

1 NEW YORK STATE SENATE

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3
4 THE STENOGRAPHIC RECORD

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8
9 ALBANY, NEW YORK

10 February 6, 2012

11 3:09 p.m.

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13
14 REGULAR SESSION

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18 SENATOR JOSEPH E. ROBACH, Acting President

19 FRANCIS W. PATIENCE, Secretary

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

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

4 I ask everyone present to please
5 rise and repeat with me the Pledge of
6 Allegiance.

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

9 ACTING PRESIDENT ROBACH: We are
10 joined today by Father Peter G. Young, of the
11 Mother Teresa Community in Albany, to give our
12 invocation.

13 REVEREND YOUNG: Let us pray.

14 We are proud of our elected leaders,
15 as we were of Van Buren, Fillmore, Arthur,
16 Cleveland, Theodore and Franklin Roosevelt. May
17 we continue the greatness of their dedicated
18 public service to all of our New York State
19 citizens.

20 May we follow in the rich
21 tradition in the Senators that first met in
22 Kingston five days after the Declaration of
23 Independence.

24 You, O God, have provided our
25 Senators with outstanding examples to inspire

1 those in this Senate chamber for committed
2 service to all of our New York State citizens.

3 Amen.

4 ACTING PRESIDENT ROBACH: Thank
5 you, Father.

6 The reading of the Journal.

7 THE SECRETARY: In Senate, Friday,
8 February 3rd, the Senate met pursuant to
9 adjournment. The Journal of Thursday,
10 February 2nd, was read and approved. On
11 motion, Senate adjourned.

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

14 Presentation of petitions.

15 Messages from the Assembly.

16 The Secretary will read.

17 THE SECRETARY: On page 9,
18 Senator Maziarz moves to discharge, from the
19 Committee on Rules, Assembly Bill Number 8904
20 and substitute it for the identical Senate Bill
21 Number 6054A, Third Reading Calendar 11.

22 ACTING PRESIDENT ROBACH:
23 Substitution ordered.

24 THE SECRETARY: On page 9, Senator
25 Lanza moves to discharge, from the Committee on

1 Rules, Assembly Bill Number 8906 and substitute
2 it for the identical Senate Bill Number 6055,
3 Third Reading Calendar 12.

4 ACTING PRESIDENT ROBACH:
5 Substitution ordered.

6 THE SECRETARY: On page 9, Senator
7 Saland moves to discharge, from the Committee on
8 Rules, Assembly Bill Number 8908 and substitute
9 it for the identical Senate Bill Number 6121,
10 Third Reading Calendar 16.

11 ACTING PRESIDENT ROBACH:
12 Substitution ordered.

13 THE SECRETARY: On page 9, Senator
14 Skelos moves to discharge, from the Committee on
15 Rules, Assembly Bill Number 8900 and substitute
16 it for the identical Senate Bill Number 6126,
17 Third Reading Calendar 18.

18 ACTING PRESIDENT ROBACH:
19 Substitution ordered.

20 THE SECRETARY: And on page 12,
21 Senator Golden moves to discharge, from the
22 Committee on Cities, Assembly Bill Number 8691A
23 and substitute it for the identical Senate Bill
24 Number 6118A, Third Reading Calendar 78.

25 ACTING PRESIDENT ROBACH:

1 Substitution ordered.

2 Messages from the Governor.

3 Reports of standing committees.

4 Reports of select committees.

5 Communications and reports from
6 state officers.

7 Motions and resolutions.

8 Senator Libous.

9 SENATOR LIBOUS: Mr. President, I
10 believe Senator Breslin has something to say.

11 ACTING PRESIDENT ROBACH: Senator
12 Breslin.

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

15 On behalf of Senator Peralta, I move
16 to amend Senate Bill 677B by striking out the
17 amendments made on 1/24/12 and restoring it to
18 its previous print number, 677A.

19 ACTING PRESIDENT ROBACH: So
20 ordered.

21 SENATOR BRESLIN: Thank you,
22 Mr. President.

23 On behalf of Senator Espallat, I
24 move that the following bill be discharged from
25 its respective committee and be recommitted

1 with instructions to strike the enacting
2 clause: Senate Number 6071.

3 ACTING PRESIDENT ROBACH: So
4 ordered.

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

7 ACTING PRESIDENT ROBACH: Thank
8 you, Senator Breslin.

9 Senator Libous.

10 SENATOR LIBOUS: Mr. President,
11 on behalf of Senator Marcellino, on page 14 I
12 offer the following amendments to Calendar
13 Number 116, Senate Print 4272A, and ask that
14 said bill retain its place on the Third Reading
15 Calendar.

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

19 Senator Libous.

20 SENATOR LIBOUS: Thank you,
21 Mr. President.

22 On page 9 I offer the following
23 amendments, on behalf of Senator Hannon, to
24 Calendar Number 35, Senate Print 5880, and ask
25 that said bill retain its place on the Third

1 Reading Calendar.

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

5 Senator Libous.

6 SENATOR LIBOUS: On behalf of
7 Senator Flanagan, Mr. President, I move to
8 amend Senate Bill 4689B by striking out the
9 amendments made on 12/9 of 2011 and restoring
10 it to its original print number, 4689.

11 ACTING PRESIDENT ROBACH: So
12 ordered.

13 SENATOR LIBOUS: Thank you.

14 And, Mr. President, on behalf of
15 Senator Larkin, on page 14 I offer the
16 following amendments to Calendar Number 120,
17 Senate Print Number 4239, and ask that said
18 bill retain its place on the Third Reading
19 Calendar.

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

23 SENATOR LIBOUS: Mr. President.

24 ACTING PRESIDENT ROBACH: Senator
25 Libous.

1 SENATOR LIBOUS: Could we now
2 please have the reading of the noncontroversial
3 calendar.

4 ACTING PRESIDENT ROBACH: The
5 Secretary will read.

6 THE SECRETARY: Calendar Number 11,
7 by Member of the Assembly Heastie, Assembly
8 Print 8904, an act to amend the Insurance Law.

9 ACTING PRESIDENT ROBACH: Read
10 the last section.

11 THE SECRETARY: Section 4. This
12 act shall take effect on the same date and in
13 the same manner as Chapter 597 of the Laws of
14 2011.

15 ACTING PRESIDENT ROBACH: Call
16 the roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 54.

19 ACTING PRESIDENT ROBACH: The bill
20 is passed.

21 THE SECRETARY: Calendar Number
22 12, by Member of the Assembly Lopez, Assembly
23 Print Number 8906, an act to amend the
24 Insurance Law.

25 ACTING PRESIDENT ROBACH: Read

1 the last section.

2 THE SECRETARY: Section 4. This
3 act shall take effect on the same date and in
4 the same manner as Chapter 559 of the Laws of
5 2011.

6 ACTING PRESIDENT ROBACH: Call
7 the roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 54.

10 ACTING PRESIDENT ROBACH: The
11 bill is passed.

12 THE SECRETARY: Calendar Number
13 16, by Member of the Assembly Weisenberg,
14 Assembly Print Number 8908, an act to amend
15 Chapter 594 of the Laws of 2011.

16 ACTING PRESIDENT ROBACH: Read
17 the last section.

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

20 ACTING PRESIDENT ROBACH: Call
21 the roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 56.

24 ACTING PRESIDENT ROBACH: The
25 bill is passed.

1 THE SECRETARY: Calendar Number
2 18, by Member of the Assembly Silver, Assembly
3 Print 8900, an act to amend the Insurance Law.

4 ACTING PRESIDENT ROBACH: Read
5 the last section.

6 THE SECRETARY: Section 4. This
7 act shall take effect on the same date and in
8 the same manner as Section 5 of Chapter 598 of
9 the Laws of 2011.

10 ACTING PRESIDENT ROBACH: Call
11 the roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes, 56.

14 ACTING PRESIDENT ROBACH: The bill
15 is passed.

16 THE SECRETARY: Calendar Number
17 42, by Senator Nozzolio --

18 SENATOR BRESLIN: Lay it aside.

19 ACTING PRESIDENT ROBACH: The
20 bill is laid aside.

21 THE SECRETARY: Calendar Number
22 47, by Senator Fuschillo, Senate Print 2597, an
23 act to amend the Vehicle and Traffic Law.

24 ACTING PRESIDENT ROBACH: Read
25 the last section.

1 THE SECRETARY: Section 4. This
2 act shall take effect on the first of November.

3 ACTING PRESIDENT ROBACH: Call
4 the roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 54. Nays,
7 2. Senators Montgomery and Perkins recorded in
8 the negative.

9 ACTING PRESIDENT ROBACH: The
10 bill is passed.

11 THE SECRETARY: Calendar Number
12 51, by Senator Fuschillo, Senate Print 4070, an
13 act to amend the Vehicle and Traffic Law.

14 ACTING PRESIDENT ROBACH: Read
15 the last section.

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

18 ACTING PRESIDENT ROBACH: Call
19 the roll.

20 (The Secretary called the roll.)

21 ACTING PRESIDENT ROBACH:
22 Announce the results.

23 THE SECRETARY: In relation to
24 Calendar Number 51, those recorded in the
25 negative are Senators Adams, Krueger,

1 Montgomery, Perkins and Squadron.

2 Ayes, 51. Nays, 5.

3 ACTING PRESIDENT ROBACH: The
4 bill is passed.

5 THE SECRETARY: Calendar Number
6 63, by Senator Flanagan, Senate Print 4391A, an
7 act to amend the Penal Law.

8 ACTING PRESIDENT ROBACH: Read
9 the last section.

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

12 ACTING PRESIDENT ROBACH: Call
13 the roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 55. Nays,
16 2. Senators Montgomery and Perkins recorded in
17 the negative.

18 ACTING PRESIDENT ROBACH: The
19 bill is passed.

20 THE SECRETARY: Calendar Number
21 78, by Member of the Assembly Heastie, Assembly
22 Print Number 8691A, an act to amend Chapter 602
23 of the Laws of 2011.

24 ACTING PRESIDENT ROBACH: Read
25 the last section.

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

3 ACTING PRESIDENT ROBACH: Call
4 the roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 56. Nays,
7 1. Senator Avella recorded in the negative.

8 ACTING PRESIDENT ROBACH: The
9 bill is passed.

10 THE SECRETARY: Calendar Number
11 83, by Senator Ball, Senate Print 5270, an act
12 to amend the Penal Law.

13 ACTING PRESIDENT ROBACH: Read
14 the last section.

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

17 ACTING PRESIDENT ROBACH: Call
18 the roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 55. Nays,
21 2. Senators Duane and Perkins recorded in the
22 negative.

23 ACTING PRESIDENT ROBACH: The
24 bill is passed.

25 THE SECRETARY: Calendar Number

1 88, by Senator Robach, Senate Print 565A, an
2 act to amend the Alcoholic Beverage Control
3 Law.

4 ACTING PRESIDENT ROBACH: Read
5 the last section.

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

8 ACTING PRESIDENT ROBACH: Call
9 the roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 55. Nays,
12 2. Senators Duane and Montgomery recorded in
13 the negative.

14 ACTING PRESIDENT ROBACH: The bill
15 is passed.

16 THE SECRETARY: Calendar Number
17 97, by Senator Marcellino, Senate Print 947, an
18 act to amend the Criminal Procedure Law.

19 ACTING PRESIDENT ROBACH: Read
20 the last section.

21 THE SECRETARY: Section 4. This
22 act shall take effect on the 30th day.

23 ACTING PRESIDENT ROBACH: Call
24 the roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 56. Nays,
2 1. Senator Breslin recorded in the negative.

3 ACTING PRESIDENT ROBACH: The
4 bill is passed.

5 THE SECRETARY: Calendar Number
6 106, by Senator Little, Senate Print 343, an
7 act to amend the Highway Law.

8 SENATOR BRESLIN: Lay it aside.

9 ACTING PRESIDENT ROBACH: The
10 bill is laid aside.

11 THE SECRETARY: Calendar Number
12 107, by Senator Marcellino, Senate Print 944,
13 an act to amend the Vehicle and Traffic Law.

14 ACTING PRESIDENT ROBACH: Read
15 the last section.

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

18 ACTING PRESIDENT ROBACH: Call
19 the roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 57.

22 ACTING PRESIDENT ROBACH: The
23 bill is passed.

24 THE SECRETARY: Calendar Number
25 113, by Senator Seward, Senate Print 2371, an

1 act to amend the Vehicle and Traffic Law.

2 ACTING PRESIDENT ROBACH: Read
3 the last section.

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

6 ACTING PRESIDENT ROBACH: Call
7 the roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 57.

10 ACTING PRESIDENT ROBACH: The bill
11 is passed.

12 THE SECRETARY: Calendar Number
13 115, by Senator Bonacic, Senate Print 3099A, an
14 act to amend the Vehicle and Traffic Law.

15 ACTING PRESIDENT ROBACH: Read
16 the last section.

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

19 ACTING PRESIDENT ROBACH: Call
20 the roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes, 57.

23 ACTING PRESIDENT ROBACH: The
24 bill is passed.

25 THE SECRETARY: Calendar Number

1 117, by Senator Fuschillo, Senate Print 4488A,
2 an act to amend the Vehicle and Traffic Law.

3 ACTING PRESIDENT ROBACH: Read
4 the last section.

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

7 ACTING PRESIDENT ROBACH: Call
8 the roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 58.

11 ACTING PRESIDENT ROBACH: The
12 bill is passed.

13 THE SECRETARY: Calendar Number
14 123, by Senator Gallivan, Senate Print 4828, an
15 act to amend the Social Services Law.

16 ACTING PRESIDENT ROBACH: Read
17 the last section.

18 THE SECRETARY: Section 2. This
19 act shall take effect on the 60th day.

20 ACTING PRESIDENT ROBACH: Call
21 the roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 57. Nays,
24 1. Senator Squadron recorded in the negative.

25 ACTING PRESIDENT ROBACH: The

1 bill is passed.

2 THE SECRETARY: Calendar Number
3 126, by Senator Golden, Senate Print --

4 SENATOR BRESLIN: Lay it aside.

5 ACTING PRESIDENT ROBACH: The
6 bill is laid aside.

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

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

11 In a moment here we'll be going
12 over the controversial reading of the calendar,
13 and we'll be taking the bills in order. If we
14 could just wait a second.

15 ACTING PRESIDENT ROBACH: If we
16 can ring the bell and get the members to the
17 chamber, we will shortly be starting the
18 controversial calendar.

19 SENATOR LIBOUS: Mr. President.

20 ACTING PRESIDENT ROBACH: Senator
21 Libous.

22 SENATOR LIBOUS: If we could
23 start the controversial calendar with Calendar
24 Number 106, please.

25 ACTING PRESIDENT ROBACH: We will

1 start the controversial calendar.

2 The Secretary will read Calendar
3 Number 106.

4 THE SECRETARY: Calendar Number
5 106, by Senator Little, Senate Print 343, an
6 act to amend the Highway Law.

7 SENATOR BRESLIN: Explanation.

8 ACTING PRESIDENT ROBACH: Senator
9 Little, an explanation has been asked for.

10 SENATOR LITTLE: Thank you.
11 Thank you, Mr. President. I'm really pleased
12 to be able to explain this piece of
13 legislation.

14 This legislation is supported by
15 the Adirondack Park Local Government Review
16 Board, the Adirondack Conservation Council, and
17 the Adirondack Association of Towns and
18 Villages.

19 What currently has happened and
20 has brought the need for this piece of
21 legislation is, as you know, the Adirondack
22 Park is in my district. It's certainly one of
23 the most beautiful parks in the State of
24 New York. The State of New York owns 3 million
25 of the 6 million acres within the park. But it

1 is not an empty park. There are over 100 towns
2 within that park, there are many roads and
3 highways, county roads, state roads and town
4 roads within that.

5 What has happened is the DEC and
6 the state has used the laws in County Law -- in
7 Section 212 of the Highway Law. Let me give
8 you an example. So since the 1970s the state
9 has bought hundreds of thousands of acres of
10 land and put it into the Forest Preserve and
11 they've become part of the park.

12 If they bought a thousand acres
13 from Mr. Smith and a thousand acres from
14 Mr. Jones on this side, and there is a town
15 road that runs through it, and the town road
16 has existed for 50 to 100 years, Mr. Jones and
17 Mr. Smith get compensated for the land that the
18 state purchased, it becomes part of the state
19 park, and now the DEC decides to close the road
20 regardless of what the town has to say.

21 I have two towns who have most
22 recently had this happen, the Town of Horicon
23 and the Town of Wells. Both of those towns
24 have been plowing this road, maintaining the
25 road. It is a dirt road. However, the DEC, in

1 taking the land on both sides, which became
2 part of the Forest Preserve, closes the roads
3 over the objection of the town.

4 Now, in the Adirondack Council's
5 objection I will tell you they say: "The
6 decision to close the road was the product of
7 an open public process in which a draft of the
8 Unit Management Plan, or UMP, was made public.
9 A public meeting was held, DEC received public
10 comments, and a final UMP was then submitted to
11 the APA for approval."

12 I will tell you, at all of those
13 public meetings, the town and many different
14 organizations that I've spoken about spoke
15 against closing the road. However, the
16 decision to close the road was then made final.

17 "The fact that one town board
18 disagreed with the outcome is hardly grounds
19 for a wholesale revision of the current law."

20 Let me add that the town board are
21 the only elected officials in this process.
22 Everyone else is DEC, APA, appointed people.

23 You know, if there was a
24 possibility of the state of being able to do
25 adverse possession against the state, the town

1 certainly could have done so. But you can't do
2 that against the State of New York.

3 And despite the fact that they've
4 plowed this road, they've maintained these
5 roads for years and years -- one of them goes
6 back to -- the West River Road in the Town of
7 Wells goes back to when the Town of Wells was
8 formed. So that road has been in existence for
9 years.

10 They decided to close it because
11 it is in the Forest Preserve and land on both
12 sides. Basically, they're taking away public
13 access to that part of the Forest Preserve.
14 Because I don't want to insult anyone, but
15 probably only half the people in this room
16 could walk into that Forest Preserve without
17 being able to have that road once the road is
18 closed. The disabled can't. Maybe people with
19 heart conditions would not be able to get in
20 it.

21 I even had someone say to me once,
22 "You know, the older I get, the more I agree
23 with you, because I realize that I'm not going
24 to have access to the Forest Preserves because
25 I will not going to be able to walk in and do

1 it."

2 You can't use motorized vehicles,
3 you can't do -- this road allows for people to
4 get into the New York State Forest Preserve
5 that is being paid for by the New York State
6 taxpayers.

7 What I am saying here is that you
8 cannot close that road without the approval of
9 the town. And I would hope that you will all
10 support this bill.

11 Thank you.

12 ACTING PRESIDENT ROBACH: Senator
13 Oppenheimer.

14 SENATOR OPPENHEIMER: Thank you.

15 And it isn't, Senator Little, that
16 I don't empathize with you, because I can tell
17 you I had a very similar situation when I was
18 the mayor of my community and was having a
19 minor war with the Department of Transportation
20 on something quite similar, roads that we had
21 always maintained and that we were trying to
22 make safer, and we were not able to.

23 So it isn't that I don't
24 empathize with you. But it's just that this
25 issue has quite broader implications than just

1 this particular situation that you have.

2 Because this bill removes from the
3 DEC its authority to make a final determination
4 as to the management of the highways in the
5 Adirondack Park. And it's not just the
6 highways. I think this could set a dangerous
7 precedent. It could weaken the DEC's ability
8 to regulate in a Forest Preserve area.

9 There are a lot of procedural
10 safeguards to their decision-making and there's
11 the opportunity for open meetings, public
12 hearings that have been built into the DEC
13 decision making. And it's because I think that
14 the issue is really much larger, though I
15 empathize with the issue that you raise. But I
16 think it is a dangerous precedent to say that
17 the DEC's regulations will not be listened to,
18 will not be obeyed in the Forest Preserve
19 areas.

20 So I'll be voting no, and I think
21 there's at least a dozen other people who I
22 recognize in the past have voted no on this
23 issue also.

24 Thank you.

25 ACTING PRESIDENT ROBACH: Thank

1 you, Senator.

2 Senator Squadron.

3 SENATOR SQUADRON: Thank you very
4 much, Mr. President.

5 Would the sponsor yield for a
6 question?

7 ACTING PRESIDENT ROBACH: Senator
8 Little, will you yield for a question?

9 SENATOR LITTLE: Yes, I would.

10 SENATOR SQUADRON: Thank you so
11 much.

12 And I appreciate the sponsor's
13 description of the abandonment situation that
14 the Town of Wells went through. As I read this
15 bill, it also applies not just to abandonment
16 of roads, as that example did, but also to
17 change in the locations of roads, for example.
18 Is that correct?

19 SENATOR LITTLE: It could change
20 the location of roads.

21 But what we have seen is it closes
22 roads. Which, you know, you have to start
23 considering the safety issues, and for people
24 who live and have used that road to get to one
25 location or another have to go another way.

1 But basically it takes away public
2 access to the Forest Preserve.

3 SENATOR SQUADRON: If the sponsor
4 would yield for another question.

5 ACTING PRESIDENT ROBACH: Do you
6 continue to yield?

7 SENATOR LITTLE: Yes, I'll be
8 glad to yield.

9 SENATOR SQUADRON: Thank you.

10 If this bill were to pass and a
11 town wanted to change the location of a road
12 within the Forest Preserve -- so, in other
13 words, there would be a road that had
14 previously been used and they wanted to cut a
15 new one -- would that be in the town's
16 purview? Would DEC have anything to say about
17 that if this bill passed?

18 SENATOR LITTLE: Well, I suppose
19 they would have to find other land for a new
20 road. And hopefully they would work with the
21 town.

22 What we're saying here is there is
23 no consideration of the town which has plowed
24 and taken care of this road and it has been
25 part of the road system within the town, in

1 some cases for over a hundred years. And
2 people have used this road.

3 And, you know, they put it in the
4 unit management plan that we are now in Forest
5 Preserve, and Forest Preserve wilderness area
6 cannot have motorized vehicles. Therefore,
7 they closed the road.

8 And as the example I gave of the
9 one owner on one side and the one on the other,
10 they both got compensated for the purchase of
11 that land. But because the road was in the
12 center, the state takes it.

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

15 ACTING PRESIDENT ROBACH: Do you
16 continue to yield, Senator Little?

17 SENATOR LITTLE: Yes, I continue
18 to yield.

19 SENATOR SQUADRON: Thank you.

20 And the town would have the
21 authority, if this bill were to pass, relative
22 to abandonment and DEC would lose all their
23 authority? So the town alone would have the
24 authority without any other oversight in the
25 forest?

1 SENATOR LITTLE: Oh, no, the
2 Adirondack Park Agency has total oversight in
3 the park for everything that takes place within
4 the park, and they work with DEC.

5 But I think that they would have
6 to start considering the town and the wishes of
7 the town and the people of the town who elected
8 the town board who have objected to the closure
9 of this road. And that's not being taken into
10 consideration.

11 And the precedent is that we're
12 only talking about the roads within the
13 Adirondack Park. And as I said, they're not
14 major highways, and there are instances where
15 they are in the middle of Forest Preserve. I
16 don't think many of you have Forest Preserve in
17 your districts, so it's not going to happen.
18 However, it has happened in two towns in my
19 district, over the objection of the local
20 government and the residents and the people who
21 live in those towns.

22 And, you know, it just seems so
23 unfair that you don't consider the needs of the
24 town and the home rule and work with the town
25 board.

1 But the people that went to all
2 these hearings and objected -- you know, I
3 mean, everyone -- the Adirondack Mountain Club
4 opposes this legislation. I mean, they'd like
5 it just to be a lot of hiking through the
6 park. Well, that's wonderful for hikers and
7 for people who can do it.

8 But let's consider some of the
9 disabled, some people with heart conditions,
10 some small children, people with small
11 children. They'd like to be able to -- at this
12 point you could drive on this road, park at an
13 area that's set aside, and then hike. They
14 want you to walk three, four, five, six, seven,
15 10 miles in and then hike. And not everyone
16 can do that.

17 SENATOR SQUADRON: Thank you very
18 much.

19 On the bill, Mr. President.

20 ACTING PRESIDENT ROBACH: On the
21 bill.

22 SENATOR SQUADRON: I think what
23 the case of Senator Little brings up in terms
24 of a town's authority and wishes being
25 completely ignored is a good one and a strong

1 one and one that I would like to be supportive
2 of.

3 Unfortunately, in addition to
4 that, this bill gives carte blanche to any
5 local government on a Forest Preserve in the
6 Adirondack Park -- that really is one of the
7 jewels of this state and one of the singular
8 priorities of this state to protect -- and it
9 takes away the state's power to protect it.

10 It's not just about abandonment of
11 roads in the case of the Town of Wells and the
12 other situation in the sponsor's district, it's
13 also relocating a road, arguably cutting a new
14 road, changing the location of the road. And I
15 think that's one of the major concerns here.

16 Secondarily, it doesn't just give
17 the town a say where they don't have one today,
18 it actually takes away the say of the state
19 agency, of DEC, as well.

20 And so I certainly would be
21 supportive of a bill that was about the
22 abandonment of roads, was about protecting the
23 local elected officials' and local governments'
24 role with abandonment of roads. This bill
25 unfortunately goes beyond that, and that's why

1 I'm not going to be able to support it.

2 Thank you, Mr. President.

3 ACTING PRESIDENT ROBACH: Senator
4 Little.

5 SENATOR LITTLE: Thank you,
6 Mr. President. If I could just respond, just
7 for a point of clarification.

8 When it talks about relocation,
9 you're not going to be able to relocate any new
10 road in the Forest Preserve. So there won't be
11 any relocation of a road within the Forest
12 Preserve. We're talking about the absolute
13 closure of the road, closure of accessibility
14 to that section of the Forest Preserve.

15 ACTING PRESIDENT ROBACH: Seeing
16 no other Senator wishing to be heard, debate is
17 closed.

18 The Secretary will ring the bell.

19 Senator Libous.

20 SENATOR LIBOUS: Mr. President,
21 just on the roll, so that we can move the
22 progress along, members need to be in their
23 seat while we're counting votes, and then they
24 can scurry across the chamber and talk to each
25 other.

1 But for right now, if members
2 could get to their assigned seats, we can call
3 the roll. Senator Hannon?

4 ACTING PRESIDENT ROBACH: Read
5 the last section.

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

8 ACTING PRESIDENT ROBACH: Call
9 the roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT ROBACH:
12 Announce the results.

13 THE SECRETARY: In relation to
14 Calendar Number 106, those recorded in the
15 negative are Senators Adams, Avella, Ball,
16 Dilan, Duane, Espaillat, Hassell-Thompson,
17 Krueger, LaValle, Montgomery, Oppenheimer,
18 Parker, Peralta, Perkins, Rivera, Serrano,
19 Squadron and Stavisky.

20 Ayes, 43. Nays, 18.

21 ACTING PRESIDENT ROBACH: The
22 bill is passed.

23 Senator Libous.

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

1 Mr. President, at this time could
2 we go to Calendar Number 42, please.

3 ACTING PRESIDENT ROBACH: The
4 Secretary will read.

5 THE SECRETARY: Calendar Number
6 42, by Senator Nozzolio, Senate Print 478, an
7 act to amend the Executive Law.

8 SENATOR BRESLIN: Explanation.

9 ACTING PRESIDENT ROBACH: Senator
10 Breslin has asked for an explanation,
11 Senator Nozzolio.

12 SENATOR NOZZOLIO: Mr. President,
13 this measure excludes evergreen trees from the
14 list of combustible materials and allows them
15 to be placed in public buildings.

16 ACTING PRESIDENT ROBACH: Senator
17 Krueger.

18 SENATOR KRUEGER: Thank you,
19 Mr. President.

20 Well, last year we had a rousing
21 debate on this bill, so I'm not going to ask
22 Senator Nozzolio the questions again from last
23 year, I'll just speak on the bill.

24 ACTING PRESIDENT ROBACH: Senator
25 Krueger on the bill.

1 SENATOR KRUEGER: Thank you.

2 While live evergreens that have
3 been cut down and put in pots can be beautiful,
4 they are also, according to any number of
5 national studies involving fire safety and fire
6 hazards, they are ranked one of the highest
7 hazards for drying out and catching fire,
8 particularly when electronic ornaments are
9 placed on them, making it all the more likely
10 that a dried-out, dying evergreen tree can
11 cause a fire.

12 I do not believe that the
13 Building Code or the Fire Code of New York
14 State should be overridden to allow an
15 increased risk of fire from allowing live
16 evergreen trees in government buildings.

17 As we know, because of budget cuts
18 we are finding there are fewer and fewer
19 government staff in these buildings to handle
20 any of the maintenance responsibilities on a
21 daily basis. And I would hate to support
22 legislation that could in fact lead to a tragic
23 fire in one of our government buildings
24 throughout the State of New York.

25 I'll be voting no. Thank you,

1 Mr. President.

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

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

6 Senator Nozzolio.

7 SENATOR NOZZOLIO: To explain my
8 vote.

9 ACTING PRESIDENT ROBACH: Let's
10 get on the roll call and we'll get right back
11 to you.

12 Ring the bell.

13 The Secretary will read the last
14 section.

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

17 ACTING PRESIDENT ROBACH: Call
18 the roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT ROBACH: Senator
21 Nozzolio to explain his vote.

22 SENATOR NOZZOLIO: Thank you,
23 Mr. President.

24 Mr. President and my colleagues, I
25 would like to thank all my colleagues who are

1 supporting this measure.

2 I'd also like to refer to a news
3 release of November 2011 from the New York
4 State Department of Agriculture and Markets.
5 Commissioner Darrel Aubertine, along with
6 Office of General Services Commissioner RoAnn
7 Destito, welcomed this last Christmas season a
8 number of evergreen growers to the Capitol,
9 where they donated trees and breathes to
10 decorate the Capitol and the Executive Mansion
11 for the holiday season.

12 It seems what's good enough for
13 the Governor or the Commissioner of the Office
14 of General Services and the Commissioner of
15 Agriculture should be good for the entire
16 government.

17 And I thank this body for
18 supporting the evergreen growers of this state,
19 who grow the best Christmas trees possible, and
20 that I think that they certainly will be glad
21 that this body supports their efforts.

22 Thank you, Mr. President.

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

25 Announce the results.

1 THE SECRETARY: In relation to
2 Calendar Number 42: Ayes, 59. Nays, 2.
3 Senators Adams and Krueger recorded in the
4 negative.

5 ACTING PRESIDENT ROBACH: The
6 bill is passed.

7 Senator Libous.

8 SENATOR LIBOUS: Mr. President, I
9 believe's one other bill on the controversial
10 calendar, Calendar Number 126.

11 ACTING PRESIDENT ROBACH: The
12 Secretary will read.

13 THE SECRETARY: Calendar Number
14 126, by Senator Golden, Senate Print 6087A, an
15 act to amend the Education Law.

16 SENATOR BRESLIN: Explanation.

17 ACTING PRESIDENT ROBACH: An
18 explanation has been requested.

19 Senator Flanagan.

20 SENATOR FLANAGAN: Thank you,
21 Mr. President.

22 Senator Breslin, this bill is an
23 amendment to Education Law Section 414. And
24 that section of the law has to do with the use
25 of schoolhouse and grounds surrounding that

1 schoolhouse. It's not a particularly lengthy
2 section of law, but it is quite direct in its
3 application and its language.

4 And we are amending that section
5 of the law to provide some additional language
6 that specifically deals with a number of court
7 cases that have taken place over the last 16 to
8 18 years, all the way up, all the way back
9 down, all the way back up, and all the way back
10 down.

11 So this is codification of two
12 Supreme Court cases in particular, generally
13 referred to as the Good News Club and the
14 Lamb's Chapel. And the specific language that
15 we're adding into the bill that I think is the
16 part most people are paying attention to is
17 Section 3 under sub (c) of Education Law 414.
18 And I don't think I necessarily need to read
19 it, but it essentially codifies those cases and
20 amends that section of the law.

21 I think it's very important to
22 mention a couple of other things that I believe
23 to be very important. I believe local school
24 boards and school districts should have
25 latitude and discretion. I believe under the

1 old law and with the application of this new
2 statute they will continue to have that
3 discretion.

4 There are some current concerns
5 about what type of activities may take place
6 within the school. I want to specifically
7 reference an existing section of the law that I
8 think is dispositive in many ways, and that is
9 Section 414, the last sentence, which speaks to
10 what may be done by boards.

11 And it says: "In the grounds and
12 other property of the district, when not in use
13 for school purposes or when the school is in
14 use for school purposes if, in the opinion of
15 the trustees or board of education, that use
16 will not be disruptive of normal school
17 operations."

18 So if we did nothing on the law,
19 there's still an inherent power for school
20 boards to have flexibility and discretion to
21 control activities within the boundaries of the
22 school community.

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

25 Senator Krueger.

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

3 Will Senator Golden answer
4 questions on his bill, please.

5 ACTING PRESIDENT ROBACH: He
6 hasn't spoken yet on the bill.

7 SENATOR KRUEGER: But he's the
8 sponsor of the bill, Mr. President.

9 ACTING PRESIDENT ROBACH: He
10 really doesn't need to yield because he hasn't
11 spoken.

12 SENATOR FLANAGAN: Mr. President,
13 I'd be happy to answer questions on the bill.

14 ACTING PRESIDENT ROBACH: Senator
15 Flanagan is a co-prime. If you'd like to
16 direct your question to him, that would be
17 great.

18 SENATOR KRUEGER: Thank you,
19 Mr. President.

20 Can Senator Flanagan answer why
21 Senator Golden won't speak on his bill or
22 answer questions on his bill?

23 ACTING PRESIDENT ROBACH: That's
24 not germane, Senator Krueger. Do you have a
25 question on the bill?

1 SENATOR KRUEGER: I have any
2 number of questions, yes, thank you,
3 Mr. President.

4 But just for the record, it's a
5 little confusing to me that the sponsor of a
6 bill would neither explain his bill or agree to
7 answer questions on his bill, for the record.

8 ACTING PRESIDENT ROBACH: Senator
9 Krueger, I think it's very appropriate, as a
10 co-prime sponsor of the bill and the chairman
11 of the Education Committee -- Senator Flanagan
12 did an excellent job of explaining the bill,
13 and I'm sure he'll do an excellent job
14 answering your question.

15 SENATOR KRUEGER: Thank you,
16 Mr. President.

17 Senator -- I guess let me
18 rethink. Will the cosponsor of the bill please
19 cede to a question.

20 ACTING PRESIDENT ROBACH: Senator
21 Flanagan, will you yield for a question?

22 SENATOR FLANAGAN: Yes, I will.

23 SENATOR KRUEGER: Thank you.

24 Is this bill intended to apply
25 throughout the State of New York or simply to a

1 specific locale within the State of New York?

2 SENATOR FLANAGAN: Statewide.

3 SENATOR KRUEGER: It's a
4 statewide bill, thank you.

5 If the cosponsor would continue to
6 yield. And we don't have co-prime sponsors, so
7 I gather as a cosponsor of the bill would he
8 continue to yield.

9 ACTING PRESIDENT ROBACH: Senator
10 Flanagan, will you continue to yield?

11 SENATOR FLANAGAN: Yes,
12 Mr. President.

13 SENATOR KRUEGER: The City of
14 New York doesn't actually have a local board of
15 education. So does this bill not apply to the
16 City of New York?

17 SENATOR FLANAGAN: No, the bill
18 does apply to the City of New York.

19 SENATOR KRUEGER: Mr. President,
20 if through you Senator Flanagan would continue
21 to yield.

22 SENATOR FLANAGAN: Yes, I will.

23 SENATOR KRUEGER: So whom in the
24 City of New York would be making the
25 determination as described in this bill?

1 SENATOR FLANAGAN: You know,
2 Senator Krueger, that's actually a very good
3 question. And I would reference for you, given
4 how we have adopted and enacted and modified
5 and amended statutes, this was a question that
6 was raised internally.

7 And I can also tell you that there
8 are at least 20 other sections of law that I'm
9 looking at -- Election Law, Public Authorities,
10 Education Law in about 15 different capacities
11 that speaks to the New York City Department of
12 Education, New York City School District, and
13 makes reference to the Board of Education and
14 community school boards even though there have
15 been changes to the law.

16 So the applicability is clearly
17 statewide, and it is determined by -- it also
18 includes the City of New York.

19 SENATOR KRUEGER: Mr. President,
20 if the sponsor will continue to yield.

21 ACTING PRESIDENT ROBACH: Senator
22 Flanagan?

23 SENATOR FLANAGAN: Yes, I will.

24 SENATOR KRUEGER: I appreciate
25 that answer, but it doesn't answer my

1 question.

2 In the City of New York, if this
3 bill were to become law, who would be the
4 entity or entities making decisions about
5 whether or not a specific religious
6 organization could use a school building for
7 their activities?

8 SENATOR FLANAGAN: I believe it
9 would be the New York City Department of
10 Education.

11 SENATOR KRUEGER: Mr. President,
12 if through you I could ask the sponsor an
13 additional question.

14 ACTING PRESIDENT ROBACH: Senator
15 Flanagan?

16 SENATOR FLANAGAN: Yes.

17 SENATOR KRUEGER: So again, for
18 the record, as you as a cosponsor read this
19 bill it would be the City Department of
20 Education who would have the authority to
21 approve or disapprove any religious
22 organizations's request to use a city school
23 building for their religious meetings?

24 SENATOR FLANAGAN: Yes.

25 SENATOR KRUEGER: Thank you.

1 Through you, Mr. President, if the
2 cosponsor would continue to yield.

3 SENATOR FLANAGAN: Yes, I will.

4 SENATOR KRUEGER: Thank you.

5 I believe there was a change
6 between the first version of this bill and the
7 A print of the bill wherein, while the word
8 "religious worship activities" was removed from
9 the text, it remains in the title. And so I
10 would like a clarification, if I could, of the
11 definition of a religious meeting that is not
12 involved with religious worship as intended by
13 this bill.

14 SENATOR FLANAGAN: I'm sorry,
15 Senator Krueger, could you just repeat that
16 last part?

17 SENATOR KRUEGER: Certainly.

18 So the original version of the
19 bill talked about religious worship meetings in
20 schools, the original version of the bill.
21 Version A amended -- removes the word "worship"
22 and replaces it with "religious meetings." And
23 yet the term "religious worship meetings"
24 remains in the title.

25 So can you explain to me what the

1 difference between the original bill and the
2 A print of the bill is when it comes to
3 worshiping or not worshiping on Sundays in
4 schools?

5 SENATOR FLANAGAN: Well, we can
6 get into probably some type of discussion about
7 what a title in a bill means. I think the
8 statutory language is what would predominate if
9 there were ever any question of interpretation,
10 particularly if this went to litigation.

11 So the amended version of the bill
12 speaks to religious meetings. The amended
13 version of the bill takes language from the
14 Good News Club case and the Lamb's Chapel case
15 frankly right out of those decisions and puts
16 it in the bill and speaks to religious conduct
17 and religious viewpoint. It does not speak to
18 "worship" in the language of the bill
19 whatsoever.

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

23 ACTING PRESIDENT ROBACH: Senator
24 Flanagan, do you continue to yield?

25 SENATOR FLANAGAN: Yes.

1 SENATOR KRUEGER: Thank you.

2 So there's been a number of
3 different law precedents cited. The City of
4 New York's law precedent is the Bronx Household
5 case, which has recently been resolved, saying
6 that the Board of Education in the City of
7 New York, currently recognized as the
8 Department of Education, has the authority to
9 disapprove religious congregations holding
10 meetings, worship services in schools on school
11 grounds.

12 And yet this bill says it it's not
13 about worship services, it's about religious
14 congregations holding meetings in school
15 buildings.

16 Can you define for me the
17 difference between a congregation having a
18 religious meeting in a school facility on a
19 Sunday versus a congregation having religious
20 worship services in a school building on a
21 Sunday?

22 SENATOR FLANAGAN: No, I can't.

23 SENATOR KRUEGER: Mr. President,
24 through you, if the sponsor could yield.

25 ACTING PRESIDENT ROBACH: Senator

1 Flanagan, do you continue to yield?

2 SENATOR FLANAGAN: Yes, I will.

3 SENATOR KRUEGER: Does the
4 sponsor think they are two different things, or
5 are they the same thing?

6 SENATOR FLANAGAN: Senator
7 Krueger, if I look -- and I'm sure, as a
8 student of the legislative process, that you
9 have endeavored to do your own research --
10 there are a number of court cases in I guess
11 like the synthesis of this legislation. There
12 are Supreme Court cases, there are Appeals
13 Court cases. I reference with hopefully a
14 modicum of humor that this has been all over
15 the courts.

16 What we tried to do was take the
17 language from the Supreme Court cases, codify
18 it into New York State law, make it applicable
19 statewide. And we specifically did not delve
20 into the question of defining worship, just as
21 the courts have not done so, including the
22 Supreme Court of the United States.

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

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

3 SENATOR FLANAGAN: Yes, I will.

4 SENATOR KRUEGER: Thank you.

5 And again, the Senator is right,
6 there have been any number of court cases in
7 any number of courts. The Supreme Court has
8 ruled, under the federal Constitution, public
9 schools may be used for certain types of
10 activities related to religion, including
11 instruction and discussion of religious ideas,
12 the singing of hymns, and even prayer.

13 But the conduct at issue in the
14 Bronx Household case, which is the recent case
15 that was decided, that clearly is triggering
16 this piece of legislation at this time, is
17 actually quite different. The Bronx Household
18 case was over the use of a school for religious
19 services as if the school were actually a
20 church.

21 So my question again to the
22 Senator, in the context of this bill, can he
23 explain to me the difference between a
24 religious service for worship in a school
25 building on a Sunday by a congregation versus a

1 religious meeting in a school by a congregation
2 on a Sunday?

3 SENATOR FLANAGAN: Senator
4 Krueger, what we endeavored to do was to take
5 the language and the holdings of the two
6 Supreme Court cases that I've cited, put them
7 into state law.

8 I believe that I've made clear
9 through your questioning that the New York City
10 Department of Education would be an arbiter, in
11 your particular instance, for your local school
12 district, but by extension by local boards of
13 education frankly throughout the rest of the
14 state. So there is a certain amount of
15 latitude and discretion for that decision to be
16 made at the local level.

17 None of those court cases define
18 worship. And I'm not so sure that you want
19 John Flanagan or Senator Krueger defining
20 worship for people, because -- I'll put it
21 loosely in the category of "beauty is in the
22 eyes of the beholder" -- how one person
23 worships may be vastly different from another.
24 That could include verbal conduct, that could
25 include nonverbal conduct.

1 So I believe that there is enough
2 discretion for the New York City Department of
3 Education, and through the chancellor, to make
4 those decisions.

5 What we are saying is that if you
6 look at those cases, you cannot have a
7 limitation on free speech. And it speaks to
8 religious conduct and religious viewpoint.

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

12 ACTING PRESIDENT ROBACH: Senator
13 Flanagan, do you continue to yield?

14 SENATOR FLANAGAN: Yes, I do.

15 ACTING PRESIDENT ROBACH: Senator
16 Krueger.

17 SENATOR KRUEGER: Would the
18 cosponsor agree with me that it is inherent on
19 our role as legislators under the Establishment
20 Clause of the Constitution to not give rise to
21 a sufficient appearance of endorsement of any
22 religion or religious activities, and that if
23 we were to do so that would in fact violate the
24 Establishment Clause of the Constitution?

25 SENATOR FLANAGAN: Well, that's a

1 lovely hypothetical, but I'm not going to
2 answer it because it has nothing to do with
3 this bill. This bill is about free speech.

4 And if you want to bring in
5 another piece of legislation and talk about the
6 Establishment Clause, that's certainly your
7 prerogative. But in the context of what we're
8 offering here, this is not about the
9 Establishment Clause, and that was not the crux
10 of those court cases to begin with.

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

14 ACTING PRESIDENT ROBACH: Senator
15 Flanagan, do you continue to yield?

16 SENATOR FLANAGAN: Yes, I will.

17 SENATOR KRUEGER: I don't agree
18 with the cosponsor that this is exclusively in
19 the domain of free speech, because while he
20 refuses to answer the question what is
21 religious worship, clearly this relates to
22 religious activities by congregations in
23 schools on Sunday.

24 SENATOR FLANAGAN: Senator
25 Krueger, if I may. I have no problem with

1 having a colloquy and answering questions, but
2 please don't characterize my comments.

3 The problem is you didn't like my
4 answer. I answered your question, you just
5 didn't like the answer. So if you want to get
6 into that type of discussion, I'll be as
7 deferential as possible, but don't
8 mischaracterize my words.

9 Thank you, Mr. President.

10 ACTING PRESIDENT ROBACH: Senator
11 Krueger.

12 SENATOR KRUEGER: Mr. President,
13 for the record, the cases that Senator Flanagan
14 cited earlier in his discussion were in fact
15 Establishment Clause cases, not freedom of
16 speech cases. So I actually think that I am on
17 point by raising the issue of the Establishment
18 Clause of the U.S. Constitution.

19 And again, I can agree I am
20 frustrated by his previous answer, but it's
21 because I don't have an answer from
22 Senator Flanagan. I am trying to understand
23 the difference in definition between a
24 religious worship service in a public school by
25 a congregation on a Sunday and a religious

1 meeting by a religious congregation in a public
2 school on a Sunday.

3 So yes, I am frustrated by the
4 inability of the cosponsor to answer the question
5 what is the difference between the two. But
6 nonetheless, I am perfectly happy to move on
7 with my questions about why I am concerned that
8 this clearly does pass the line of separation
9 of church/state and why the State of New York
10 should not pass this legislation, even though I
11 agree neither of us seem to be that clear on
12 the definition of what the religious activities
13 to take place would be.

14 The Supreme Court in 1971
15 established --

16 ACTING PRESIDENT ROBACH: Do you
17 want to go on the bill, Senator Krueger?

18 SENATOR KRUEGER: No, I'm going
19 to continue with a question, I'm sorry. If
20 through you the cosponsor would yield.

21 SENATOR FLANAGAN: I do.

22 ACTING PRESIDENT ROBACH: Thank
23 you.

24 SENATOR KRUEGER: Thank you.

25 In 1971 the Supreme Court

1 established a test for determining whether such
2 a violation of the Establishment Clause has
3 occurred: In order to avoid becoming entangled
4 in religion, the conduct of government must
5 have a secular purpose.

6 If the sponsor would yield, do we
7 think that this bill is to ensure expansion of
8 free speech for a secular purpose?

9 ACTING PRESIDENT ROBACH: Senator
10 Flanagan, the question has already been asked.
11 Would you yield and answer that, please?

12 SENATOR FLANAGAN: I'm sorry, can
13 you repeat the question?

14 SENATOR KRUEGER: Certainly.

15 According to the Supreme Court
16 1971 decision for establishing whether or not
17 there's a violation of the separation of
18 church/state, they gave three tests. I asked
19 you the first test: In order to avoid becoming
20 entangled in religion, the conduct of
21 government must have a secular purpose.

22 Do we think that this bill and the
23 requirement on boards of education and
24 departments of education to make this
25 determination have a secular purpose? Is this

1 bill relating to a secular purpose for
2 religious organizations having non-worship
3 meetings in our schools on Sundays?

4 SENATOR FLANAGAN: I believe this
5 bill is about protection of free speech and
6 equal access.

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

10 ACTING PRESIDENT ROBACH: Will
11 you continue to yield, Senator Flanagan?

12 SENATOR FLANAGAN: Yes, I will.

13 ACTING PRESIDENT ROBACH: He
14 will.

15 SENATOR KRUEGER: So again, for
16 the record, even though all of the cases cited
17 in fact involve the Establishment Clause of the
18 U.S. Constitution and the Supreme Court has
19 determined that there are tests to be applied
20 for separation of church/state under the
21 Establishment Clause and that government should
22 avoid becoming entangled in religion in the
23 conduct of government -- and Test Number 2 was
24 "must have a principal or primary effect that
25 neither advances or inhibits religion."

1 Does the cosponsor believe that
2 this bill neither advances nor inhibits
3 religion in a government building?

4 SENATOR FLANAGAN: Yes.

5 SENATOR KRUEGER: Thank you.

6 And if the sponsor would continue
7 to yield.

8 ACTING PRESIDENT ROBACH: Senator
9 Flanagan?

10 SENATOR FLANAGAN: Yes, I will.

11 SENATOR KRUEGER: And the third
12 test of the Supreme Court in defining
13 separation of church and state, or the role of
14 religious institutions within government, is to
15 not foster an excessive entanglement with
16 religion.

17 Given the fact that we can't even
18 agree on what a religious meeting versus a
19 religious worship service in a government
20 building on a Sunday by a congregation is, does
21 the cosponsor actually believe that this is not
22 fostering an excessive entanglement in the
23 definitions and functions of religion?

24 SENATOR FLANAGAN: I'm sorry,
25 Senator Krueger, repeat the last part of the

1 question.

2 SENATOR KRUEGER: The third test
3 assigned to us by the Supreme Court is that the
4 activities by government vis-a-vis religion
5 must not foster an excessive entanglement with
6 religion.

7 Do you see the Senate passing this
8 bill giving authorization for congregations to
9 hold religious non-worship services in
10 government buildings on Sundays as to not have
11 anything to do with fostering an excessive
12 entanglement in religion by the government?

13 SENATOR FLANAGAN: I don't think
14 this has anything to do with an excessive
15 entanglement with government and religion.
16 It's very clear.

17 And I have great respect for the
18 Constitution. And I have no idea what case
19 you're citing if that's from 1971. I know the
20 cases I'm looking at are 30 years beyond that.
21 So it would be interesting to know what the
22 name of that case is, because it might be
23 referenced in some of the cases that I'm
24 talking about.

25 But I do know this. The Good News

1 Club case did not define worship. I know the
2 Lamb's Chapel case did not define worship
3 either. I know that the Second Circuit Court
4 of Appeals and all the other related cases have
5 not defined worship either.

6 And I know there are 24 sponsors
7 of this bill from the City of New York. And I
8 say this with a measure of sincerity and
9 respect, it would probably be very difficult to
10 get unanimity amongst those 24 members as to
11 what "worship" means.

12 But do I think that promotes
13 excessive entanglement of religion with
14 government? Absolutely not. Because to answer
15 that question in any other way would presuppose
16 that I am actively and my colleagues are
17 actively looking to violate the Constitution.
18 Nothing could be further from the truth.

19 SENATOR KRUEGER: On the bill,
20 Mr. President.

21 ACTING PRESIDENT ROBACH: On the
22 bill, Senator Krueger.

23 SENATOR KRUEGER: I am sorry that
24 the sponsor of the bill, Senator Golden,
25 refused to participate in this discussion today

1 or to answer questions on his own bill --

2 ACTING PRESIDENT ROBACH: Senator
3 Krueger, I don't mean to interrupt you. But
4 you know what -- I was going to wait till the
5 end, but since you keep citing this, for
6 clarity for all our Senators --

7 SENATOR KRUEGER: Yes, please.

8 ACTING PRESIDENT ROBACH: -- let
9 me just read to you, because we have very good
10 dialogue here and follow the rules.

11 In Rule Number 9 of the Senate,
12 Section 4, subchapter (b), in the middle of the
13 paragraph, it's in the rules he couldn't answer
14 the question if he wanted to: "Furthermore, it
15 shall not be an order for a Senator with the
16 right to the floor to ask another Senator to
17 yield for a question unless such Senator has
18 previously spoken during debate on the matter."

19 So in all fairness, following the
20 rules, it's really not relevant, germane or
21 has anything to do with this.

22 So now that we've clarified that,
23 I hope you'll stick to the bill. Thank you.

24 SENATOR KRUEGER: I appreciate
25 the clarification of the rule and the fact that

1 the Senator who was the sponsor of the bill,
2 Senator Golden, has the right not to answer
3 questions on his bill.

4 It doesn't change the fact that
5 I'm disappointed that he didn't choose to
6 participate in defending his own bill. So I
7 don't believe I am nongermane to the point.

8 ACTING PRESIDENT ROBACH: Well,
9 in regard to yielding, it would be totally
10 germane and against our rules, if it matters to
11 you.

12 SENATOR KRUEGER: Thank you. And
13 yet I'm now on the bill rather than asking any
14 more questions about the bill.

15 This is clearly a bill that walks
16 a very fine line and in my opinion crosses over
17 the line of the separation of church/state.

18 I agree it is very difficult to
19 define what is religious worship, which I think
20 we all would agree is not allowed to take place
21 in a public school, hence the change of
22 language in the A print of the bill to a
23 religious meeting of a congregation of the same
24 people in the same place at the same time of
25 each week wherein they usually traditionally

1 have religious worship meetings.

2 It is an extraordinarily dangerous
3 thing for government to move down the road of
4 recognizing any kind of established church or
5 religious activity in our public institutions.
6 It is perhaps most disturbing to cross that
7 line when it comes to schools where children
8 come and go, sometimes on weekends as well,
9 have an expectation and their parents have an
10 expectation that this is a public school
11 intended to provide constitutional public
12 education and other activities, but that these
13 are not religious institutions.

14 And in fact, in the New York City
15 case, an additional issue that was raised was
16 the fact that because of the scheduling of
17 school-related activities that really only
18 certain types of religions were even allowed to
19 take advantage of the ability to participate in
20 their worship services in school buildings, and
21 that is because only certain religions have
22 their worship services on Sundays. Which
23 again, for New York City, is basically the only
24 day of the week when school buildings have some
25 amount of free space available for other

1 community activities.

2 So it's both a discrimination
3 against those who practice religions that don't
4 have their worship or non-worship services by
5 their congregations on a Sunday, but it also
6 clearly, in this legislation, intends to allow
7 the continuation of worship services in public
8 schools that the courts have ruled, in the
9 Bronx Household case -- excuse me, I'm saying
10 Bronx Household, but that's not the name of the
11 case. One second. In the, excuse me, what is
12 named the Bronx Household of Faith. Excuse
13 me. It was Bronx Household, but Bronx
14 Household of Faith case -- where it was clearly
15 determined that the City of New York Department
16 of Education had the authority to not allow
17 religious congregations to have their religious
18 worship meetings by congregations in their
19 school buildings.

20 The reason for this bill is to
21 override or attempt to override this court
22 decision that took 16 years ago to decide. The
23 Supreme Court has chosen not to review this
24 case, I believe on the grounds that the Supreme
25 Court has in fact decided any number of cases

1 that have made clear the importance of the
2 separation of church/state and does not allow
3 religious organizations to provide for their
4 religious worship activities in public schools.

5 I know that there are I believe
6 the Senator said 24 members of this house who
7 have become cosponsors. I am hoping people
8 will read the materials carefully and think
9 about this.

10 In my own city last week there
11 were more City Council members who initially
12 decided to cosponsor a resolution, a nonbinding
13 resolution on this piece of legislation, and
14 after debate and review and discussion many of
15 them realized sometimes things are not as
16 simple as they seem and that this would be a
17 mistake for the City of New York to move
18 forward in supporting this legislation, be it
19 the Mayor's office or the City Council.

20 So there is a great deal to debate
21 about the State of New York taking a
22 significant leap forward in its historical
23 positions that there is no government-
24 recognized religion, that government should not
25 become entangled in the activities of the

1 religion, that there shall never be any
2 confusion about whether the government endorses
3 or supports any specific religion or even
4 religion, and that that is the fundamental
5 reason why we should not pass this legislation
6 and we should not leave to some degree to the
7 discretion of individual boards of education to
8 make these tough decisions.

9 Because in fact here on the floor
10 of the Senate today I can't define a worship
11 service versus a religious meeting. My
12 colleague Senator Flanagan said he can't define
13 that. The Supreme Court has made a best effort
14 to define when government is overstepping and
15 crossing into that territory.

16 But to put into the law at the
17 state level the situation where individual
18 school boards throughout the State of New York
19 might find themselves in litigation over the
20 definition of what is religion, what is a
21 worship service, whom is a congregation, and
22 whether or not they can say no, is to some
23 degree in my opinion not only the wrong
24 decision by this house, but it's punting
25 answers we can't answer for ourselves to a

1 local, most often volunteer level.

2 So in fact there are people who
3 are supporting this bill. There are also
4 organizations that represent school boards all
5 over the state that are opposed to this bill.
6 And I think because they recognized that the
7 passage of this law -- in addition to all the
8 other complications of what is state-recognized
9 religion, what is worship in a school versus
10 not worship by a congregation on a Sunday, that
11 they are extremely concerned that this not land
12 in their laps.

13 And I agree with them, it
14 shouldn't land in their laps. We should be the
15 ones who make the tough decisions about when is
16 the Constitution of the United States being
17 violated, what is the separation of
18 church/state, what is the meaning of worship,
19 does that violate our separation of
20 church/state if people are participating in
21 activities in our public schools for religious
22 purposes but there's no definition of what it
23 is so how will these local school boards even
24 confront this question.

25 There are excellent memos in

1 opposition that raise many, many issues and
2 cite many court cases that have gone through
3 our U.S. courts and our state courts over the
4 last 50 years. I would urge this house not to
5 leap before it looks. Don't jump into a
6 situation where you are voting for a bill that,
7 in fairness, you may have trouble
8 understanding. I think the two of us so far
9 who have debated are having some trouble
10 understanding what the meaning of the bill is.

11 So I would urge my colleagues to
12 vote no on this bill today.

13 Thank you, Mr. President.

14 ACTING PRESIDENT ROBACH: Thank
15 you, Senator.

16 Senator Malcolm Smith.

17 SENATOR SMITH: Thank you very
18 much, Mr. President. On the bill.

19 ACTING PRESIDENT ROBACH: On the
20 bill.

21 SENATOR SMITH: Mr. President and
22 colleagues, I appreciate the sensitivity of
23 this issue. I appreciate the dialogue between
24 Senator Flanagan and Senator Liz Krueger.
25 Obviously this debate goes back as far as 1802

1 when Thomas Jefferson wrote that letter to the
2 Danbury Baptist Church Association on the
3 separation between church and state.

4 Perhaps we have come to a point
5 where we may have to revisit what we now have
6 described as that separation between church and
7 state. And anecdotal as it may seem, think
8 about small things, such as when you look at
9 your dollar bill, it says "In God We Trust."
10 When you take an oath, you raise your hand and
11 say "so help me God." When you get sworn in on
12 this floor, you put your hand on the Bible.

13 So this may be a time where we may
14 have to revisit, as we are revisiting the way
15 we redefine the relationship between government
16 and community today that our Governor has so
17 aptly put to our attention.

18 But the fact of the matter,
19 Mr. President, is I think sometimes we get a
20 little bit too caught up in what was debated
21 here on the floor. The fact of the matter is
22 these are real lives that these institutions
23 are saving and helping.

24 We are in very challenging times,
25 Mr. President. And it is these institutions

1 that your constituents go to on that weekend
2 that need sometimes that little mental help,
3 that needs that little support because they had
4 a challenging week when they may have lost
5 their that job or someone in their family may
6 have lost their job. They need some type of
7 support. I daresay all of you have gone to
8 your religious institutions somewhere at some
9 point and walked out of there feeling mentally
10 stronger because of what was imparted to you by
11 that particular reverend or pastor who had a
12 sermon or whatever that day.

13 All they're saying is, Give us the
14 opportunity to help. They are helping those
15 individuals that we can't help anymore. We
16 don't have member items. We barely get
17 capital. And so all these organizations are
18 trying to help those people that we can't give
19 something to look forward to. They're not
20 asking you to abject to your faith or belief.
21 You can still practice your religion. You can
22 still have your belief and all that you were
23 grown on.

24 But think about the lives of the
25 individuals that these people are impacting.

1 That is all they are saying. Senator Flanagan,
2 Senator Golden, it's not about either one of
3 them. It's about those 1200 churches that are
4 meeting and trying to help people move through
5 the challenging parts of their life.

6 Colleagues, we're going to very
7 shortly celebrate Valentine's Day. So have a
8 heart.

9 (Laughter.)

10 SENATOR SMITH: Let them go ahead
11 and do what they're trying to do to save other
12 people's lives. It's not hurting you. All
13 they're saying is let us do our job, just like
14 we do.

15 Mr. President, I'll be voting aye
16 for the bill.

17 ACTING PRESIDENT ROBACH: Thank
18 you, Senator Smith.

19 Senator Diaz.

20 SENATOR DIAZ: Thank you,
21 Mr. President.

22 Honestly, Senator Malcolm Smith
23 almost made me cry.

24 Today I'm glad and I am happy that
25 that side, the Republican members of the Senate

1 who control -- I'm sorry, I should have said on
2 the bill. I didn't say on the bill.

3 The Republican members that
4 control this Senate have taken the cry of
5 churches in the City of New York that happens
6 to be mainly concentrated in the Democratic
7 areas and that most of their members are
8 Democrats. It is commendable that the
9 Republican Party and Senator Golden, especially
10 Senator Golden, took this issue and in three
11 weeks of session, in less than three weeks of
12 session, this body already has taken this bill
13 to the committee, passed it in the committee,
14 and today have brought this bill to the Senate
15 floor. Amazing.

16 The City of New York, the City
17 Council is controlled by Democrats, and they
18 still are playing with it. And not even a
19 lousy resolution can they approve to help these
20 churches that are located in Democratic areas.

21 The other chamber, controlled by
22 Democrats, they are playing games too. Thank
23 you, Senator Golden. Thank you, Senator.
24 Thank you to all my colleagues here, to my
25 Democratic colleagues that will be supporting

1 this bill today. This shows something,
2 especially to the ministers in the City of
3 New York, sometimes you have to know who your
4 friends are when you are in need. And today
5 you are showing here something.

6 I don't know if this is going to
7 be a one-house bill. It might be a one-house
8 bill, according to what I see. Nonetheless,
9 nonetheless, what's happening here today is an
10 indication of people that are concerned with
11 the suffering. Because this is not only one
12 religion, this is -- any religion could rent
13 it.

14 And by the way, Mr. President,
15 Mr. President, it's also proper to find out if
16 the City of New York Department of Education
17 rents or leases spaces from religious
18 organizations to teach children. According to
19 my knowledge, the City of New York Department
20 of Education rents and leases spaces from
21 churches, from New York organizations, to send
22 the children there to teach them. So you
23 English-speaking people have a saying that says
24 whatever is good for the goose, it should be
25 good for the gander too.

1 And I don't see why a congregation
2 can't rent an auditorium on Sunday and on
3 Saturday when the churches are not being used,
4 rent and pay whatever the Department of
5 Education charges, and rent that space, that
6 auditorium, and use it. There's no children
7 there, there's no school there, nothing is
8 happening there. They are paying the rent,
9 they're paying for security, they're paying for
10 cleaning. The City of New York needs the
11 money.

12 Also, the New York City Housing
13 Authority that was having the same problem,
14 immediately they solved the problem and said,
15 you are allowed to do it. So one department of
16 the city says it's okay, and the other
17 department of the city says it's not okay.

18 So thank you again, Senator
19 Golden, and members of that chamber for moving
20 so fast in this issue. We are sure that the
21 members of the clergy in the City of New York,
22 at least the ones that I could get in contact
23 with, will know that you have done a great job,
24 a job that should be commendable.

25 And to all my Democratic

1 colleagues that will be voting for this today,
2 thank you. We appreciate that. I'm a pastor,
3 I'm a minister. I don't need to rent a school
4 auditorium because the congregation that I
5 pastor has its own building, so we don't have
6 that problem. But there are people and other
7 not only churches, again, religious
8 organizations. Whatever it is, whatever faith
9 they believe in, they could do this.

10 Thank you, Mr. Chairman. Thank
11 you for this opportunity. And I'll be voting
12 yes.

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

15 Seeing no other Senator wishing to
16 be heard, the debate is closed. The Secretary
17 will ring the bell.

18 Read the last section.

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

21 ACTING PRESIDENT ROBACH: Call
22 the roll.

23 (The Secretary called the roll.)

24 ACTING PRESIDENT ROBACH: Senator
25 DeFrancisco to explain his vote.

1 SENATOR DeFRANCISCO: Yes, I just
2 wanted to clarify a couple of points, legal
3 points that were raised.

4 The comment was made repeatedly to
5 Senator Flanagan that this was an Establishment
6 Clause of the Constitution case. Well, what
7 this law does is basically codify a procedure
8 that was found to be constitutional by the
9 United States Supreme Court.

10 One of the cases that's been
11 referred to was the Lamb's Chapel case, and the
12 question, as stated by the court: Did the
13 district violate the First Amendment freedom of
14 speech when it denied Lamb's Chapel the use of
15 school premises to show religious-oriented
16 films? It didn't say anything about -- it
17 really had nothing to do with the establishment
18 of religion.

19 The other case, the Good News Club
20 case, the question was did the Milford Center
21 School violate the First Amendment free speech
22 rights of the Good News Club when it excluded
23 the club from meeting after hours at the
24 school. If a violation of the First Amendment
25 occurred, was it justified by Milford's concern

1 that permitting the club's activities would
2 violate the Establishment Clause? They never
3 got to that second issue because they found
4 that it would have been a violation of the
5 First Amendment rights.

6 So this is a First Amendment
7 case. The bill complies with the rulings of
8 the United States Supreme Court. And we're on
9 good solid grounds.

10 And also about discriminating
11 against different religions. The rule of the
12 school districts are simple, you can't disrupt
13 school activities. And whether it's one church
14 or another church, it doesn't matter what
15 church that is. You can gain access to the
16 school, if this bill becomes law, if you don't
17 disrupt school activities. It's blind in
18 relation to what religions we're talking about.

19 So the bill is constitutional.
20 The bill is a good bill. And I vote aye.

21 ACTING PRESIDENT ROBACH: Thank
22 you, Senator DeFrancisco. You'll be recorded
23 in the affirmative.

24 Senator Montgomery.

25 SENATOR MONTGOMERY: Yes, thank

1 you, Mr. President. To explain my vote.

2 So that there is no question, I
3 certainly consider myself a Christian and I'm
4 very, very much guided by my spiritual and my
5 religious teaching, both personally as well as
6 in my work. So there's no question there.

7 But I do think that this is a
8 slippery slope. And let's be very clear, we're
9 not talking free speech here. I want to read a
10 couple of sentences from one of the memos that
11 I have. It says: "The Bronx Household case
12 developed as a result of an effort by an
13 evangelical church to use a public school
14 building on Sunday for the purpose of
15 conducting religious worship services."

16 That's what the case was about.
17 And that's what we argue today, that we want to
18 give them an opportunity to continue to use the
19 schools for their worship services.

20 I got your two-minute signal
21 there.

22 I also want -- another sentence
23 from this same memo, it says: "Pastor Jack
24 Roberts, who was a named party in the Bronx
25 Household case, has stated the goal quite

1 clearly of the movement in this country. It
2 says, May there be a church in every school in
3 New York City and grow to a large size for the
4 glory of God." That's what this is all about.

5 Mr. Chairman, for that reason, I
6 want to make sure that we continue to maintain
7 a strong foundation in this country, based on
8 our Constitution, that we separate the secular
9 from the religious. I vote no.

10 ACTING PRESIDENT ROBACH: Senator
11 Montgomery will be recorded in the negative.

12 Senator Stavisky.

13 SENATOR STAVISKY: Thank you,
14 Mr. Chairman. To also explain my vote.

15 I'm troubled by this legislation
16 because I recognize the need for churches to
17 have a place to meet. It's probably a function
18 of the real estate market and the high price of
19 the real estate market in New York City that
20 has caused this problem.

21 And the schools are a very
22 convenient place to meet. In fact, I have here
23 a description of the costs that every group --
24 not just the churches, but every group pays.
25 Do you know who it costs to rent the athletic

1 field or the auditorium? Any of those
2 facilities, it's \$12 an hour. That's hardly
3 market rate. Hardly market rate.

4 My major problem is with the First
5 Amendment and the Establishment Clause, and
6 that's been discussed at great length.

7 I know that the Department of
8 Education permits religious meetings, they
9 permit free expression of thought, they permit
10 all sorts of meetings. But there is a
11 distinction, in my mind, between a religious
12 worship service and a meeting. And I have a
13 problem there.

14 The fact, as I said, that they're
15 not paying market value, and nobody is.
16 Perhaps the New York City Department of
17 Education may want to revisit that issue,
18 although it seems to me we ought to be having
19 the schools available for -- at this low price
20 for groups that obviously can't afford fair
21 market value.

22 So there is no profit to the
23 Department of Education, and in fact I suspect
24 they are subsidizing it. These groups do
25 provide the pass-through, so-called

1 pass-through expenses, whether it be the
2 custodial fee, the insurance costs. The
3 security, the insurance, all of these issues
4 are paid by each group representing the costs
5 that are passed through.

6 So we have to distinguish between
7 a worship service, which under the
8 Establishment Clause of the United States
9 Constitution, the First Amendment, I'm not sure
10 this meets that test. And for that reason,
11 Mr. President, I vote no.

12 ACTING PRESIDENT ROBACH: Thank
13 you, Senator Stavisky. You will be recorded in
14 the negative.

15 Are there any other Senators
16 wishing to explain their vote?

17 Senator Golden.

18 SENATOR GOLDEN: Thank you,
19 Mr. President.

20 I rise and thank the good chair of
21 Education, John Flanagan, for his debate, and
22 John DeFrancisco, Senator John DeFrancisco, on
23 his explanation of our Constitution.

24 This amendment, Section 414 of the
25 Education Law, is to provide the school

1 district shall not adopt or interpret
2 resolutions or policies for the use of
3 schoolhouses, grounds, or other properties of
4 the school district that would result in
5 exclusion or limitations of the free exercise
6 of religion, speech, during non-school hours,
7 even when students may be present.

8 This is about equal access. I
9 hear about \$12.50 and, you know, a \$12 an
10 hour. You know, we have thousands of groups
11 that use our schools, all different groups --
12 for ESL, for education. And yes, this would
13 allow for religious services. And these
14 religious churches, given over \$1 million a
15 year just to 60 churches that we're talking
16 about.

17 I've listened to about
18 discrimination. There's 300 empty schools,
19 400 empty schools on Saturdays in the City of
20 New York. After school there are hundreds of
21 schools empty, not being utilized, that could
22 be utilized at any time.

23 The Supreme Court did not rule on
24 worship, but some here in this body feel we
25 should. Well, we shouldn't. And we should

1 have equal access for all.

2 When these schools -- and this
3 lawsuit is 18 years old. These churches have
4 been in these schools for tens of years, since
5 the 1980s, when our communities were burning
6 down. When we seen the unfortunate reality of
7 people being -- 2100 people killed in the
8 streets of the City of New York, we begged for
9 these churches to come in to help to stabilize
10 our communities. And now we want to put them
11 out.

12 Ladies and gentlemen, we need to
13 give them equal access, more churches in our
14 schools. Give them the free speech that
15 they're inclined and should have.

16 And I vote yes. Thank you.

17 ACTING PRESIDENT ROBACH:

18 Announce the results.

19 THE SECRETARY: In relation to
20 Calendar 126, those recorded in the negative
21 are Senators Duane, Krueger, Montgomery,
22 Oppenheimer, Perkins, Squadron, and Stavisky.

23 Ayes, 54. Nays, 7.

24 ACTING PRESIDENT ROBACH: The
25 bill is passed.

1 Senator Libous.

2 SENATOR LIBOUS: Before everybody
3 runs out of the chamber, we have several very
4 important announcements.

5 Is there any further business at
6 the desk at this time?

7 ACTING PRESIDENT ROBACH: There
8 is none, Senator Libous.

9 SENATOR LIBOUS: Mr. President,
10 today we have a birthday of one of our
11 colleagues. Let's wish Colonel Bill Larkin a
12 very, very happy birthday. Senator Larkin.

13 (Applause.)

14 SENATOR LIBOUS: Mr. President,
15 could you please call on Senator
16 Hassell-Thompson at this time, please.

17 ACTING PRESIDENT ROBACH: Senator
18 Hassell-Thompson.

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

21 There will be an immediate meeting
22 of the Democratic Conference in Room 315.

23 ACTING PRESIDENT ROBACH: Senator
24 Libous.

25 SENATOR LIBOUS: Mr. President, I

1 just want to make note that when we adjourned
2 last week, I said that we would reconvene
3 today, the day after the Giants would win the
4 Super Bowl. And they did. And I just want
5 everybody to know that.

6 But we will not convene until
7 tomorrow; we will stand adjourned until
8 Tuesday, February 7th, at 11:00 a.m.

9 ACTING PRESIDENT ROBACH: There
10 will be an immediate Democratic conference in
11 Room 315.

12 And on motion, the Senate stands
13 adjourned until Tuesday, February 7th, at
14 11:00 a.m.

15 (Whereupon, at 4:42 p.m., the
16 Senate adjourned.)

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