NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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3:02 p.m.

REGULAR SESSION

SENATOR JOSEPH GRIFFO, Acting President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT GRIFFO: The Senate will come to order.

I ask all present to please rise and join with me as we recite the Pledge of Allegiance to our Flag.

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

ACTING PRESIDENT GRIFFO: Our invocation today will be offered by the Reverend Chris Carrara, who's pastor of St. Peter's Church in Lowville, of the Archdiocese of Ogdensburg.

Father?

REVEREND CARRARA: Before I offer this brief invocation, I would like to say thank you to Senator Griffo for the honor of addressing you today, for the privilege it's been to lead this body in prayer.

Let us pray.

Lord God, there are so many things to be concerned about, so many needs to be addressed, so much work to be done. While we live in the greatest state in the Union, we also recognize there is much to do here.

The members of this body have been elected by the people and entrusted with a sacred civic duty. They are called upon to pass laws which protect our basic human freedoms, assist the poor, create jobs, uphold the dignity of marriage, and protect all human life. And the list goes on.

Lord, these Senators are not always respected or supported. They are often harshly criticized and expected to have all the answers. So, Lord, as the dedicated men and women of this honorable body gather here today, we invoke Your guidance upon them that they may execute their sacred trust.

May they serve the needs of all the people of the state, from the greatest to the most vulnerable. In a world filled with so many competing voices, may they seek Your voice and have the courage to make difficult and sometimes unpopular decisions.

Lord God, let us be mindful of the psalmist's words in the Hebrew scriptures: "If the Lord does not build the house, in vain, in vain do its builders labor. If the Lord does not watch over the

city, in vain do the watchmen keep vigil."

We ask You, Lord, with Your almighty power, to bless this great state. Protect it from Montauk to Manhattan, from Buffalo to Plattsburgh, and here in our state's capital. Bless our citizens with health and prosperity and the members of this Senate with the wisdom and courage needed to legislate in these difficult times.

And finally, Lord, please bless with Your powerful hand newly elected Senator David Storobin as he begins his service to the people of the 27th District.

We ask this in Your holy name. Amen.

ACTING PRESIDENT GRIFFO: Thank you, Father Carrara.

The reading of the Journal.

THE SECRETARY: In Senate, Sunday, June 3rd, the Senate met pursuant to adjournment. The Journal of Saturday, June 2nd, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT GRIFFO: Without objection, the Journal stands approved

as read.

Presentation of petitions.

Messages from the Assembly.

The Secretary will read.

THE SECRETARY: On page 40, Senator Seward moves to discharge, from the Committee on Insurance, Assembly Bill Number 9702A and substitute it for the identical Senate Bill Number 6812A, Third Reading Calendar 841.

ACTING PRESIDENT GRIFFO: The substitution is so ordered.

THE SECRETARY: On page 44, Senator DeFrancisco moves to discharge, from the Committee on Finance, Assembly Bill Number 9694 and substitute it for the identical Senate Bill Number 6821, Third Reading Calendar 891.

ACTING PRESIDENT GRIFFO: The substitution is so ordered.

THE SECRETARY: On page 45, Senator DeFrancisco moves to discharge, from the Committee on Veterans, Homeland Security, and Military Affairs, Assembly Bill Number 9415 and substitute it for the identical Senate Bill Number 6640, Third Reading Calendar 895.

ACTING PRESIDENT GRIFFO: The

substitution is so ordered.

Can we have some order in the house, please.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports of state officers.

Motions and resolutions.

Senator LaValle.

SENATOR LaVALLE: Mr. President, I'd like to recognize Senator Skelos for an introduction.

ACTING PRESIDENT GRIFFO: Senator Skelos.

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

Today we are at a full complement of 62 Senators. And it's my pleasure -- and at his swearing-in, I did make some brief comments. But today we have sworn in and we have a new member in David Storobin, who is representing the 27th Senate District in Brooklyn.

Just a few comments.

In 1984 I had the opportunity to

travel to the then Soviet Union, sponsored by the Long Island Committee for Soviet Jewry. When I was there, I had the opportunity to meet with various refuseniks, who were not allowed to get married in a religious ceremony, who were discriminated against on a daily basis, and certainly there was absolutely no opportunity to run for public office.

David Storobin left the Soviet Union with his mom, came to this country because he saw the American dream and the possibilities that exist here. He became a lawyer, became involved in local Republican politics, ran for the State Senate when many said he would not be successful. But with that desire and that dream, David Storobin today is a New York State Senator.

So, David, we welcome you to this body. We salute you in your life story and journey. And we hope that you will be able to accomplish much for your constituents in Brooklyn. So, David, we welcome you to the State Senate.

(Standing ovation.)

ACTING PRESIDENT GRIFFO: Senator LaValle.

SENATOR LaVALLE: Mr. President, I believe there is a privileged resolution by yourself, Senator Griffo, Resolution Number 5100, at the desk. I ask that it be read in its entirety and call on Senator Savino.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 5100, by Senator Griffo, honoring Rosanna Scotto for her commitment to preserving Italian American heritage.

"WHEREAS, It is the sense of this Legislative Body, in keeping with its time-honored traditions, to recognize and pay tribute to those individuals who foster ethnic pride and enhance the profile of cultural diversity which strengthens the fabric of the communities of New York State; and

"WHEREAS, Attendant to such concern, and in full accord with its long-standing traditions, this Legislative Body is justly proud to honor Rosanna Scotto for her commitment to preserving Italian American heritage; and

"WHEREAS, Born and raised in

Brooklyn, Rosanna Scotto is a graduate of Catholic University and holds a bachelor's degree in fine arts. Today, she is the co-host of 'Good Day New York,' having been a member of WNYW-FOX 5 News since 1986; and

"WHEREAS, Rosanna Scotto began her illustrious career in television at WTBS, Ted Turner's UHF television station in Atlanta, where she was a reporter for two local programs and an associate producer of the station's evening newscast; and

"WHEREAS, In the early 1980s, Rosanna Scotto returned to her native New York as a reporter for WABC's 'Good Morning New York,' which eventually became 'Live with Regis and Kathie Lee'; and

"WHEREAS, After a year with 'Good Morning New York' and 'The Morning Show,' Rosanna Scotto joined WABC-TV's 'Eyewitness News' as a reporter, where she remained until she joined FOX 5; and

"WHEREAS, Having covered many major stories in the tristate area, Rosanna Scotto's assignments have also taken her to Israel, Rome, and across the United States; and

"WHEREAS, As a reporter, Rosanna Scotto won an endless string of coveted assignments, including the first exclusive interview with Diana Bianchi, the other woman in the Christie Brinkley divorce case; the Woody Allen/Mia Farrow child custody battle; the notorious 'Preppie Murder Trial'; and the trials of Joel Steinberg and the 'Swiss Nanny'; and

"WHEREAS, Rosanna Scotto also led FOX 5 News to the forefront in getting Marty Tankleff a new trial and was granted an exclusive interview with him in jail; and

"WHEREAS, This remarkable woman has won three Emmys for anchoring FOX 5 News at 10 and 'Good Day New York.' She is the winner of the 1995 New York State Associated Press First Place Award for her report 'New York Survival Guide' and also the winner of three other Associated Press First Place Awards, including two special Associated Press Award nominations; and

"WHEREAS, In addition, Rosanna Scotto has received a host of honors and awards for her community service work; and

"WHEREAS, With her throughout have

been her husband and their two children, all of whom feel privileged to be a part of her life and rejoice in her achievements; and

"WHEREAS, It is the custom of this Legislative Body that when individuals of such noble aims and accomplishments are brought to our attention, they should be celebrated and recognized by all the citizens of this great Empire State; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to honor Rosanna Scotto for her commitment to preserving Italian American heritage; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to Rosanna Scotto."

ACTING PRESIDENT GRIFFO: Senator Savino.

SENATOR SAVINO: Thank you, Mr. President.

Today the chamber is alive with the spirit of the American dream. A few minutes ago we watched a young man who is an immigrant from Russia become the first Russian American to be elected to the New York State Legislature.

Congratulations. You don't have to get up yet.

(Laughter.)

SENATOR SAVINO: In addition, today we're celebrating Italian American heritage. Today is the annual day where we pause in the Conference of Italian American Legislators to celebrate our heritage and the contributions of Italian Americans to not just this state but to the entire nation.

We're honoring three people here today. I'm going to speak about Rosanna Scotto, but you're also going to hear about other Italian American legends, one of them Peter Vallone, the former Speaker of the New York City Council, a City Councilman and a great Italian American in his own right, and of course John Franco, who was just recently inducted into the Mets Hall of Fame and a wonderful sports figure.

But as I said, today we're imbued with a sense of the American dream where anything can happen. Where, if we just work hard and we try hard, we can accomplish anything.

And Rosanna Scotto is a living

example of that. As a young Italian American girl who came from Dyker Heights -- you know, she and I had a lot in common. I came from Astoria, but we were both young Italian American girls who were probably told a million times that we couldn't do the things that we wanted to, that we had to change how we looked, we had to change how we spoke, we had to become less Italian if we wanted to succeed.

And Rosanna rejected that, and she went on to become not just an excellent reporter and a media personality, but she is now a famous anchor. In fact, as we were coming in the chamber, Senator Storobin, one of your supporters stopped and she looked at her and she said, "Oh, my God, it's Rosanna Scotto! I love you."

How many people stop us on the way in the chamber and say that? Not too many.

(Laughter.)

SENATOR SAVINO: But Rosanna is an amazingly accomplished young woman. And she is just a living example of what other young immigrant girls around this state can accomplish if you just try hard.

So congratulations to you,

Rosanna. Congratulations to our other nominees, Peter Vallone, Sr., and of course John Franco, and congratulations to Senator David Storobin today as we celebrate Italian American heritage and all things that are possible in our American dream.

Thank you.

(Applause.)

ACTING PRESIDENT GRIFFO: Thank you, Senator Savino.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator LaValle.

SENATOR LaVALLE: Mr. President, I'm sure that you as the sponsor would like to open this resolution up for cosponsorship. Can we please place everyone on the resolution as a cosponsor. And if someone does not wish to be a cosponsor, they should notify the desk.

ACTING PRESIDENT GRIFFO: The resolution is open for cosponsorship. Should you choose not to, please notify the desk.

Senator LaValle.

SENATOR LaVALLE: Mr. President, I believe there is a privileged resolution by yourself, Senator Griffo, Resolution Number 5101, at the desk. I ask that it be read in its entirety and call on Senator Avella for some comments.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 5101, by Senator Griffo, honoring Peter F. Vallone, Sr., for his commitment to preserving Italian American heritage.

"WHEREAS, It is the sense of this Legislative Body, in keeping with its time-honored traditions, to recognize and pay tribute to those individuals who foster ethnic pride and enhance the profile of cultural diversity which strengthens the fabric of the communities of New York State; and

"WHEREAS, Attendant to such

concern, and in full accord with its long-standing traditions, this Legislative Body is justly proud to honor Peter F. Vallone, Sr., for his commitment to preserving Italian American heritage; and

"WHEREAS, Peter F. Vallone, Sr., served as Speaker and Majority Leader of the New York City Council from 1986 through 2001, and represented the 22nd District in Astoria, Queens, since 1974; and

"WHEREAS, He strongly advocates fiscal responsibility, passing 11 consecutive balanced budgets on time. Furthermore, he championed the Safe Streets/Safe City program, which virtually restored the city's criminal justice system, rebuilding the police force from a low of 26,000 in 1989 to 41,000 in 2001, resulting in the lowest crime rate since the 1960s and the safest big city in the country; and

"WHEREAS, Peter F. Vallone, Sr., created a reserve fund and increased funding to parks, libraries, cultural institutions, health care and youth programs. In 1996, he allocated the funds necessary for school construction and textbook replacement to ease overcrowding,

replace coal-burning furnaces, and update textbooks from the 1950s and 1960s; and

"WHEREAS, Peter F. Vallone, Sr., has been a champion of the environment and quality-of-life legislation. He gave New York its first modern recycling programs, led the fight to ban pornographic book and video stores from residential areas, and protected New Yorkers from second-hand smoke; and

"WHEREAS, Peter F. Vallone, Sr., strongly advocates on behalf of women's health issues by increasing funding for breast, ovarian, and lung cancer research and treatment facilities; and

"WHEREAS, A lifelong resident of Queens, Peter F. Vallone, Sr.'s mother, Leah, was a State Committeewoman and his father, Charles, was a Civil Court judge and civil rights advocate; and

"WHEREAS, Peter F. Vallone, Sr., graduated from Power Memorial Academy in 1952, and from Fordham College of Arts and Science. He then earned his J.D. from Fordham Law School, where he received the prestigious Francis Bacon Award for excellence upon graduation; and

"WHEREAS, At Fordham, Peter F. Vallone, Sr., became a member of The Sodality and has kept his pledge of daily Mass and Communion ever since; and

"WHEREAS, He is also an Extraordinary Eucharistic Minister and Lector. In 2002, he rejoined the law firm of Vallone & Vallone, founded by his father, the late Judge Charles J. Vallone, after whom the new Civil Courthouse in Queens was named; and

"WHEREAS, Moreover, Peter F. Vallone, Sr., is a member of the governmental consulting firm of Constantinople & Vallone, and serves on the Mayor's Election Modernization Task Force; and

"WHEREAS, He served as Professor of Politics and Principles of Government at Fordham University and lectures at the Peter F. Vallone Lectureship Government Series of televised public lectures at Baruch College's School of Public Affairs, and authored Learning to Govern: My Life in New York Politics, From Hellgate to City Hall, Chaucer Press (2005), and God Came Home With Me: Retreat Reflections, Passionist Press (2008); and

"WHEREAS, With him throughout have been his wife, Tena, and their three sons, Peter Jr., Perry and Paul, as well as his eight grandchildren, all of whom feel privileged to be a part of his life and rejoice in his achievements; and

"WHEREAS, It is the custom of this Legislative Body that when individuals of such noble aims and accomplishments are brought to our attention, they should be celebrated and recognized by all the citizens of this great Empire State; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to honor Peter F. Vallone, Sr., for his commitment to preserving Italian American heritage; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to Peter F. Vallone, Sr."

ACTING PRESIDENT GRIFFO: Senator Avella.

SENATOR AVELLA: Thank you, Mr. President.

I rise as State Senator Diane Savino did a few minutes ago, to honor the life

and achievements of our three honorees today: Rosanna Scotto, John Franco -- especially as a lifelong Mets fan -- but I'm also here rising to speak about a good friend, Peter F. Vallone, Sr., who, as many of my colleagues listened to the bio, has had a tremendous history of public service and devotion to his community.

A lifelong resident of Queens, he has done so much to revolutionize government in the City of New York. He was the first Speaker of the New York City Council. And the Council today, as it exists, is an equal partner with the Mayor of the City of New York, in large part due to his efforts.

And he has certainly set the way for future Speakers and to make sure that every New York City Councilmember has a right to stand up to the Mayor of the City of New York. And I was proud to serve in the City Council after he left the office.

But I have to tell you about, in addition, one other thing that was mentioned in his bio, which was really an achievement. There was a time in the City of New York where people were afraid to go outside their house because of

the crime. Crime was rampant. But it was actually Peter Vallone who came up with the Safe Streets/Safe City program, which increased, significantly increased the police force of the City of New York and set in stage the dramatic reductions in crime.

Now people are not afraid to walk the streets. In fact, New York City is one of the safest streets in the country, due in large part to that one single effort that he championed.

And for the work that he did as the first Speaker of the City Council and his efforts in the Safe Streets/Safe City program, he will always be remembered as one of the best Speakers and one of the best Councilmembers in the City of New York.

And I rise to champion his life and achievements. And I have to tell you, if you ever want to meet somebody who puts integrity and ethics at the forefront of public service, it is Peter F. Vallone, Sr.

And I know we have one more resolution, but I hope at the end of the next resolution we will all stand and rise and salute

the achievements of our three honorees.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Gianaris.

SENATOR GIANARIS: Thank you, Mr. President.

When I first registered to vote when I was but a teenager, one of my first votes was to vote for Peter Vallone to be my City Councilman. And I've been voting for a Peter Vallone for that position ever since. Now it's his son, Peter Vallone, Jr., who is also a good friend and colleague.

He has in many ways been a role model to me in my public service career. As you've heard from the reading of the resolution and from my colleague Senator Avella's kind words, he is a trailblazer in many ways.

The structure of city government that exists today is the way it is in large part because he went all the way to the Supreme Court of the United States to make sure that the City Council structure and the powers of the Council are what they are today.

He was the very first Speaker of

the City Council.

And while over the years many have taken credit for the dramatic crime reduction in New York City, and they all deserve their share of it, the one unsung hero who deserves certainly more credit than is widely acknowledged is Peter Vallone. The Safe Streets/Safe City program, at a time when crime was rampant in New York City -- and I remember that from growing up there myself -- turned the corner and began the downward trend in dangerous crimes in New York that continues to this day.

None of that would have been possible without his efforts. He has been a great role model for me. I'm so privileged that I get to represent him now in the State Senate and that, whereas I voted for him, I hope that he is voting for me these days.

(Laughter.)

SENATOR GIANARIS: But it's great to have him up here and to welcome him to these chambers and to participate in honoring him today.

Thank you.

ACTING PRESIDENT GRIFFO: Senator

Espaillat.

SENATOR ESPAILLAT: Thank you, Mr. President.

I also rise to recognize the achievements and the contributions of the honorees: Rosanna Scotto, who is a role model for women and everyone in New York State -- I was interviewed by her recently. And I was nervous when I was getting there, because she's such an icon and someone that I look up to, as well as all New Yorkers -- and of course John Franco. He has -- and I hope he still has a little bit of that mean curve ball left in him. But he was a great pitcher and a St. John's baseball program graduate.

And finally Peter Vallone, who many of you may know, that his efforts, because of his efforts, hundreds of students were able to get access to higher education through the Peter Vallone Scholarships. And he was also the first Speaker after the New York City Council was restructured. After the old Board of Estimates was done away with, he led the way in the City Council that proved to be a more powerful institution that answered to the needs of all

New Yorkers.

So I want to stand up today to pay tribute to these three great New Yorkers that have made us all very proud.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Espaillat.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator LaValle.

SENATOR LaVALLE: Mr. President, I know you would like to open this resolution up for cosponsorship. Can we please place everyone on as a cosponsor. If someone does not wish to be a cosponsor, they should notify the desk.

ACTING PRESIDENT GRIFFO: The resolution is open for cosponsorship. Should you choose not to, please notify the desk.

Senator LaValle.

SENATOR LaVALLE: Mr. President, I believe there is a privileged resolution by yourself, Senator Griffo, Number 5102, at the desk. I ask that it be read in its entirety and call on Senator Fuschillo.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 5102, by Senator Griffo, honoring John Anthony Franco for his commitment to preserving Italian American heritage.

"WHEREAS, It is the sense of this Legislative Body to pay tribute to those individuals of true purpose and worthy accomplishment who provide opportunities to celebrate their rich ethnic flavor and who strive to preserve their cultural heritage; and

"WHEREAS, Attendant to such concern, and in full accord with its long-standing traditions, this Legislative Body is justly proud to honor John Anthony Franco for his commitment to preserving Italian American heritage, to be observed at the Italian American Day Celebration in Albany, New York, on Monday, June 4, 2012; and

"WHEREAS, John Franco is being inducted into the New York Mets Hall of Fame on June 3, 2012. He regularly makes appearances for the club's community relations, marketing and media relations departments, and can be seen on SNY, the club's television network; and

"WHEREAS, John Franco pitched in the major leagues for nearly 22 years (1984-2005) with the Cincinnati Reds, New York Mets and Houston Astros. He received an overall 2.89 ERA in 1,245.2 innings pitched; and

"WHEREAS, Placing fourth all-time on the career saves list with 424, John Franco has more saves than any left-handed pitcher in history. He has also made appearances in 1,119 games, which is third on the all-time career list; and

"WHEREAS, John Franco saved 30 or more games eight times, including 39 in 1988. He was selected to four All-Star Games in the years 1986, 1987, 1989, and 1990 and also won two Rolaids Relief Man Awards in 1988 and 1990; and

"WHEREAS, John Franco was named the Mets captain on May 4, 2001, and was honored on the Mets 40th Anniversary All-Amazin' Team. A

native of Brooklyn, New York, he graduated from Lafayette High School and pitched collegiately at St. John's University, throwing two no-hitters as a freshman; and

"WHEREAS, John Franco was presented a distinguished service award from the Fire Department of New York for his efforts in assisting the firefighters and their families after the September 11th tragedy. In addition, he has been honored by the Thurman Munson Dinner committee, the Catholic Youth Organization, the New York Baseball Writers Association, St. John's University, and the Phi Delta International Fraternity's Lou Gehrig Dinner committee for his work in the community; and

"WHEREAS, With him throughout have been his wife, Rose, and their children, Nicole, JJ, and Ella, all of whom feel privileged to be a part of his life and rejoice in his achievements; and

"WHEREAS, It is the sense of this Legislative Body, in keeping with its time-honored traditions, to recognize and pay tribute to those individuals who foster ethnic pride and enhance the profile of cultural

diversity which strengthens the fabric of the communities of New York State; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to honor John Anthony Franco for his commitment to preserving Italian American heritage; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to John Anthony Franco."

ACTING PRESIDENT GRIFFO: Senator Fuschillo.

SENATOR FUSCHILLO: Thank you very much, Mr. Speaker.

I rise as a proud Italo-American, somebody who really cherished and loved my grandfather, who came here from a small town called Nola, in Naples. Typical story: Two bags, one with his clothes -- he never told me what was in the other bag -- but he came to Brooklyn and started his family.

And now I rise as a lifelong frustrated Met fan. But I was glad to see John Franco quoted in Newsday yesterday or today where he said "The magic is back." That gives me

hope.

You know, every year so many of my colleagues here honor the kids from Little Leagues, where they're in the gallery because they won the state champs, or high school teams when they won the county champs. And I wonder how many have the dream of what John Franco succeeded.

And you heard his stats; they're incredible. Over 1200 innings pitched, over 1100 games, fourth on the all-time save list, number one as a lefty. It's incredible. And they look for a hero; he certainly is it.

And all too often the kids say this baseball player, this football player, this basketball player is my hero. But what sometimes is missing is what John Franco has.

And yesterday he was inducted into the New York Mets Hall of Fame, an honor so justly deserved. But what I think I admire most about him -- and I must say your stats are very impressive -- was what he always wore under his uniform, the orange-clad Sanitation shirt, as a respect and love for his father.

And yesterday, after thanking his

family, and his son JJ came on the field wearing his old uniform, he looked to the left center field and saw the orange-clad gang up there from the Sanitation Department, because he never forgot his roots from Brooklyn.

And his stats are impressive, but that, to me, ladies and gentlemen, really shows what type of individual this man is. An incredible athlete, his statistics should put him in the Hall of Fame -- but a love and respect for his family really makes him, in my opinion, a complete hero.

Ladies and gentlemen, I give you Number 45, pitching for the New York Mets, the captain, John Franco.

(Standing ovation.)

ACTING PRESIDENT GRIFFO: Senator Robach.

SENATOR ROBACH: Yes, Mr. President, let me too rise and congratulate all our winners and thank the Italian American Legislators for these great choices, all so very accomplished in their field, but also so giving of themselves in other areas of not-for-profit and being great community people: Rosanna

Scotto, Peter Vallone, whose work and reputation speaks for itself, and John Franco, who -- I think the Mets are very exciting, Chuck, I don't know.

But in addition to that, these great choices, in this part of our program I just wanted to take a moment to highlight the scholarship fund that we do in the Italian American Legislators, and program, which I also think is an important part of this day too, as one of the things not only in my Italian American family, but I know so many -- promoting education so we can improve our lot, get a stake and really advance here in America.

And I am very happy to have joining me today one of the winners from my district, Danielle O'Connor, who is not only a great student, she's been very active in programs to help young people, Rotary program, she also started, on her own, as a teenager she founded a program called Beads per Bambini, a program to raise money for the earthquake victims in Italy. And I just wanted to acknowledge her.

Danielle's up in the gallery. She's joined by her father, Matt O'Connor, who is

a town councilman in Pittsford, back in Monroe County; her mom, Patty; and her sister, Alyssa.

Thank you, and congratulations on your award and being such a young representative of the Italian American community. Thanks.

(Applause.)

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator LaValle.

SENATOR LaVALLE: Mr. President, I know you would like to open this resolution up for cosponsorship. Can we please place everyone on as a cosponsor. If someone does not wish to be a cosponsor, they should notify the desk.

ACTING PRESIDENT GRIFFO: The resolution is open for cosponsorship. Should you choose not to be a cosponsor, please notify the desk.

At this time we'd also like to once

again extend our congratulations and appreciation to Rosanna Scotto, to John Franco, and to Peter Vallone, Sr.

(Applause.)

ACTING PRESIDENT GRIFFO: Senator LaValle.

SENATOR LaVALLE: Mr. President, can we stand at ease temporarily.

ACTING PRESIDENT GRIFFO: We will. The Senate stands at ease.

(Whereupon, the Senate stood at ease at 3:35 p.m.)

(Whereupon, the Senate reconvened at 3:48 p.m.)

ACTING PRESIDENT YOUNG: The Senate will come to order.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, can we return to motions and resolutions, please.

ACTING PRESIDENT YOUNG: Returning to motions and resolutions.

SENATOR DeFRANCISCO: Madam President, I wish to call up Senate Print Number 4262, recalled from the Assembly, which is now at the desk. It's a bill of Senator Zeldin.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 82, by Senator Zeldin, Senate Print 4262, an act to amend the Civil Service Law.

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

ACTING PRESIDENT GRIFFO: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

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

ACTING PRESIDENT GRIFFO: The amendments are received.

SENATOR DeFRANCISCO: Okay, thank you.

Next I wish to call up Senator Grisanti's bill, Print Number 6368, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 260, by Senator Grisanti, Senate Print 6368, an

act to amend the Labor Law.

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

ACTING PRESIDENT GRIFFO: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

SENATOR DeFRANCISCO: I now offer the following amendments.

ACTING PRESIDENT GRIFFO: The amendments are received.

SENATOR DeFRANCISCO: On behalf of Senator Flanagan, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Bill Number 6142.

ACTING PRESIDENT GRIFFO: So ordered.

SENATOR DeFRANCISCO: On behalf of Senator Maziarz, on page 14 I offer the following amendments to Calendar Number 207, Senate Print Number 277A, and I ask that the bill retain its place on Third Reading Calendar.

ACTING PRESIDENT GRIFFO: The

amendments are received, and the bill shall retain its place on third reading.

SENATOR DeFRANCISCO: On behalf of Senator Farley, Mr. President, on page 45 I offer the following amendments to Calendar Number 899, Senate Print Number 6952, and I ask that the bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT GRIFFO: The amendments are received, and the bill shall retain its place on third reading.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Amendments are offered to the following Third Reading Calendar bills:

Senator Grisanti's bill, on page 23, Calendar Number 534, Senate Print 5155B.

Senator Golden's bill, page 11, Calendar 72, Senate Print Number 5576.

Senator Robach's bill, on page 25, Calendar Number 568, Senate Print Number 6740A.

Senator Marcellino's bill, on page number 27, Calendar Number 613, Senate Print Number 6194C.

Senator LaValle's bill, on page 39, Calendar Number 839, Senate Print Number 7289.

Senator Griffo's bill, page 45, Calendar Number 898, Senate Print Number 6777.

Senator Saland's bill, on page 40, Calendar Number 852, Senate Print Number 7350.

Senator Seward's bill, on page 21, Calendar Number 475, Senate Print Number 6710.

Also Senator Seward's bill, on page 21, Calendar Number 476, Senate Print Number 6738.

I move that these bills retain their place on the order of third reading.

ACTING PRESIDENT GRIFFO: The amendments are all received, and the bills shall retain their places on the Third Reading Calendar.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Would you please recognize Senator Breslin.

ACTING PRESIDENT GRIFFO: Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President.

On behalf of Senator Rivera, I offer the following amendments to page number 39, Calendar Number 816, Print Number 6854, and ask

that it retain its place on the Third Reading Calendar.

ACTING PRESIDENT GRIFFO: The amendments are received, and the bill shall retain its place on third reading.

SENATOR BRESLIN: On behalf of Senator Oppenheimer, on page number 29 I offer the following amendments to Calendar Number 658, Senate Print Number 1573, and ask that it retain its place on the Third Reading Calendar.

ACTING PRESIDENT GRIFFO: The amendments are received, and the bill shall also retain its place on third reading.

SENATOR BRESLIN: On behalf of Senator Kennedy, on page number 11 I offer the following amendments to Calendar Number 5, Senate Print Number 3330, and ask that it retain its place on the Third Reading Calendar.

ACTING PRESIDENT GRIFFO: The amendments are received, and the bill shall retain its place on third reading.

SENATOR BRESLIN: And finally, on behalf of Senator Diaz, on page 36 I offer the following amendments to Calendar Number 782, Senate Print Number 7399, and ask that it retain

its position on the Third Reading Calendar.

ACTING PRESIDENT GRIFFO: The amendments are received, and the bill shall retain its place on third reading.

SENATOR BRESLIN: Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Breslin.

Senator LaValle.

SENATOR LaVALLE: Mr. President, there is a resolution at the desk by Senator Griffo, Resolution Number 4937. It was previously adopted by the house on May the 31st. May we have the title read, and would you call on me for some brief remarks.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 4937, by Senator Griffo, memorializing Governor Andrew M. Cuomo to proclaim June 4, 2012, as Italian American Day in New York State.

ACTING PRESIDENT GRIFFO: Senator LaValle.

SENATOR LaVALLE: First,

Mr. President, I would like to acknowledge your leadership as president of the Italian American Legislators.

You have worked very hard, very diligently to ensure that the greater population understands the contributions and the culture of the Italian American community. And thank you. You've spent hours upon hours doing your work in a very diligent and comprehensive way.

ACTING PRESIDENT GRIFFO: Thank you, Senator LaValle.

We're ready to call the next resolution, Senator LaValle?

SENATOR LaVALLE: Mr. President, there is a resolution at the desk by Senator Griffo, Number 4938. It was previously adopted by the house on May 31st. May we have the title read, and would you call upon me for some brief remarks.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 4938, by Senator Griffo, commemorating the 125th Anniversary of the Italy-America Chamber of Commerce.

ACTING PRESIDENT GRIFFO: Senator LaValle.

SENATOR LaVALLE: Yes. Thank you, Mr. President.

The Italian-American Chamber of Commerce is an independent, private, not-for-profit corporation devoted to fostering trade, tourism, investments and economic cooperation between Italy and the United States. And so it is very fitting that today we are acknowledging their 125th anniversary.

I would also like to indicate that this chamber is part of and a founding member of the European Chambers of Commerce in Europe, and they have worked with not only the chambers throughout Europe and here in the United States, but also with organizations such as the Center for Italian studies at Stony Brook University.

So congratulations on 125 years as an independent not-for-profit organization.

ACTING PRESIDENT GRIFFO: Thank you, Senator LaValle. Appreciate that.

This is Italian American Heritage Day, based on the resolution that was passed, and the President of Italy has declared this a

national day of mourning in Italy because of the earthquake. So we'd ask all members if they could just rise and join us in a moment of silent tribute to all those who have lost their lives.

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

ACTING PRESIDENT GRIFFO: Thank you.

Senator LaValle.

SENATOR LaVALLE: Mr. President, may we please have the noncontroversial reading of the calendar.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 289, by Senator Ritchie, Senate Print 5641A, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT GRIFFO: Read the last section.

SENATOR LaVALLE: Lay the bill aside for the day.

ACTING PRESIDENT GRIFFO: Lay it aside for the day.

THE SECRETARY: Calendar Number 387, by Senator Martins, Senate Print 6079A, an

act to amend the Tax Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as Section 1 of Part B of Chapter 56 of the Laws of 2011.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Rivera to explain his vote.

SENATOR RIVERA: Thank you, Mr. President.

I'll be voting aye on this piece of legislation, but I would be remiss if I didn't point something out. What we have been doing over the last -- certainly for the last year and a half that I've been here, and unfortunately for a very long time in this state, is that we have been nickel-and-diming the MTA out of funding.

I have spoken on the floor before about the concerns that I have about the fact that we are not funding transit at an appropriate level. And certainly when more than 90 percent

of the folks that live in my district use it every single day, and a great majority of the people in this state use transit on a daily basis, we have to look as a body and as a state for more ways to be able to fund it adequately.

While in this case we're talking $1.3 million total, and that certainly has an impact on the libraries that will receive this money, as opposed to the MTA, and it will make a lot of difference in their budgets, as opposed to the difference that it would make in the overall MTA budget, I wanted to make sure that I pointed it out -- that we are doing this type of thing all over the place, and we are just taking away some funding that the MTA needs.

So although I will be voting in the affirmative on this, I just wanted to make sure that I pointed that out.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Rivera to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 52. Nays, 2. Senators Dilan and Gianaris recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 841, substituted earlier by Member of the Assembly Hevesi, Assembly Print 9702A, an act to amend the Insurance Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 861, by Senator DeFrancisco, Senate Print 7002, an act --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 867, by Senator Griffo, Senate Print 6691, an act

to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Announce the results.

THE SECRETARY: In relation to Calendar 867, those recorded in the negative are Senators Addabbo, Avella, Breslin, Dilan, Espaillat, Gianaris, Huntley, Kennedy, Krueger, Peralta, Perkins, Rivera, Serrano, Squadron, Stavisky and Stewart-Cousins.

Ayes, 38. Nays, 16.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 868, by Senator Flanagan, Senate Print 7014, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53. Nays, 1. Senator Little recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 869, by Senator Flanagan, Senate Print 7016, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 870, by Senator Young, Senate Print 6882, an act to amend the Social Services Law.

ACTING PRESIDENT GRIFFO: Read the

last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Krueger to explain her vote.

SENATOR KRUEGER: Thank you, Mr. President. I rise to explain my vote no on this bill.

While I appreciate a part of the bill which would allow for electronic conferencing of fair hearings, I do not think it is in the best interests either of the state nor of the people who apply for fair hearings because they believe they have been wrongly denied or disapproved government benefits, for us to contract out this function to people who are not responsible directly to the State of New York.

And so I wish that this was only half the bill it is. But because it is the whole bill, I need to vote no.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator

Krueger to be recorded in the negative.

Announce the results.

THE SECRETARY: In relation to Calendar Number 870, those recorded in the negative are Senators Addabbo, Avella, Breslin, Diaz, Dilan, Espaillat, Gianaris, Huntley, Krueger, Montgomery, Peralta, Perkins, Serrano, Squadron, Stavisky and Stewart-Cousins. Also Senator Rivera.

Ayes, 37. Nays, 17.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 874, by Senator Fuschillo, Senate Print 7370, an act to amend the Penal Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 878, by Senator Ritchie, Senate Print 6764, an act to amend the Public Service Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 880, by Senator LaValle, Senate Print 1007A, an act to amend the Tax Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect December 1, 2012.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53. Nays, 1. Senator Krueger recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 882, by Senator Maziarz, Senate Print 3126A, an act to amend the New York State Urban Development Corporation Act.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 883, by Senator Ranzenhofer, Senate Print 3194A, an act to amend the Tax Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Announce the results.

THE SECRETARY: In relation Calendar Number 883, those recorded in the negative are Senators Huntley, Krueger, Squadron and Stavisky.

Ayes, 50. Nays, 4.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: On page 44, Senator Seward moves to discharge, from the Committee on Finance, Assembly Bill Number 9672 and substitute it for the identical Senate Bill Number 6763, Third Reading Calendar 890.

ACTING PRESIDENT GRIFFO: The substitution is so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 890, by Member of the Assembly Magee, Assembly Print Number 9672, an act to amend the Executive Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 891, substituted earlier by Member of the Assembly Millman, Assembly Print 9694, an act to amend Chapter 624 of the Laws of 2007.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 895, substituted earlier by Member of the Assembly Magnarelli, Assembly Print Number 9415, an act to amend the Executive Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Valesky to explain his vote.

SENATOR VALESKY: Thank you, Mr. President.

This is a very, very important piece of legislation. I had the opportunity just last week to convene a roundtable hearing in my district with providers of services for veterans, and we were discussing many of the challenges that returning veterans from Iraq and Afghanistan are having, and reviewing the data and looking at the instances particularly of an extremely high unemployment rate among our veterans, and also the challenges that many are having in regard to mental health issues and substance abuse issues.

So this bill, the Veterans Mental Health and Chemical Dependency Act, which will create an state interagency plan to coordinate

all of these services for our men and women returning from overseas, I think is very important.

I would note that the Assembly has already passed this legislation and certainly look forward to the Governor's favorable consideration.

I want to thank Senator DeFrancisco for writing this bill and bringing it to the floor for a vote. I vote in the affirmative.

ACTING PRESIDENT GRIFFO: Senator Valesky to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 966, by Senator Montgomery, Senate Print 4855A, an act to amend the State Finance Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 970, by Senator LaValle, Senate Print 7449A, an act to amend the Tax Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

SENATOR STAVISKY: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

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

SENATOR LaVALLE: Mr. President, thank you. Now may we have the controversial reading of the calendar.

ACTING PRESIDENT GRIFFO: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 861, by Senator DeFrancisco, Senate Print 7002, an act to amend the Tax Law.

SENATOR BRESLIN: Explanation.

ACTING PRESIDENT GRIFFO: An explanation has been requested by Senator Breslin, Senator DeFrancisco.

SENATOR DeFRANCISCO: This bill removes the prohibition against tax-return preparers or facilitators operating on the same premises as licensed check cashers that is now contained in Section 32 of the New York State Tax Law. This prohibition went into effect in an ill-advised legislation in 2009.

ACTING PRESIDENT GRIFFO: Senator Krueger.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR KRUEGER: Thank you.

Why do you think it was ill-advised? Because I actually thought it was a

very good idea in 2009.

SENATOR DeFRANCISCO: Well, I think that whenever you're -- we're in a situation where we're trying to promote business in the New York State. And to restrict licensed check cashers from specific premises that happen to be occupied by tax preparers is a needless prohibition restricting the location that people can do business.

They're two licensed professions, tax preparers and check cashers. And whether they work in the same building or not should be irrelevant.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: So just so that I understand my colleague's bill, if we were to pass his bill then the following section would not apply for tax preparation sites within or affiliated with check cashers.

So right now they cannot charge or

impose any fee, charge, or other consideration in the making or facilitating of a refund anticipation loan or refund anticipation check, apart from the fee charged by the creditor or the bank that provided the loan or check.

So they would be exempt from that rule?

SENATOR DeFRANCISCO: I'm advised that this concern about loans being given in anticipation of refunds, they are not offered in the State of New York anymore because the IRS does not provide the information as to what the likely refund is going to be.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

I guess partly an answer, then a question.

My understanding is those don't happen as much anymore because we passed the law in 2009, not necessarily because of the IRS.

But to follow through, if this bill became the law, then the section of the current law would no longer exist, "the tax-return preparer or facility author shall not engage in unfair or deceptive acts or practices in the facilitating of a refund anticipation check or refund anticipation loan, including making any oral statements contradicting any of the information required to be disclosed under the Taxpayer Bill of Rights set forth in Section 371 through 373 of the General Business Law."

So that would no longer apply?

SENATOR DeFRANCISCO: There are existing fraud statutes that deal with fraudulent misrepresentations that would still apply if this bill were repealed.

In addition, you just mentioned that there's a Taxpayer's Bill of Rights, and if someone violates the Taxpayer's Bill of Rights, then under those circumstances that's an issue that could be taken up with respect to the licensing of these particular licensed check cashers or tax-return preparers.

So there's existing law without this duplication that would be available to

handle those abuses if in fact fraud and misrepresentations did in fact occur.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

So I'm gathering that the answers are yes, these things wouldn't apply, but the sponsor thinks there are other sections of law that would apply.

But going on, so if this bill were to become law, then it would no longer be against the law for tax preparers within check-cashing sites to take or arrange for a creditor to take a security interest in any property interest of the taxpayer, other than the proceeds of the tax refund to secure the payment of the refund anticipation loan? So they could in fact go after other property of the taxpayer?

SENATOR DeFRANCISCO: Again, these loans are no longer available. So it's difficult to see how you would need these types of

restrictions if these loans are no longer available.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

And so just in closing, the final section of the existing law which these taxpayer preparation sites and check cashers would no longer be obligated to follow prohibits them to refer, facilitate, solicit consumers or conduct business on behalf of or in conjunction with or in the same premises as a third-party engaged in check cashing for a fee.

Obviously, that would be allowed to take place. The refund anticipation loans through the tax preparers could take place in the third-party check cashing site for a fee; is that correct?

SENATOR DeFRANCISCO: My understanding is there is -- no one offers these loans any longer. So to regulate an activity

that is problematic, which activity doesn't occur any longer, seems to be regulation without a purpose.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

So you've answered several questions with "there are no refund anticipation loans anymore in New York State." Did we outlaw them at some point in time?

SENATOR DeFRANCISCO: We didn't formally outlaw them any longer.

But the way I understand it is in order to provide a loan for a refund, the lender would have to be in a position to understand what the likely refund was going to be, and the IRS does not provide that information any longer.

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

ACTING PRESIDENT GRIFFO: Senator Krueger on the bill.

SENATOR KRUEGER: Thank you.

My understanding is in 2009 we put some reasonable but not extreme limitations on those who provide tax preparation and refund anticipation loans in this state. I personally thought it was a good law, perhaps didn't even go far enough.

But it went some steps to protect people from ending up filing their taxes with a specific company, being told they were eligible for a refund anticipation loan, but only being told after the deal was made, the taxes were completed, and the refund anticipation loan calculation was signed off on -- only then were they told that there could be a fee or set of fees that added up to 300, 400 percent of what the actual refund anticipation loan was, when in fact you might be receiving your refund from the IRS within a matter of weeks.

I do not believe that anything has changed other than our better state law from 2009 forward. You don't need the Internal Revenue Service to tell you in advance what your refund will be in order to get a refund anticipation loan. In fact, the irony is the tax preparer

knows what they believe you will get back as a refund from the IRS, and perhaps the State of New York, because they did the tax preparation work.

So if they are allowed to give you a loan with high interest rates on it, they're almost guaranteed to get it back, because they were very often having you sign something saying they got the refund from the IRS, not you. But they got to pay themselves back from that refund.

If they were wrong on their tax preparation and in fact you weren't eligible for as large a refund as they thought, you still owe them the loan that you took out, at perhaps 200, 300, 400 percent annualized fees.

On top of that, they were also not telling people who might not have had bank accounts that they would have to open up a bank account in order to get the money and now were going to charge them fees on that. And in fact check cashers play a similar role to banks, without perhaps the same strong regulations.

So in fact what we did in 2009 was we helped to establish standards of how these

businesses could go forward, and we helped to decrease the likelihood that people would be, quote, unquote, taken for a ride getting a refund anticipation loan with enormous fees attached that might really only get them their refund from the Tax Department a couple of weeks early.

But to get a refund a couple of weeks early to the tune of 200 or 300 or even 400 percent interest rates was ridiculous. So in fact, this state I believe took a very large step forward in 2009 by establishing standards and criteria. I think we would do a serious harm to individuals if we were to exempt any sub-universe of facilities from these standards and rules.

I'm not sure that tax-preparing sites working with check cashers were any worse than anyone else who was doing this work before 2009. But I also don't think there's any reason to believe they were any better. And in fact the protections we put in place in 2009 went a long way to helping with the problem.

Now, if it actually outlawed taxpayer refund anticipation loans, as my colleague thinks, I don't think he's correct. If perhaps it's been reduced so much since 2009 that

people think we don't have them anymore in New York State, maybe that's for the good. Because would you take out a loan for two weeks and owe 200, 300, 400 percent interest on it? That's a bad plan by any of us, as taxpayers or consumers.

So if the law that we put in effect in 2009 somehow actually made it so clear that this was a bad deal that people stop taking refund anticipation loans at all, hooray. I don't really think that was the case.

But I certainly don't think we should be going backward as a state at this point in time, because we should be doing everything possible to make sure that all our citizens are protected from usury, whether it's at a bank, a check casher, or anyone else lending money. We should have strict rules to protect consumers.

2009's law was a big step in the right direction, and I don't think now in 2012 we should be going backward.

I vote no, Mr. President. Thank you.

ACTING PRESIDENT GRIFFO: Senator Squadron.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR SQUADRON: Thank you.

To start, Senator Krueger described refund anticipation loans and how they worked. Just is it the sponsor's view that refund anticipation loans are advisable financial instruments for consumers?

SENATOR DeFRANCISCO: Depends on the consumer. I can't speak for every consumer as to whether this type of loan is a good deal or a bad deal. But the fact of the matter is they don't provide these loans anymore.

Because, very simply, if you're going to loan money -- now, maybe you're different. But if I'm going to loan money, I want to make sure that I got it paid back.

And if the IRS is not telling people who want to issue these loans whether the refund is going to get back to the consumer or whether that refund is going to be used to offset child support, offset prior taxes, offset

something else, and it's really not there to be used to pay off the loan and the consumer has no other assets to pay the loan off, I know I'm not going to loan the money. And that's exactly why these loans are not occurring anymore.

So whether it's a good deal or a bad deal, it's kind of academic at this point. Without the information from the IRS as to whether that refund is free and clear and it's going to come back to the lender, lenders aren't lending anymore.

SENATOR SQUADRON: If the sponsor would continue to yield.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR SQUADRON: Thank you.

So it's the sponsor contention that if this bill were to become law that tax preparer, slash, check cashers, which would become lawful again, would not offer refund anticipation loans?

SENATOR DeFRANCISCO: I can only tell you what's happening now. And they're not offering them now.

SENATOR SQUADRON: If the sponsor would continue to yield.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR SQUADRON: As far as the sponsor knows, these sorts of facilities would not engage in -- don't in other states, for example, engage in refund anticipation loans?

SENATOR DeFRANCISCO: I don't understand the question.

SENATOR SQUADRON: To clarify the question, the sponsor says that Senator DeFrancisco can't predict whether tax preparer, slash, check-cashing providers would want to offer refund anticipation loans. So I'm asking in other states where these sorts of entities are allowed, do they provide refund anticipation loans?

Or, separately -- in the interest of time, two questions in one -- does the sponsor know of any interest from providers in this state who would, if this law passed, offer refund anticipation loans?

SENATOR DeFRANCISCO: I don't know

of any.

The two biggest organizations that were offering these were Chase and JP Morgan. And once the IRS changed its policy by not giving information out about whether there were any liens, again, or any offsets of the refund that the lenders were relying on to get paid back, they stopped doing those loans.

So I don't know -- I can't talk about hypothetical situations. I can only talk about what the facts are presently.

SENATOR SQUADRON: If the sponsor would continue to yield.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR SQUADRON: And I apologize for two questions in one.

So just to clarify, in terms of other states the sponsor is not aware of whether facilities that do or entities that do both tax preparation and check cashing in other states offer refund anticipation loans? And I apologize again for my lack of clarity.

SENATOR DeFRANCISCO: Is that a

question?

SENATOR SQUADRON: Yes.

SENATOR DeFRANCISCO: I have no idea what other states do. But I'm sure the IRS is treating these type of lenders the same way in other states as they are treating them in New York State and not providing the required information that the lender would need to make sure that they were going to get paid in order to give the loan.

So I assume the rationale behind no loans in New York State of this type would be applied to other states, since we have the same IRS in all states.

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

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR DeFRANCISCO: Yes.

SENATOR SQUADRON: Thank you.

Before this law was passed, tax preparers who also cashed checks did offer refund anticipation loans, as Senator Krueger described, as far as you know; correct?

SENATOR DeFRANCISCO: As far as I

know, yes.

But this law was not the reason that these loans aren't given anymore, as I've said a couple of times. The reason is that the IRS won't provide the needed information to give comfort to the lenders to provide these loans any longer.

SENATOR SQUADRON: If the sponsor would continue to yield.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR SQUADRON: Thank you.

Just to clarify and just to be sure, the sponsor is not aware that currently there are tax preparers operating in New York State who offer refund anticipation loans on the home pages of their websites and prominently on their literature?

SENATOR DeFRANCISCO: I'm not aware of that, and I don't know how current, you know, those websites are or their literature is. But I'm not aware of that.

SENATOR SQUADRON: If the sponsor would continue to yield.

SENATOR DeFRANCISCO: Yes.

SENATOR SQUADRON: If I understand the rationale for this bill, it's that this provision was put into law in 2009 because there was a real problem with refund anticipation loans. And this was one way to get at a particularly destructive sort of refund anticipation loan from a certain kind of provider. And that the law is no longer needed because refund anticipation loans essentially no longer exist.

If that is in fact the sponsor's rationale, would the sponsor agree with me that, if refund anticipation loans do in fact still exist, that this law probably does not make sense?

SENATOR DeFRANCISCO: No, I would not.

What we're talking about is the context of those loans being given under the context of this bill. Remember, the bill is basically dealing with eliminating the former provision that prohibits tax preparers and facilitators from being in the same location as check cashers. That's the specific issue and

that's the specific circumstance.

If there are people on the Internet providing these loans and they choose to do that, that has nothing to do with this restriction on tax preparers and check cashers from being on the same premises.

So there may be these loans on the Internet or there may be these loans somewhere, but my understanding is that under the circumstances that this bill was originally passed under -- namely, this practice that was sought to be regulated -- is no longer necessary under the situations where there is tax preparers in the same building as check cashers.

SENATOR SQUADRON: If the sponsor would yield for a final question.

SENATOR DeFRANCISCO: Yes.

SENATOR SQUADRON: Thank you. Contingent on the answer to the question. But thank you to the sponsor for yielding.

So I think I misunderstood the rationale for the bill, and I want to make sure I do. So this is just a clarification question.

My understanding of what the sponsor is saying is this bill makes sense from

the sponsor's point of view even if these sorts of entities, tax preparers and check cashers who are linked, would now provide or offer refund anticipation loans? That regardless of the effect on whether they are offering refund anticipation loans, this law makes sense?

SENATOR DeFRANCISCO: I have no idea what you're talking about, or I don't understand the question.

But I can simply say to you over and over again that there's no reason presently to not allow tax preparers and facilitators to be in the same location as check cashers, because these loans are not being given anymore under those circumstances, so we don't have to regulate something that doesn't exist, that doesn't -- you don't have to regulate a problem, against a problem that doesn't exist. That's the purpose of the bill.

SENATOR SQUADRON: If the sponsor would yield for clarification of my question, because I was obviously quite confusing.

SENATOR DeFRANCISCO: Sure.

SENATOR SQUADRON: Thank you.

Even if this provision cuts down on

refund anticipation loans, it is still a provision that the sponsor believes should be repealed?

SENATOR DeFRANCISCO: This provision -- I don't buy the premise. This provision does not cut back on loan anticipation notes under these circumstances. And therefore, the bill that was passed in 2009 is not necessary.

SENATOR SQUADRON: Thank you.

On the bill.

ACTING PRESIDENT GRIFFO: Senator Squadron on the bill.

SENATOR SQUADRON: I thank the sponsor for bearing with me and for answering the questions quite fully.

Unfortunately, I think that the premise that the sponsor doesn't buy is the key here. And we have cut down on refund anticipation loans, which are extraordinarily destructive in many, many cases, are not advisable in almost all cases as a financial instrument.

There are in almost all cases better ways to get loans that are safer and

lower-cost for the borrower than refund anticipation loans. The reason they exist is because of their seeming convenience with seemingly found money. Neither the convenience nor the seemingly found money turn out to be true in most cases.

Mr. President? A little order, Mr. President? A little order, Mr. President. I'm having trouble hearing myself.

ACTING PRESIDENT GRIFFO: Can we have some order, please.

SENATOR SQUADRON: Thank you. I appreciate that.

And this provision, this law in 2009 that was passed in that legislative session cut down on refund anticipation loans. It did it in a variety of ways that are being preserved, but it did it in one way that is now being repealed.

And quite simply, that will mean that we will have more refund anticipation loans in this state, that the confusion and the difficulty for someone who is having their taxes prepared by someone who is also offering a financial instrument that is almost never in that

tax filer's interest is going to rear its ugly head again. And that's the reason this bill shouldn't pass.

Cutting down on these instruments, which the sponsor and myself and Senator Krueger all agree has happened, is a great victory for the state. Slipping back on that is very bad for tax preparers and for citizens across the state. And that's why this bill just doesn't make any sense.

I agree, if refund anticipation loans disappeared and no longer existed, then we would probably want to revisit a statute passed to cut down on them. But since we know they exist, we know they exist on the websites of multiple tax preparers in this state today, the protections that we provided for consumers, for taxpayers, should be preserved.

Anything else doesn't make any sense to me. So I urge a no vote.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Montgomery.

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

I just want to identify just exactly what it is we're talking about. I certainly have a number of the check-cashing businesses in my district. And I know that they really serve especially poor people, and a number of them also serve the immigrant community also.

But low-income people, who are the least able to afford losing money, yet they pay a very high price for the use of these businesses. Some would refer to them as predatory businesses.

And so I wanted to just make sure that we understand that currently the Tax Law prohibits registered tax-return preparers and facilitators from referring, facilitating, soliciting consumers or conducting business on behalf of or in conjunction with or on the same premises as third-party engaged in check cashing for a fee.

So the separation of these two activities, both of which are very much part of the lives of the poorest citizens in our state, those least able to afford the high cost of doing business with them, now this legislation seeks to reverse the current law which separates them, and

putting therefore an opportunity for these two possibly predatory operations together, expressly for the purpose of serving poor citizens in our state.

So, Mr. President, I think this is a bad move, and I certainly am opposed to it. And I hope my colleagues will join me in rejecting this attempt to assist predatory businesses coming together so it makes it easier for them to exploit poor people in our state.

Thank you. I vote no.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR KRUEGER: Thank you, Mr. President. On the bill for a second time, because I now better understand the confusion I think the sponsor and I were having, both from listening to my colleague Senator Squadron and Senator Montgomery.

I do think some of the disconnect is due to the fact that it's the check-cashing company who arranges for the refund anticipation loans and the various fees attached. But in fact it is done through some kind of financial entity.

And Senator DeFrancisco, for the

record, was correct that in 2012, because of changes in FDIC rules when the federal banks -- actually, quite a few of the banks have stopped participating in the actual account loan function.

But that means the tax-preparing companies are looking for alternative sites where this kind of continued business model, which Senator Montgomery just described could be so usurious and harmful to poor people, that they're looking for new sites to make their deals because the banks won't participate.

So in fact from a recent January 2012 example from The New York Times, that the Republic Bank has said no, we will not participate, but Jackson Hewitt, the tax preparation site, confirmed that their company will continue to offer the loans again this year, just simply not through the FDIC banks.

So the companies who have been in fact exploiting poor people's desperation to get money as quickly as possible are looking for new entities to play with them, because the feds have actually put a halt to some of the national banks participating. And that perhaps is why the

check-cashing sites want to go into this business, to continue a lucrative but exploitive model of business on the poorest New Yorkers.

Which adds strength to the argument for those of us who are opposed to this bill to say no, the feds have come in and they have tried to stop some of this activity through the FDIC-insured banks; let's not give these bad players an opportunity to participate with some other colleagues in business.

So please, let's not open this up to reexpansion in the State of New York through check cashers. Again, I urge a no.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Seeing and hearing no other Senator, debate is closed.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Announce the results.

THE SECRETARY: In relation Calendar Number 861, those recorded in the negative are Senators Avella, Breslin, Diaz, Dilan, Duane, Espaillat, Gianaris, Krueger, Montgomery, Peralta, Perkins, Rivera, Serrano, Squadron, Stavisky, and Stewart-Cousins.

Absent from voting: Senators Adams, Huntley and Parker.

Ayes, 37. Nays, 16.

ACTING PRESIDENT GRIFFO: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 970, by Senator LaValle, Senate Print 7449A, an act to amend the Tax Law.

ACTING PRESIDENT GRIFFO: Senator Stavisky.

SENATOR STAVISKY: Will the sponsor yield for a number of questions?

ACTING PRESIDENT GRIFFO: Senator LaValle.

SENATOR LaVALLE: Before you do that, I would like to give an explanation, a little preamble on the bill, if you might. Is that okay?

SENATOR STAVISKY: No problem.

SENATOR LaVALLE: Thank you.

ACTING PRESIDENT GRIFFO: Senator LaValle on the bill.

SENATOR LaVALLE: Mr. President, the New York State College Affordability Plan that is before the house is one that deals with a very complex problem that faces both students and families across our state. It is one that -- well, we have placed so much focus on the education portion of college that sometimes we have not placed enough emphasis on the business side, what is happening to students in terms of cost, debt, and affordability.

This chamber has led the way -- it's not something new that we have discovered. We have passed, in 2002, legislation that provided tuition tax credits. We have held hearings on this very problem in 2008.

And prior to that, we set up opportunities for the creation of what we call the 529 plans to allow parents, grandparents, and benefactors to put money aside for their children, grandchildren, or friends. So we have been very focused on this.

In 2008, when Governor Cuomo was the Attorney General, this house worked with him to pass very important legislation on this whole loan problem and how, in colleges, preferences were given to certain lending agencies. So under the SLATE legislation, we really got in and made sure that students were not incurring debt that they should not.

Today, students on the average are carrying, for an undergraduate program, something like $26,000 in debt. If they go to graduate school and go to law school, it is obviously much higher.

One of the things that I do, I go around the chamber to the young attorneys, the young counsels who work for us, and I say, "Would you mind telling me what your debt is?" And if you go to law school, graduate from law school, you're talking about a $100,000 debt. A hundred thousand dollars.

This means that individuals are postponing a relationship, buying a house, getting a new car because their debts and paying off their debts are very critical.

Under this plan, we broaden the

measure that we passed in 2002, I think the first state in the nation and well before the federal government passed tuition tax credit and deduction. And so under the present law, each student can get a $10,000 deduction or a $400 credit, and we are doubling that, over a five-year period, to $20,000 and $800.

We add a very interesting component -- Senator Stavisky, if you'd just bear with me, maybe I will have answered your question -- a very, very innovative stay-in-New-York tax credit. Students must graduate from a New York State institution in four years or less, complete 20 hours of community service, and then they must reside and work in New York State for four years after graduation.

If a student worked through their baccalaureate program, we give them a fifth year. So this student would get a $3,000 tax credit.

We have, in years gone by, introduced legislation in this house for a prepaid college savings plan, and this is part of the program.

The third piece is very innovative, a linked-deposit student loan program that would make $100 million available to reduce the percentage that a student pays in loans. The median average is 6.67 percent. We would lower it, using this program, to 3.67 percent.

And the last thing, which is very critical and builds on the SLATE program, is the student lending transparency program.

It has always been our belief in this chamber that disclosure and information empowers the consumer, and here we make sure that, through our new Department of Financial Services, that information is put onto the computer so that parents understand all the information about the loans, the rates, the period of time that they would be carrying this, et cetera. This builds on SLATE and is critically important.

I yield to you, Senator.

ACTING PRESIDENT GRIFFO: Senator Stavisky.

SENATOR STAVISKY: Thank you.

And thank you, Senator LaValle, for your complete explanation of the bill.

I have a number of questions, though. And I certainly commend the approach that you've taken over the years. And I agree with it, obviously, since I was a cosponsor or a prime sponsor with you of that student loan bill.

I have a number of questions. We have a Higher Education Committee meeting tomorrow. Why was this bill sent directly to Rules and avoiding the Higher Education Committee and the Finance Committee, since there is an obvious public policy impact on higher education and a very substantial financial commitment?

SENATOR LaVALLE: Senator, as you know, there have been a number of bills that we have talked about last week -- a jobs bill, before that, other bills. Sometimes bills go to Finance, sometimes they go directly to Rules.

And this bill has a significant and important impact on the students and the families of New York, so I think moving it through the Rules Committee is not an uncommon procedure.

SENATOR STAVISKY: If the Senator will continue to yield.

SENATOR LaVALLE: Yes.

ACTING PRESIDENT GRIFFO: The

Senator yields.

SENATOR STAVISKY: It seems to me that this bill cried out for a public hearing, a public airing, with a little more opportunity for the various stakeholders to be heard.

But let me ask some specific questions about this bill. On page 2 -- and in no particular order, but I'll try to follow the bill itself -- Section B, Roman number II.

One of the requirements to qualify for the credit is to be employed full-time within the state. And with our state having an unemployment rate of something over 8 percent, there will be many students who are unable to find employment. How do you respond to that?

SENATOR LaVALLE: Well, when we craft public policy there are a number of things that we look at. And one of the things that we want to make sure is that we're making investment in our students, we want to keep them here for a period of time. This is something that the Higher Education Committee has -- over its history, all the time you've been there, I've been there, we have talked about keeping people here in New York.

So we are assuming that there is light at the end of the tunnel, that there will be jobs for students. Maybe not the right jobs, but students today want to work. Even though there is a holding-pattern-type job, it's not the career that they envisioned when they got their baccalaureate degree.

So that's the public policy that we were focused on, to keep our students here in New York, working in New York, paying taxes in New York, after we made a great investment in them.

SENATOR STAVISKY: And I agree totally with that concept, particularly tying scholarship money to staying in New York.

A little further down on that page you use the term "qualified college expenses." Does that include deductions for Pell grants or TAP? Oh, will you yield. Through you, Mr. President. That's my question.

SENATOR LaVALLE: To answer Senator Stavisky's question, we're talking about tuition as being the expense that we are focused on. Because as you know, through the 2002 law on the tuition tax credit, slash, deduction, you

have to produce a tuition bill in your hand.

And the other piece of your question, as you know, in almost every law that we pass we automatically say if you have a Pell grant, TAP or any other grant, that is deducted before we start paying.

SENATOR STAVISKY: Will the Senator continue to yield.

SENATOR LaVALLE: Yes.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR STAVISKY: Your definition "institution of higher education" -- and I apologize for the number of questions, but we haven't really had an opportunity to discuss this bill in committee.

Institution of higher education. And this is basically any institution that's either approved by the Regents or located in the state, recognized and approved by the Regents, et cetera.

HESC, the Higher Education Services Corporation, I believe may have a different definition. Is there any conflict here?

SENATOR LaVALLE: No, I think in

our various statutes that we have, we always go back to the University of the State of New York, which is the State Education Department. So they control that definition.

ACTING PRESIDENT GRIFFO: Senator Stavisky.

SENATOR STAVISKY: Will the Senator continue to yield.

SENATOR LaVALLE: Yes.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR STAVISKY: You have an inflation adjustment in the bill -- which I think is a good idea, but you're using the HEPI, the Higher Education Price Index, which is extremely low, from what I understand. Is there a reason why you're using the Higher Education Price Index and not one of the other indices?

SENATOR LaVALLE: Senator, as you know, it's kind of roll of the dice whether you use the CPI or the HEPI. For a long period of time HEPI was the higher index than the CPI.

So what we did was to make sure that when this is instituted the tuition tax credit deduction, that it will continue to be

updated and relevant well beyond a specific year.

We should have done that in 2002. Had we done that in 2002, we would be today not talking about this, because it would have self-adjusted.

SENATOR STAVISKY: Will the Senator continue to yield.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR STAVISKY: You talk about -- in the definition section, you're talking about lenders, and you talk about the commercial and the thrift institutions. But there are others, such as credit unions.

SENATOR LaVALLE: From a personal standpoint, I think credit unions do a phenomenal job. But as you also know, under the law, because credit unions are a relatively new phenomenon, that they do not have the same status that some other of the other lending institutions have. That's something to be considered probably at another time.

SENATOR STAVISKY: If we could continue to Section 232 of the proposal. You talk about, in Part B -- will the Senator yield?

SENATOR LaVALLE: Yes.

SENATOR STAVISKY: -- the likelihood of the student successfully completing his or her higher education. This is the benefit, the likelihood to benefit theory, presumably.

Can you explain how you determine the likelihood of the student successfully completing his or her higher education and repaying the loan?

SENATOR LaVALLE: That is a criteria that is in HESC regulation. So that is something that is part of existing regs.

ACTING PRESIDENT GRIFFO: Senator Stavisky.

SENATOR LaVALLE: HESC is going make that determination, Senator.

SENATOR STAVISKY: Will the Senator continue to yield.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR STAVISKY: In Part D -- and I'm going to go back to some of the other parts, but in Part D you talk about the prepaid tuition savings program, the 529, which I believe

has a different startup date where you can enroll the child at birth.

You're waiting until age 5. Is there a reason for that?

SENATOR LaVALLE: The answer is, and it's clear in the legislation, that it is at age 5, between age 5 and age 13. So that this culminates in a way that the payments would be made prior to the student enrolling in a State University or City University program.

SENATOR STAVISKY: Will the Senator continue to yield.

SENATOR LaVALLE: Yes.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR STAVISKY: What about the private colleges?

SENATOR LaVALLE: Private colleges, because each private college has a different tuition level, what would happen, under this, at the end of when the benefactor, parent, whoever, is setting that money aside, the individual would at that time pull the money out and redirect it and use it for a private college tuition.

ACTING PRESIDENT GRIFFO: Senator Stavisky.

SENATOR STAVISKY: Will the Senator continue to yield.

SENATOR LaVALLE: Yes.

SENATOR STAVISKY In Section D on page 14 you talk about New York State private schools. Does this include for-profit or proprietary colleges?

SENATOR LaVALLE: The answer is yes.

SENATOR STAVISKY: What about religious institutions?

SENATOR LaVALLE: Any school that they go to.

SENATOR STAVISKY: Any school?

SENATOR LaVALLE: Yes.

Senator, if we go back to your earlier question, under the approved higher education that is governed by the State Education Department.

SENATOR STAVISKY: If the Senator will continue to yield.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR STAVISKY: That's the definition that we used for the so-called rabbinical TAP not otherwise covered. Would they be included in this provision?

SENATOR LaVALLE: I don't know. I don't know the answer.

SENATOR STAVISKY: That's why I asked the question.

Will the Senator continue to yield?

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR STAVISKY: Can you tell us what the difference is between the linked-loan deposit program and New York HELP? Which is, as you know, the program besides the linked-loan deposit program.

SENATOR LaVALLE: I would.

As a matter of fact, and you may have even been a cosponsor on the HELP program that we introduced, I introduced in 2008, 2007. Governor Paterson thought it was such a great idea, he made it a gubernatorial program bill.

One of the problems that we had with that, and it's unfortunate, that in the last

two years, through HESC -- so in other words, this was government-run, in a sense -- we have had only 750 or less students apply for this program.

So what we're doing with the linked deposit, the student linked deposit, is we have come on the idea that we have used in economic development, and we're making an investment of $100 million to ensure that low-interest loans are available. As I said, just about halved of what they would normally be. The median average is 6.67; we would bring that down to 3.67.

And we're using the private marketplace, where our taxpayers are not liable for any default on that loan. I think that's a critically important point.

SENATOR STAVISKY: Will the Senator continue to yield?

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR STAVISKY: Is there a guarantor to that program?

SENATOR LaVALLE: The bank. The bank.

SENATOR STAVISKY: Oh, the bank.

SENATOR LaVALLE: Yeah. What we believe will happen is that we will set up a competitiveness, that those banks who want to be the most competitive will get into this program.

So what we've done here, using the hundred million, is we're making an investment. As we did with the linked deposit for economic development, we're using that here. Just think what the students or family will do when we bring down and make their student loan affordable. We're hoping that they will pump that money into the economy, as they most likely will do.

SENATOR STAVISKY: Let me rephrase my question, if the Senator will yield.

If the bank defaults, there's no guarantor to that money. Well, presumably the federal government will step in. But nevertheless, there still is no guarantor to that investment.

SENATOR LaVALLE: Well, I -- I mean, banks defaulting -- I mean, I don't know the Frank-Dodd and all of that and all the regulations. But the chances of that happening really are remote.

But we are making an investment in a loan to bring down the interest rate. The bank is involved in that transaction, and I believe it's the bank that ultimately is on the hook if they go under.

ACTING PRESIDENT GRIFFO: Senator Stavisky.

SENATOR STAVISKY: Will the Senator continue to yield.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR STAVISKY: If an individual takes out a loan on a car and is unable to make the payments, then the car can be taken as collateral. But there is no collateral in this situation. That's really the question that I'm asking.

SENATOR LaVALLE: Well, one of the things that we're doing is that New York State -- and we've done the same thing. This is not a new template. We've taken the economic development template, and we're applying it to student loans.

The State of New York most likely, and those people that want to want to be competitive are -- New York is not going to make

an investment in that bank if there is any -- if they're shaky. So we're going to make investments in good banks, in good banks. So I think that's the answer.

ACTING PRESIDENT GRIFFO: Senator Stavisky.

SENATOR STAVISKY: If the Senator will continue to yield.

SENATOR LaVALLE: Yes.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR STAVISKY: There are similar programs, prepaid tuition programs in other states such as Alabama, Colorado, Kentucky, New Mexico, Tennessee, et cetera.

What has been their -- are you familiar with their experience?

SENATOR LaVALLE: I'm not. Because -- the answer is I'm not. But New York is different than many other states.

As I had indicated to you before, and I know you know this, that this legislation is not new. We've talked about prepaid tuition legislation back I don't know how many years. This I believe is the right time for that. And

we have taken past legislation and I believe made it relevant to 2012 and the circumstances that we're in.

But as you know, and I say this regardless of the legislation, I think it's good to look at what's happening around the country or in the federal government, but New York is such a different, different state. So -- yeah.

ACTING PRESIDENT GRIFFO: Senator Stavisky.

SENATOR STAVISKY: If the Senator will yield.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR LaVALLE: Yes. Have we gotten to 20 questions yet?

ACTING PRESIDENT GRIFFO: Senator LaValle -- Senator LaValle.

Senator Stavisky, would you pose your question, please?

SENATOR STAVISKY: Yes. If the federal government allows for the expansion of the 529 programs to include prepaid tuition, why do we need a new program? If it's already in existence.

SENATOR LaVALLE: As you well know, the 529 program is entirely different than this. Because in the 529 program we're making investments in equities or a combination of things.

Here, through the Comptroller and Chancellor of the State University, we are establishing a fund that will prepay tuition and we know at the end of this we have a -- let me say a guesstimate that parents and students will save about $27,000 on this -- 27 percent. Twenty-seven percent.

SENATOR STAVISKY: If the Senator will continue to yield.

SENATOR LaVALLE: Yes.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR STAVISKY: What will happen to the existing 529 programs?

SENATOR LaVALLE: I'm sorry?

SENATOR STAVISKY: What will happen to the existing 529 programs?

SENATOR LaVALLE: They'll continue.

SENATOR STAVISKY: They'll still

continue?

SENATOR LaVALLE: Yeah, absolutely.

You know, quite honestly, Senator, because the stock market goes up and down, a lot of the allure that was -- when we passed that many, many years ago is not there. People don't have the confidence in the 529 programs.

That's why this is a more focused one that I believe people will take to.

SENATOR STAVISKY: I thank the Senator. On the bill.

ACTING PRESIDENT GRIFFO: Senator Stavisky on the bill.

SENATOR STAVISKY: Thank you, Senator LaValle, for responding to my questions.

A couple of comments.

For one, reports by the Federal Reserve Bank of New York and the United States Department of Education reveal that students are more in debt today than ever before. And I almost would have preferred increasing the TAP to this approach, because it is more equalizing.

Secondly, the answer to the question of the experience in other states is

that many of them are closed to new entrants or are closed, period. It has not worked as well as we would hope in other states. But then again, Alabama fortunately is not like New York.

A couple of other quick points. I'm troubled by the cost and how we're going to make up the revenue.

But lastly, I remember a prepaid tuition program going back probably 25 years or so that was put forth by then-State Senator Malcolm Wilson. He was the sponsor of a prepaid tuition legislation very similar to this. The problem is that they couldn't get the banks to offer the programs. There were very few banks that were offering it. And as a result, it was not successful.

But having said that, I'm going to vote for this bill because I think it sends the right message that student debt and student loans are indebting students and hurting their future. And for that reason.

And I thank Senator LaValle for responding, and I hope some of the issues that I have raised will be incorporated in an amended version.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Stavisky.

Senator Rivera.

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

ACTING PRESIDENT GRIFFO: Senator Rivera on the bill.

SENATOR RIVERA: Thank you, Mr. President.

As I have spoken many times on the floor of the Senate, I've been a college professor for about 12 years. I've been always committed to higher education. One of the committees that I asked for specifically when I got to the Senate was to make sure that I was part of the conversation about making higher education more accessible and certainly more affordable.

My district has less than 10 percent of its population that has a college degree. And most of the folks in my district are people of color, who are certainly having issues with affordability.

And which is why I have to say that

I am sincerely disappointed that we are having this conversation on the floor. Don't get me wrong, I am very happy whenever we are having a conversation of substance on the floor. But I'm sincerely disappointed because just thinking a couple of weeks ago at the conversation that we had in committee, at length, more than once about issues of cheating, where there was a bill to be considered to address the issues of cheating in the College Board Exam or higher education access, the SATs, et cetera.

And we had a very productive conversation, much like this -- except we didn't have the president where we had to ask whether they would yield or not -- nothing against you, Mr. President.

But in all seriousness, it seems something as serious as affordability, something as serious as providing higher education access to students all across the state, it seems -- I am disappointed that we are not having a longer discussion about this. I am disappointed that we are not having a public hearing.

It is obvious just from the brief conversation that Senator LaValle and Senator

Stavisky had here on the floor that there's many issues that still need to be resolved and looked at more closely. And I have never doubted Senator LaValle's commitment to higher education and to accessibility.

Which is again why I'm severely disappointed that we're having this conversation here and not in the Finance Committee. We should mention that there's $269 million that this is going to cost. Now, as I've stated in the past, I believe that certain things are a good investment of state money, and certainly higher education is one of them.

But we should be talking about it in the Finance Committee, and we're not. We should be talking about the details of this in the Higher Education Committee, and we are not. I'm disappointed in that.

The bill as it is I believe is a good piece of legislation, although I do think it needs to be tweaked. I'll be voting in the affirmative, but disappointed that we didn't have a longer conversation in committee.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank

you, Senator Rivera.

Any other Senator wishing to be heard?

Senator Krueger.

SENATOR KRUEGER: Thank you, Mr. President.

I appreciate the lengthy back-and-forth between my colleagues Senator Stavisky and Senator LaValle.

I have a couple of issues with the bill, the biggest one being it's estimated to cost close to $279 million annual when it's put into effect. And we're not doing it within the context of the budget. So I suppose for the remainder of this fiscal year, the cost of the financial plan is not significant. But to each and every year afterwards, I don't know, $270 million is real money to me. I don't know about anyone else here.

And so I really do think it should be discussed in the context of the budget and what in the state we're going to choose not to pay for or how we're going to get additional revenue to pay for this.

Now, having said that, I'm a big

believer in quality college education. But I'm also concerned that this bill doesn't address what the Federal Reserve Bank of New York and U.S. Department of Education and any number of other national reports have shown, very recently, that people are owing more on student loans than anything else in this country, more even than on credit cards. And the rate at which cost of college is going up is completely disproportional to the wages that people completing college are actually able to earn in the workforce.

So I don't see this bill decreasing the cost of college. I don't see this bill decreasing the amount of money students will owe. It is a model for them to be able to get more student loans.

And I have to say I like very much the idea of being able to prepay for college. That section I think is very rational.

What I wish this bill had was just some more money going to TAP. Because TAP pays for money for low-income students to go to college in New York. It's a very targeted, very successful model.

And you know, most states in the

country pay for their public education, their state schools. We don't pay that much for our state schools, but we have TAP. But we've let it drop in value in relationship to the cost of going to college.

So we tell students, take out more student loans. We'll make it easier for them to take out student loans, we may even give tax deductions and credits to help them -- assuming their family actually earned enough money to be able to use tax deductions and credits, which means they're not very poor families. But we're not just helping to pay for college for the neediest New Yorkers and supporting our public universities.

So some problems; not enough for me to vote no. Hope to work with the sponsor and the other house and the Governor to see whether, when this becomes law, it can be a little more on the helping low-income students be able to afford go to college, a little less on the, oh, yeah, just take out more debt, just owe more later. Even if it's at a lower interest rate.

But with that, Mr. President, I will vote yes, with concerns.

Thank you.

ACTING PRESIDENT GRIFFO: Senator Espaillat.

SENATOR ESPAILLAT: Thank you, Mr. President. I want to explain my vote.

As my colleague just explained, student loan debt has now surpassed credit card debt. It has become a national crisis. In fact, many feel that this is our next foreclosure crisis.

Students, when they leave undergraduate school, average a debt of $26,000. And if they go to graduate school, that debt will be a lot higher. Many of them will take 10 years to pay that, even longer. By the time they finish paying their college debt, very often they have to kick in for their kids' debt. And they could be perpetually in debt.

So I commend the sponsor on this bill. It's a move in the right direction. I think that we have to take action to address this crisis. In fact, paying a low interest rate on your student loan is very helpful to struggling families. Perhaps having a tremendous prepaid program will help them in the future. And

certainly the tax credit initiative is one that will help assist working families in the middle of this crisis.

We have to do something. This is an emergency. This is a crisis. And I think this is a smart first step in it, and I will be voting yes on this bill.

ACTING PRESIDENT GRIFFO: Senator Diaz.

SENATOR DIAZ: I just want to join my colleague Senator Espaillat in congratulating Senator LaValle for this bill.

I always say that I don't care who is the sponsor of the bill, if it's a Democrat, if it's a Republican. As long as that bill is good for people in my community, parents in my community, students in my community, I'm for it.

And, Senator LaValle, I will not take into consideration that you are a Republican, but I do appreciate that you are putting this bill forward and that you are looking out for people in my community and in every other minority community, to help them, with this bill.

So congratulations. Thank you very much. And I'm pretty sure, I am pretty sure that Doña Juana and Don Pepe in my barrio will join me in congratulating you.

Thank you.

ACTING PRESIDENT GRIFFO: Seeing and hearing no other Senator wishing to be heard, debate is closed.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: the Secretary will announce the results.

THE SECRETARY: Ayes, 56.

Absent from voting: Senator Huntley.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator LaValle, that completes the controversial reading of the calendar.

There is some business before the desk.

SENATOR LaVALLE: Yes. If we can go back to motions and resolutions.

ACTING PRESIDENT GRIFFO: On motions and resolutions.

SENATOR LaVALLE: Mr. President, on behalf of Senator Seward, on page number 39 I offer the following amendments to Calendar Number 827, Senate Print Number 6578, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT GRIFFO: The amendments are received, and the bill shall retain its place on third reading.

SENATOR LaVALLE: Mr. President, I wish to call up Calendar Number 238, Assembly Print Number 8414A.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 238, by Member of the Assembly Paulin, Assembly Print 8414A, an act to amend the Public Health Law.

SENATOR LaVALLE: I now move to

reconsider the vote by which this Assembly bill was substituted for Senator Gallivan's bill, Senate Print Number 6069A, on April the 25th.

ACTING PRESIDENT GRIFFO: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

SENATOR LaVALLE: I now move that Assembly Bill Number 8414A be recommitted to the Committee on Health and that Senator Gallivan's Senate bill be restored to the order of the Third Reading Calendar.

ACTING PRESIDENT GRIFFO: So ordered.

SENATOR LaVALLE: Mr. President, is there any other business at the desk?

ACTING PRESIDENT GRIFFO: There is no further business.

SENATOR LaVALLE: There being no further business before the Senate, I move that we adjourn until Tuesday, June the 5th, at 3:00 p.m.

ACTING PRESIDENT GRIFFO: On motion, the Senate stands adjourned until

Tuesday, June 5th, at 3:00 p.m.

Senate adjourned.

(Whereupon, at 5:30 p.m., the Senate adjourned.)