making over what is best practice and care for patients. And that insurance companies are very strong entities. HMO are very strong entities. Hospitals -- I have some of the best in the world in my district -- are very strong entities.

But patients need to ensure that their voices are heard in healthcare, and doctors need to be active participants in their own work as physicians and in negotiating the delivery of healthcare services and the prices and costs and accountability in healthcare.

And I am sure if this bill becomes law, as we move down the path of dealing with health exchanges hopefully very quickly, as we move down the path towards our obligations under national healthcare legislation that's passed, we will see room for lots of changes and adjustments going forward.

But I think that this is a very strong step for us to take in making sure we have a fair and even playing field for the physicians in our healthcare.

I vote yes. Thank you.

THE PRESIDENT: Thank you, Senator.

Senator Krueger will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: In relation to Calendar 1456, those recorded in the negative are Senators Alesi, Bonacic, Dilan, Espaillat, Gallivan, Gianaris, Huntley, Kennedy, Klein, C. Kruger, Nozzolio, Parker, Peralta, Ranzenhofer, Robach, Sampson, and Seward. Also Senators Carlucci and O'Mara.

Ayes, 43. Nays, 19.

THE PRESIDENT: The bill is passed.

Senator Libous, that completes the noncontroversial reading of Senate Supplemental Calendar Number 58C.

SENATOR LIBOUS: Mr. President, in relation to Calendar Number 912, Senate Print 3766, earlier today it was laid aside. I'd like to lay that aside for the day.

THE PRESIDENT: Lay the bill aside for the day.

SENATOR LIBOUS: And I believe Senator Hassell-Thompson has an announcement.

THE PRESIDENT: Senator

Hassell-Thompson.

SENATOR HASSELL-THOMPSON: At 10:30 a.m. there will be a Democratic conference in the Democratic Conference Room. In the morning.

(Laughter.)

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Mr. President, there will be a Republican conference tomorrow at 6:00 a.m. -- only kidding.

(Laughter.)

SENATOR LIBOUS: There will be a Republican conference at 10:00 a.m. in Room 332.

And the Senate will adjourn until tomorrow, June 23rd --

SENATOR LARKIN: Today.

SENATOR LIBOUS: Or today. Today. Excuse me, Mr. President. Thank you, Senator Larkin. Today, June 23rd, at 11:00 a.m.

THE PRESIDENT: The Senate stands adjourned until this morning at 11:00 a.m.

(Whereupon, at 12:06 a.m., the Senate adjourned.)