

1 NEW YORK STATE SENATE

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3  
4 THE STENOGRAPHIC RECORD

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9 ALBANY, NEW YORK

10 March 19, 2012

11 3:18 p.m.

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14 REGULAR SESSION

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18 SENATOR THOMAS F. O'MARA, Acting President

19 FRANCIS W. PATIENCE, Secretary

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

2 ACTING PRESIDENT O'MARA: The  
3 Senate will come to order.

4 I ask everyone to please rise and  
5 join with me in reciting the Pledge of  
6 Allegiance.

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

9 ACTING PRESIDENT O'MARA: Please  
10 remain standing, as we have for an invocation  
11 today the Reverend Peter G. Young, of the  
12 Mother Teresa Community Church in Albany.

13 REVEREND YOUNG: Thank you,  
14 Senator.

15 Let us pray.

16 As we conclude the winter season  
17 in this beautiful day, may we again bring our  
18 focus to the Senate chamber. And by being a  
19 Senator, you have been accepted into the  
20 leadership position so that you can more fully  
21 serve the people of our Empire New York  
22 State.

23 In this spirit of community, our  
24 prayer today will be to better achieve the  
25 goal of dedicated representation in the power

1 that is entrusted to all of our legislators  
2 and staff. In your leadership role, may you  
3 attain your satisfaction in your services to  
4 your constituents.

5 Amen.

6 ACTING PRESIDENT O'MARA: Thank  
7 you, Father Young.

8 The reading of the Journal.

9 THE SECRETARY: In Senate,  
10 Sunday, March 18th, the Senate met pursuant to  
11 adjournment. The Journal of Saturday,  
12 March 17th, was read and approved. On motion,  
13 Senate adjourned.

14 ACTING PRESIDENT O'MARA:  
15 Without objection, the Journal stands approved  
16 as read.

17 Presentation of petitions.

18 Messages from the Assembly.

19 The Secretary will read.

20 THE SECRETARY: On page 15,  
21 Senator Grisanti moves to discharge, from the  
22 Committee on Environmental Conservation,  
23 Assembly Bill Number 9272 and substitute it  
24 for the identical Senate Bill Number 6401A,  
25 Third Reading Calendar 298.

1                   ACTING PRESIDENT O'MARA:

2 Substitution ordered.

3                   Messages from the Governor.

4                   Reports of standing committees.

5                   Reports of select committees.

6                   Communications and reports from  
7 state officers.

8                   Motions and resolutions.

9                   Senator Libous.

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

12                  I move to amend Senate Print  
13 2004A by striking out the amendments made on  
14 6/13/2011 and restoring it to its original  
15 print number, 2004.

16                  ACTING PRESIDENT O'MARA:    So  
17 ordered.

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

20                  ACTING PRESIDENT O'MARA:  
21 Senator Libous.

22                  SENATOR LIBOUS:    Mr. President,  
23 at this time there will be an immediate  
24 meeting of the Finance Committee in Room 332,  
25 an immediate meeting of the Finance Committee

1 in Room 332.

2 Pending the return of the  
3 Finance Committee, the Senate will stand at ease.

4 ACTING PRESIDENT O'MARA: There  
5 will be an immediate meeting of the Senate  
6 Finance Committee in Room 332.

7 The Senate will stand at ease.

8 (Whereupon, the Senate stood at ease  
9 at 3:21 p.m.)

10 (Whereupon, the Senate reconvened at  
11 3:35 p.m.)

12 ACTING PRESIDENT O'MARA: Senator  
13 Libous.

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

16 May we please return to reports of  
17 standing committees. I believe there's a report  
18 of the Finance Committee at the desk. I ask that  
19 it be read at this time.

20 ACTING PRESIDENT O'MARA: Reports  
21 of standing committees.

22 The Secretary will read.

23 THE SECRETARY: Senator  
24 DeFrancisco, from the Committee on Finance,  
25 reports the following nomination.

1                   As member and chair of the New York  
2 State Housing Finance Agency and as director and  
3 chair of the State of New York Mortgage Agency,  
4 William J. Mulrow, of Westchester.

5                   ACTING PRESIDENT O'MARA:     Senator  
6 DeFrancisco.

7                   SENATOR DeFRANCISCO:     Yes, I move  
8 the nomination of William J. Mulrow to each of  
9 the positions to which he was nominated as just  
10 was referred to by the Clerk.

11                  I have said this repeatedly. The  
12 Governor has not only appointed people with the  
13 correct background that can do the job, but the  
14 people who have been nominated, like Mr. Mulrow,  
15 should be commended for being willing to come  
16 back to public service and perform more of that  
17 service with their expertise for the citizens of  
18 the State of New York.

19                  So I'm very happy, again, to rise  
20 and move the nomination of William J. Mulrow as  
21 both member and chair of the New York State  
22 Housing Finance Agency and the director and chair  
23 of the State of New York Mortgage Agency as well.

24                  Thank you, Mr. President.

25                  ACTING PRESIDENT O'MARA:     Thank

1 you, Senator DeFrancisco.

2 Senator Breslin on the nomination.

3 SENATOR BRESLIN: Thank you,  
4 Mr. President.

5 I'm happy to stand and support the  
6 nomination of Bill Mulrow, from being a cum laude  
7 graduate of Yale, a Rhodes Scholar finalist,  
8 Harvard School of Government, and his 30 years in  
9 finance, both private and public, and serving  
10 under -- this will be the third governor he's  
11 served under, including the current Governor's  
12 father.

13 And I can think of nobody who knows  
14 more about finance, both private and public, than  
15 Bill Mulrow. And almost as importantly, I don't  
16 think in my years in government I have ever, ever  
17 heard anyone say a bad word about Bill Mulrow as  
18 a person or Bill Mulrow as a true professional.

19 I applaud the Governor for the  
20 nomination.

21 Thank you, Mr. President. I vote  
22 in the affirmative.

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

25 Senator Smith.

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

3                   I rise also to second the  
4 nomination of Bill Mulrow and congratulate the  
5 Governor on a fine choice.

6                   Bill, it's very good to see you.

7                   Obviously we will be, as well as  
8 the people of this state, the beneficiary of the  
9 Governor's selection. You heard Senator Breslin,  
10 who addressed his academic background as well as  
11 his business acumen. And it is very clear to me,  
12 as someone who knows him personally and who has  
13 dealt with him, that the Governor could not have  
14 picked a finer person.

15                  And your sacrifice that you are  
16 prepared to make -- and it is a sacrifice that he  
17 is making, coming from the private sector to the  
18 public sector -- will be thanked, not only by the  
19 people of this state, but I'm sure God will bless  
20 you and your family as well. So thank you very  
21 much for doing this, Bill.

22                  Thank you, Mr. President. I vote  
23 aye.

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



1                   Senator Krueger.

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

4                   I also rise to congratulate the  
5   Governor on this fine nomination of Bill Mulrow  
6   to these two critical housing financing  
7   authorities that we have here in New York State.

8                   I do appreciate his fine  
9   reputation, his great school record, and his  
10   history with the state.  What I think is  
11   particularly important for him as he takes on  
12   these responsibilities is that he understands  
13   finance and the importance of making sure that in  
14   New York State we're focusing our efforts on  
15   affordable housing.

16                  It's not simply enough to say we're  
17   doing some housing work here in New York State.  
18   We need to be smart and 21st-century about our  
19   thinking about how we both preserve existing  
20   affordable housing and expand the kind of housing  
21   that is needed by so many New Yorkers who find  
22   themselves priced out of the housing market.

23                  And also the fact that he comes out  
24   of finance, and as some in finance have a lot of  
25   responsibility for the housing disasters we're

1 finding ourselves in right now, I actually think  
2 that his expertise, his background, and the  
3 companies he's with can actually be  
4 extraordinarily helpful to the State of New York  
5 in thinking through what we should appropriately  
6 be doing not only to get ourselves out of the  
7 housing disaster we find ourselves in today, but  
8 how to also avoid unintended consequences as we  
9 move into a new financial market related to  
10 housing.

11                   So I'm very appreciative of  
12 Mr. Mulrow taking on what I see as these very  
13 weighty responsibilities.

14                   Thank you, Mr. President.

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

17                   Senator Young on the nomination.

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

20                   As chair of the Senate Committee on  
21 Housing, Construction and Community Development,  
22 I enthusiastically second the nomination of  
23 William Mulrow for these two very important  
24 positions.

25                   He has the ability, through his

1 financial services background. And I also want  
2 to thank him because he spent time in my office,  
3 having one-on-one conversations, and did a  
4 fantastic job today at the Housing Committee  
5 meeting answering questions, talking about  
6 innovative and creative ways we can deal with  
7 affordable housing in New York State.

8                   So I sincerely congratulate him. I  
9 look forward to working closely with him, because  
10 I think by working together we really can do some  
11 great things for the people of New York State.

12                   Thank you.

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

15                   Senator Larkin on the nomination.

16                   SENATOR LARKIN: Thank you very  
17 much, Mr. President.

18                   A few years ago I had the  
19 opportunity, when we were interviewing Mr. Mulrow  
20 for a position and I first asked him, "Are you  
21 sure your wife approves of you taking this pay  
22 cut," and he didn't answer.

23                   But I noticed on his resume that he  
24 had something to do with an IDA, and so I asked  
25 Orange County IDA, "Have you ever dealt with

1 him?"

2                   And one of the board members said,  
3 "Oh, yes, we have a project in Westchester  
4 County." And he said, "He sits on the board, he  
5 asks the most questions. He was very sharp." I  
6 said, "What would you really describe him as?"  
7 And our chairman said, "A man of honesty,  
8 integrity, and straightforward."

9                   So what else could we ask for today  
10 but for a gentleman with those credentials?

11                   It's good to see you again. God  
12 bless you. And the best of luck in a trusting,  
13 hardworking agency.

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

16                   Senator Stewart-Cousins.

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

19                   I also rise to commend the  
20 Governor's nomination. We know Bill Mulrow in  
21 Westchester County. It is his home county.

22                   And as we look through his resume,  
23 and all of you who have spoken to eloquently  
24 about his accomplishments, you know he is a  
25 personality who is a global personality. And yet

1 he has always found the time within the county to  
2 deal with whatever the issue is that affects  
3 local home priorities.

4               So again, Mr. Mulrow, I wish you  
5 the best. But I know that we have gotten the  
6 best in your nomination. And so we look forward  
7 to working with you on the critical issues of  
8 housing that face New York State.

9               Congratulations.

10              ACTING PRESIDENT O'MARA: Senator  
11 Farley on the nomination.

12              SENATOR FARLEY: Yes, thank you,  
13 Mr. President. I rise to second this nomination.

14              You know, the Governor is to be  
15 complimented into reaching out for somebody who  
16 really has served government in many capacities  
17 in a long career. You know, this is an example  
18 of somebody that really gives himself to the  
19 State of New York.

20              And this is a very challenging  
21 position and one that you're going to be hearing  
22 from legislators I guess throughout your tenure.

23              But let me just wish you well.  
24 Thank you for your service. And again, we're  
25 very lucky to have you. And thank you, Bill.

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

3                   Seeing no other Senators wishing to  
4   be heard, the question is on the nomination of  
5   William J. Mulrow, of Westchester, as member and  
6   chair of the New York State Housing Finance  
7   Agency and as director and chair of the State of  
8   New York Mortgage Agency. All in favor signify  
9   by saying aye.

10                   (Response of "Aye.")

11                   ACTING PRESIDENT O'MARA:    Opposed,  
12   nay.

13                   (No response.)

14                   ACTING PRESIDENT O'MARA:    William  
15   J. Mulrow is hereby confirmed as member and chair  
16   of the New York State Housing Finance Agency and  
17   as director and chair of the State of New York  
18   Mortgage Agency.

19                   (Applause.)

20                   ACTING PRESIDENT O'MARA:    Senator  
21   Libous.

22                   SENATOR LIBOUS:    Mr. President, at  
23   this time could we have the noncontroversial  
24   reading of the calendar, please.

25                   ACTING PRESIDENT O'MARA:    The

1 Secretary will read.

2 THE SECRETARY: Calendar Number  
3 193, by Senator Grisanti, Senate Print 6084A, an  
4 act to amend the Parks, Recreation and Historic  
5 Preservation Law.

6 ACTING PRESIDENT O'MARA: Read the  
7 last section.

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

10 ACTING PRESIDENT O'MARA: Call the  
11 roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes, 59.

14 ACTING PRESIDENT O'MARA: The bill  
15 is passed.

16 THE SECRETARY: Calendar Number  
17 260, by Senator Grisanti, Senate Print 6368, an  
18 act to amend the Labor Law.

19 ACTING PRESIDENT O'MARA: Read the  
20 last section.

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

23 ACTING PRESIDENT O'MARA: Call the  
24 roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 59. Nays,

2 1. Senator Savino recorded in the negative.

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

5 THE SECRETARY: Calendar Number  
6 281, by Senator Seward, Senate Print 6454, an act  
7 to amend the Insurance Law.

8 ACTING PRESIDENT O'MARA: Read the  
9 last section.

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

12 ACTING PRESIDENT O'MARA: Call the  
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 60.

16 ACTING PRESIDENT O'MARA: The bill  
17 is passed.

18 THE SECRETARY: Calendar Number  
19 295, by Senator Marcellino, Senate Print 2887A --

20 SENATOR BRESLIN: Lay it aside.

21 ACTING PRESIDENT O'MARA: The bill  
22 is laid aside.

23 THE SECRETARY: Calendar Number  
24 298, by Member of the Assembly Sweeney, Assembly  
25 Print Number 9272, an act to amend Chapter 274 of



1 the Laws of 2010.

2 ACTING PRESIDENT O'MARA: Read the  
3 last section.

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

6 ACTING PRESIDENT O'MARA: Call the  
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 60.

10 ACTING PRESIDENT O'MARA: The bill  
11 is passed.

12 THE SECRETARY: Calendar Number  
13 327, by Senator Robach, Senate Print 732, an act  
14 to amend the Executive Law.

15 ACTING PRESIDENT O'MARA: Read the  
16 last section.

17 THE SECRETARY: Section 5. This  
18 act shall take effect on the 90th day.

19 ACTING PRESIDENT O'MARA: Call the  
20 roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes, 60.

23 ACTING PRESIDENT O'MARA: The bill  
24 is passed.

25 THE SECRETARY: Calendar Number

1 329, by Senator Golden, Senate Print 1744, an act  
2 to amend the Executive Law.

3 ACTING PRESIDENT O'MARA: Read the  
4 last section.

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

7 ACTING PRESIDENT O'MARA: Call the  
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 60.

11 ACTING PRESIDENT O'MARA: The bill  
12 is passed.

13 THE SECRETARY: Calendar Number  
14 330, by Senator Libous, Senate Print 2468, an act  
15 to amend the State Finance Law.

16 ACTING PRESIDENT O'MARA: Read the  
17 last section.

18 THE SECRETARY: Section 4. This  
19 act shall take effect on the first of April.

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

22 (The Secretary called the roll.)

23 ACTING PRESIDENT O'MARA: Senator  
24 Carlucci to explain your vote.

25 SENATOR CARLUCCI: Thank you,

1 Mr. President.

2 I just want to thank my colleagues  
3 for supporting this important legislation. This  
4 legislation is really smart. It's going to help  
5 grow New York State's economy, help grow and  
6 support small businesses across the state, and  
7 particularly the hardworking farmers from across  
8 the state.

9 In addition to the financial gains  
10 that I believe we'll see in this smart  
11 legislation, we're also ensuring that New Yorkers  
12 have access to the most fresh and the greatest  
13 produce available.

14 So for those reasons, I want to  
15 thank my colleagues, thank Senator Libous for  
16 sponsoring this important legislation, and I'll  
17 be voting in the affirmative.

18 Thank you, Mr. President.

19 ACTING PRESIDENT O'MARA: Thank  
20 you, Senator Carlucci.

21 Senator Ritchie to explain your  
22 vote.

23 SENATOR RITCHIE: I would also  
24 like to commend Senator Libous on this bill.

25 As the chair of the Senate

1 Agriculture Committee, I've been trying to  
2 encourage more locally produced and locally sold  
3 items. It's really great to see this bill come  
4 up. There are so many farmers who have come in  
5 and who worked so hard.

6                   The OGS commissioner, RoAnn  
7 Destito, actually responded to a letter that I  
8 wrote when we found out that New York milk was  
9 not being sold in the cafeteria that feeds  
10 40,000 people here. Texas milk was actually  
11 being served, and I think we were all kind of  
12 astonished when that happened.

13                   So we wrote the letter to the  
14 commissioner, and she responded by making sure  
15 New York milk was sold in all the cafeterias that  
16 are under her discretion.

17                   So that is one way that we can help  
18 promote agriculture throughout the state. We  
19 have many wonderful SUNY universities,  
20 correctional facilities, and we should all be  
21 promoting that that happen across the state.

22                   So once again, it's my pleasure to  
23 vote aye on the bill.

24                   Thank you, Mr. President.

25                   ACTING PRESIDENT O'MARA:    Thank

1 you, Senator Ritchie. You will be recorded in  
2 the affirmative.

3 Senator Libous to explain your  
4 vote.

5 SENATOR LIBOUS: Thank you,  
6 Mr. President and my colleagues. And certainly  
7 thank you to Senator Carlucci and Senator Ritchie  
8 for their support and their comments.

9 "Buy from the Backyard" is a  
10 program that I actually started in my district a  
11 number of years ago, pulling together all of the  
12 local agricultural community to get people in the  
13 52nd Senate District to begin buying locally.

14 And it turned out to be a huge  
15 success, and we started having dinners at various  
16 restaurants. And Lord knows I like to eat, so we  
17 would have dinners -- these dinners would be with  
18 all local food products that were produced in  
19 New York State.

20 It picked up quite substantially,  
21 and we'd now like to take it to the entire State  
22 of New York through this legislation,  
23 Mr. President.

24 And the point I want to make is  
25 very simple. If every household in New York

1 State spent just \$15 per week on local food,  
2 that's every household just spent \$15 per week  
3 New York State local food, it would pump  
4 \$5.5 billion into the New York State economy.

5 That alone is great reason to  
6 continue to support all the great growers and  
7 certainly those who raise cattle and provide the  
8 great agricultural services -- the number-one  
9 industry by the way, that this state has had and  
10 will continue to have if we support legislation  
11 like this.

12 ACTING PRESIDENT O'MARA: Thank  
13 you, Senator Libous. You will be recorded in the  
14 affirmative.

15 Announce the results.

16 THE SECRETARY: Ayes, 60.

17 ACTING PRESIDENT O'MARA: The bill  
18 is passed.

19 THE SECRETARY: Calendar Number  
20 335, by Senator Maziarz, Senate Print 256 --

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

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

25 THE SECRETARY: Calendar Number

1 337, by Senator Robach, Senate Print 720A, an act  
2 to amend the Penal Law.

3 ACTING PRESIDENT O'MARA: Read the  
4 last section.

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

7 ACTING PRESIDENT O'MARA: Call the  
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 60.

11 ACTING PRESIDENT O'MARA: The bill  
12 is passed.

13 THE SECRETARY: Calendar Number  
14 340, by Senator Smith, Senate Print 3923, an act  
15 to amend the Penal Law.

16 ACTING PRESIDENT O'MARA: Read the  
17 last section.

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

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

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 59. Nays,  
24 1. Senator Duane recorded in the negative.

25 ACTING PRESIDENT O'MARA: The bill

1 is passed.

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

4 SENATOR LIBOUS: Thank you,  
5 Mr. President.

6 Before we go to the controversial  
7 reading, could you please call on Senator Kennedy  
8 for the purposes of an announcement, please.

9 ACTING PRESIDENT O'MARA: Senator  
10 Kennedy.

11 SENATOR KENNEDY: Yes, thank you,  
12 Mr. President.

13 I wanted to just recognize some  
14 young men and women that are here with us today  
15 in our Senate chambers all the way from Western  
16 New York. They made the trek up here from  
17 West Seneca Christian, a school that is renowned  
18 in Western New York, and they're here to watch  
19 democracy in action and watch the proceedings  
20 here in the Senate.

21 So a great welcome to all of you  
22 here from West Seneca Christian. Thanks for  
23 joining us.

24 Thank you, Mr. President.

25 ACTING PRESIDENT O'MARA: Thank



1 you, Senator Kennedy.

2 And thank you to all you students  
3 for being here joining us today. Welcome, and we  
4 extend to you the courtesies of the house for the  
5 day. And please come back and join us in the  
6 future.

7 Senator Libous.

8 SENATOR LIBOUS: Could we have the  
9 reading of the controversial calendar.

10 ACTING PRESIDENT O'MARA: The  
11 Secretary will ring the bell.

12 The Secretary will read.

13 THE SECRETARY: Calendar Number  
14 295, by Senator Marcellino, Senate Print 2887A,  
15 an act to amend the Environmental Conservation  
16 Law.

17 ACTING PRESIDENT O'MARA: Read the  
18 last section.

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

21 SENATOR BRESLIN: Explanation.

22 ACTING PRESIDENT O'MARA: Senator  
23 Marcellino, an explanation has been requested.

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

1           We all know that pesticides are  
2 necessary evils in our world, but they are in  
3 effect dangerous substances that should only be  
4 applied when absolutely needed and in the doses  
5 that are absolutely necessary for them to achieve  
6 their designed purpose.

7           This bill would give professional  
8 applicators the flexibility to use only that  
9 amount of pesticide that they have determined  
10 would be required to do the job that is designed  
11 for their use. We don't want them necessarily  
12 applying the full dosage when half would be  
13 satisfactory. That is the purpose of this bill.

14           Less exposure to pesticides is a  
15 good thing. Less use of pesticides is a good  
16 thing. This bill permits professional  
17 applicators, farmers, people who understand the  
18 purpose, the function and the need for pesticides  
19 and how to use them safely to do their job with  
20 their own expertise, without having to live by a  
21 label and assume a one-size-fits-all solution is  
22 necessary or applicable in every case.

23           That is the purpose of this bill.

24           ACTING PRESIDENT O'MARA:    Senator  
25 Breslin.

1                   SENATOR BRESLIN:    Thank you,  
2 Mr. President.  Would the sponsor yield for a  
3 question or two.

4                   ACTING PRESIDENT O'MARA:    Senator  
5 Marcellino, will you yield for a question from  
6 Senator Breslin?

7                   SENATOR MARCELLINO:    I'll be  
8 pleased to.

9                   SENATOR BRESLIN:    Senator  
10 Marcellino, this is a bill that I voted for last  
11 year when it passed 60 to zero.  And since that  
12 time I use a lawn service and I've read a little  
13 bit more about it.

14                   Isn't it true that farmers are  
15 already allowed to change the dosages they use?

16                   SENATOR MARCELLINO:    Yes.  We've  
17 done that, yes.

18                   SENATOR BRESLIN:    So thinking of  
19 it in terms of those people who come to our  
20 homes -- that it seems as though everyone uses  
21 now in the past number of years -- an applicator  
22 has been following directions from a producer of  
23 these chemicals, and now this bill would allow  
24 them to vary.

25                   Does the applicator need any

1 research or knowledge to determine why he should  
2 go against the directions on the particular items  
3 that are being applied to lawns?

4               SENATOR MARCELLINO: Yes, the  
5 applicator must be certified and take a test that  
6 is provided by the DEC and certified by the DEC  
7 to be a professional in that field.

8               SENATOR BRESLIN: Again, through  
9 you, Mr. President, if the sponsor would continue  
10 to yield.

11              SENATOR MARCELLINO: Yes,  
12 Mr. President.

13              SENATOR BRESLIN: Beyond that,  
14 though, has there been any research done to  
15 determine why you should violate what the  
16 prescribed ingredients are to lessen the amounts  
17 that are provided?

18              SENATOR MARCELLINO: We've got  
19 something. I'm just trying to find the right  
20 line.

21              Yeah, we have Cornell University,  
22 the chair of their Department of Entomology has  
23 basically done work in this field and on this  
24 topic and basically says there are many benefits  
25 to allowing less than label rates or

1 label-designed uses for pesticides. The more you  
2 use, the greater the potential for additional  
3 exposure and potential harm. The less you use,  
4 the better we are.

5                   Those rates that are set on a label  
6 are designed -- those are optimum but not  
7 necessarily the most effective for your  
8 particular purpose. It might not be needed in  
9 your case. If a professional trained applicator  
10 determines that less would be effective, why not  
11 let them.

12                   SENATOR BRESLIN: Again, if the  
13 sponsor would continue to yield.

14                   SENATOR MARCELLINO: I would,  
15 Mr. President.

16                   SENATOR BRESLIN: Is there any  
17 safeguard to preventing lawn service companies,  
18 who obviously are in business to make a profit,  
19 from reducing the amounts they apply to lawns,  
20 where it might not be effective, in order to make  
21 more money?

22                   SENATOR MARCELLINO: Well, the  
23 only reason I'm hesitating is because if -- it's  
24 a very competitive business. And you would know  
25 that if you were being charged more and more, I

1 think you might say, Look, could I get this job  
2 done in a cheaper way, can I get it done in a  
3 less expensive way.

4                   You would probably go out, seek  
5 bids on it, seek other pesticide applicators and  
6 what they could do the job for, and find out  
7 where you could get the best price and get the  
8 best results at the lowest price for your work.  
9 Nobody wants to spend more money than they  
10 absolutely have to.

11                   That's why we would say that  
12 allowing them to use less than the labeled rate  
13 saves money, it saves exposure, and it protects  
14 lives.

15                   SENATOR BRESLIN:    Again, through  
16 you, Mr. President, if the sponsor would continue  
17 to yield.

18                   SENATOR MARCELLINO:    I would  
19 yield, sir.

20                   SENATOR BRESLIN:    Is there any  
21 guarantee that the money saved will be by the  
22 person purchasing the service as opposed to the  
23 service?

24                   SENATOR MARCELLINO:    No, there's  
25 no guarantee, sir.

1                   SENATOR BRESLIN:     Okay, on the  
2 bill.

3                   ACTING PRESIDENT O'MARA:     On the  
4 bill, Senator Breslin.

5                   SENATOR BRESLIN:     I think the  
6 direction of the bill is terrific.   It's to make  
7 sure that we're not using pesticides in  
8 situations where it isn't warranted.

9                   However, those lawn service  
10 companies are in business to make money.   The  
11 ingredients that are applied have specific  
12 directions, and you're varying from those  
13 directions.   And when you vary from those  
14 directions, it would seem to me that the  
15 manufacturer has done his own research to say  
16 what's best for a lawn.

17                   And so I'm concerned -- I'm voting  
18 for this legislation, but I'm concerned that we  
19 haven't done a sufficient analysis to allow that  
20 applicator to deviate from what is the standard  
21 norm and the directions on the particular  
22 ingredients so that the consumer gets what they  
23 bargained for.

24                   Thank you, Mr. President.

25                   ACTING PRESIDENT O'MARA:     Thank

1 you, Senator Breslin.

2 Senator Marcellino on the bill.

3 SENATOR MARCELLINO: Thank you,  
4 Mr. President.

5 I hear my worthy colleague's  
6 concerns, and they're my concerns as well. I  
7 agree with his idea.

8 But if you're looking for savings,  
9 it's the manufacturer that is going to make the  
10 most money, and it's in the manufacturer's  
11 benefit to set the highest use and the highest  
12 dosage per application because therefore he can  
13 sell or she can sell more of the product to the  
14 consumer.

15 Professional applicators are in the  
16 business of making money, you're absolutely  
17 correct. And pesticides by nature are, one,  
18 dangerous to use, so dangerous to them for  
19 application purposes. They're also expensive.  
20 Therefore, the less they get to use, the more  
21 money they can save.

22 What they charge you is a deal  
23 between you and them. That's your contract,  
24 that's your work. But if they can save money by  
25 using less pesticides getting the same results,



1 you're exposed less, your neighbors are exposed  
2 less, and we get the desired result.

3 That's the purpose of this  
4 particular bill. We want as little pesticide use  
5 as possible under the most appropriate and  
6 correct conditions.

7 Thank you, Mr. President. I urge  
8 everyone to vote aye on this bill. Thank you,  
9 sir.

10 ACTING PRESIDENT O'MARA: Seeing  
11 no other Senator wishing to speak, debate is  
12 closed.

13 The Secretary will ring the bell.

14 SENATOR LIBOUS: Mr. President.

15 ACTING PRESIDENT O'MARA: Senator  
16 Libous.

17 SENATOR LIBOUS: While we're  
18 ringing the bell, if members could get to the  
19 chamber.

20 We do know that at 4:00 o'clock  
21 there I believe are three committees: Mental  
22 Health, Transportation, and Human Services. So  
23 the sooner members can get to the chamber, their  
24 colleagues could then go to those meetings.

25 ACTING PRESIDENT O'MARA: Thank

1 you, Senator Libous.

2 Will members please quickly come  
3 back to the chamber so we can complete this final  
4 vote of the day.

5 Read the last section.

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

8 ACTING PRESIDENT O'MARA: Call the  
9 roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT O'MARA: Announce  
12 the results.

13 THE SECRETARY: Absent from  
14 voting: Senator Valesky.

15 Ayes, 59.

16 ACTING PRESIDENT O'MARA: The bill  
17 is passed.

18 SENATOR LIBOUS: Mr. President.

19 ACTING PRESIDENT O'MARA: Senator  
20 Libous.

21 SENATOR LIBOUS: Is there any  
22 further business at the desk?

23 ACTING PRESIDENT O'MARA: Nothing  
24 further at the desk.

25 SENATOR LIBOUS: Thank you,

1 Mr. President.

2                   There being no further business, I  
3 move that the Senate adjourn until Tuesday,  
4 March 20th, at 3:00 p.m.

5                   ACTING PRESIDENT O'MARA:    On  
6 motion, the Senate stands adjourned until  
7 Tuesday, March 20th, at 3:00 p.m.

8                   (Whereupon, at 4:04 p.m., the Senate  
9 adjourned.)

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