

1 NEW YORK STATE SENATE

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4 THE STENOGRAPHIC RECORD

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9 ALBANY, NEW YORK

10 May 4, 2021

11 3:29 p.m.

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13
14 REGULAR SESSION

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18 SENATOR JAMAAL T. BAILEY, Acting President

19 ALEJANDRA N. PAULINO, ESQ., Secretary

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

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

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

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

8 ACTING PRESIDENT BAILEY: In the
9 absence of clergy, let us bow our heads in a
10 moment of silent reflection and/or prayer.

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

13 ACTING PRESIDENT BAILEY: The
14 reading of the Journal.

15 THE SECRETARY: In Senate, Monday,
16 May 3, 2021, the Senate met pursuant to
17 adjournment. The Journal of Sunday, May 2, 2021,
18 was read and approved. On motion, Senate
19 adjourned.

20 ACTING PRESIDENT BAILEY: Without
21 objection, the Journal stands approved as read.

22 Presentation of petitions.

23 Messages from the Assembly.

24 The Secretary will read.

25 THE SECRETARY: Senator Rivera

1 moves to discharge, from the Committee on Health,
2 Assembly Bill Number 108B and substitute it for
3 the identical Senate Bill 1168A, Third Reading
4 Calendar 729.

5 ACTING PRESIDENT BAILEY: The
6 substitution is so ordered.

7 THE SECRETARY: Senator Rivera
8 moves to discharge, from the Committee on Health,
9 Assembly Bill Number 7119 and substitute it for
10 the identical Senate Bill 6346, Third Reading
11 Calendar 733.

12 ACTING PRESIDENT BAILEY: The
13 substitution is so ordered.

14 Messages from the Governor.

15 Reports of standing committees.

16 Reports of select committees.

17 Communications and reports from
18 state officers.

19 Motions and resolutions.

20 Senator Gianaris.

21 SENATOR GIANARIS: Mr. President,
22 amendments are offered to the following
23 Third Reading Calendar bills:

24 On behalf of Senator Kaplan,
25 page 11, Calendar 151, Senate Print 701;

1 Also by Senator Kaplan, page 14,
2 Calendar Number 277, Senate Print 790;

3 And Senator Mannion, page 38,
4 Calendar 756, Senate Print 5405.

5 ACTING PRESIDENT BAILEY: The
6 amendments are received, and the bills shall
7 retain their place on the Third Reading Calendar.

8 SENATOR GIANARIS: Move to adopt
9 the Resolution Calendar, with the exception of
10 Resolutions 679, 682 and 713.

11 ACTING PRESIDENT BAILEY: All in
12 favor of adopting the Resolution Calendar, with
13 the exception of Resolutions 679, 682, and 713,
14 signify by saying aye.

15 (Response of "Aye.")

16 ACTING PRESIDENT BAILEY: Opposed,
17 nay.

18 (No response.)

19 ACTING PRESIDENT BAILEY: The
20 Resolution Calendar is adopted.

21 Senator Gianaris.

22 SENATOR GIANARIS: Can we now take
23 up Resolution 679, by Senator Kennedy, read its
24 title, and recognize Senator Kennedy.

25 ACTING PRESIDENT BAILEY: The

1 Secretary will read.

2 THE SECRETARY: Senate Resolution
3 679, by Senator Kennedy, mourning the death of
4 Bruce Kogan, distinguished citizen and devoted
5 member of his community.

6 ACTING PRESIDENT BAILEY: Senator
7 Kennedy on the resolution.

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

10 I rise today to honor the life of
11 Bruce Kogan, a proud Western New Yorker and a
12 devoted voice for the LGBTQ community.

13 Bruce was born in Brooklyn,
14 New York, and later moved to Buffalo in the 1990s
15 once he retired.

16 In the Queen City, Bruce became a
17 vital part of Stonewall, a Western New York
18 organization that advocates for LGBTQ individuals
19 and families. He was a proud and powerful voice
20 in the fight for marriage equality right here in
21 the great State of New York, as well as fighting
22 for the historic passage of the Gender Expression
23 Non-Discrimination Act, the ban on conversion
24 therapy, as well as past victories like the
25 Sexual Orientation Non-Discrimination Act and

1 many others.

2 For every major milestone we've
3 marked in the fight for equality and justice for
4 all communities here in New York, Bruce Kogan was
5 there, because he believed in dedicating his life
6 to public service and he believed in creating a
7 better, more tolerant world for everyone.

8 Bruce was passionate about helping
9 LGBTQ crime victims and spent his career at the
10 New York State Crime Victims Board, never
11 stopping in his pursuit of justice on behalf of
12 those who had been victimized.

13 That concern for survivors of hate
14 crimes continued until his final days, with his
15 strong advocacy for the abolition of the
16 so-called gay panic defense. I'm so glad
17 personally, Mr. President, that Bruce Kogan was
18 here to see that here to fruition.

19 Beyond his advocacy, Bruce was a
20 true friend to countless Western New Yorkers. I
21 think I can speak for many of the local
22 colleagues when I say that his calls to my office
23 were truly a highlight of the day for my staff
24 and myself, bringing conversation of unvarnished
25 advocacy, friendly conversation, and of course a

1 little bit of gossip from the neighborhood and
2 the community, what was happening.

3 Bruce Kogan leaves behind a legacy
4 of compassion and advocacy which will endure the
5 passage of time and will remain as a comforting
6 memory to all that he served and all that he
7 befriended. The lives of every single woman, man
8 and child in our state and in our community is
9 better and more equal because of Bruce Kogan's
10 unwavering commitment and his life's work.

11 We express our deepest condolences,
12 Mr. President, to his family, to his friends and
13 all that knew him, and we thank them for sharing
14 him with all of us. May he rest in peace.

15 Thank you, Mr. President.

16 ACTING PRESIDENT BAILEY: Thank
17 you, Senator Kennedy.

18 Senator Ryan on the resolution.

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

21 I applaud Senator Kennedy for
22 bringing this resolution forward today.

23 I'll just talk for a minute,
24 Mr. President, about Bruce Kogan. He was such an
25 indescribable, unique person. Start with, who

1 the heck moves to Buffalo to retire?

2 So he moves to Buffalo to retire
3 after spending his career as a state employee,
4 and he just quickly enmeshes himself into the
5 community. Even though he never lost his
6 Brooklyn accent, people were still surprised to
7 hear that he didn't spend his whole life in
8 Buffalo because he was so deeply enmeshed in the
9 community.

10 My kids have known Bruce since they
11 were babies, and he was just a quiet guy who
12 always had a smile on his face. But don't let
13 that fool you, because he was a staunch advocate
14 for the LGBTQ community. But he did it with a
15 smile, and he did it with a kind voice. But he
16 never stopped. He was one of those guys if you
17 underestimated him, you know, that was at your
18 own peril.

19 I never heard him speak in ill will
20 about anybody. Even people who were vehemently
21 against him because of what he was, he still
22 didn't speak in ill will. And he endeavored
23 always to make people talk to him. People who
24 would reject him because of who he was, he wanted
25 to sit with them. Because he would start the

1 conversation by asking how they were. He would
2 talk about baseball. He would say: "I
3 understand you Bills fans because I'm a Mets fan.
4 We've got a lot in common."

5 So people couldn't escape a meeting
6 with him without recognizing his humanity and the
7 fact that he was a person with goals and loves
8 and aspirations, and it really helped change
9 people's minds.

10 And, you know, I wish I could
11 describe more accurately just a special sauce to
12 make up Bruce Kogan. He had a sense of humor.
13 You know, he said, "I've been doing this LGBT
14 stuff since I was born, because that's what I was
15 born as."

16 He said, "When we first started
17 working on it, it was kind of an L and G issue."
18 He goes, "Then we added the B, and now we added
19 the T, and now we added the Q." He goes, "But I
20 was there from when we only had two initials."

21 And Bruce was a person who was
22 generous in spirit but also generous in action.
23 You know, he lived on a pension from his time as
24 a state employee, and I'm sure at the end that he
25 had very little. But the reason he had very

1 little is because he gave to everybody who needed
2 it.

3 I mean, he was involved in every end
4 of the community. You know, he would drag me to
5 lunches with gay seniors, you know, and he would
6 explain how being a gay person in your eighties,
7 well, you often ended up alone because society
8 wouldn't allow you to form family bonds. So, he
9 said, we can't forget people living alone in
10 their eighties; we've got to make sure there's
11 programs for them.

12 Now the county has a meals program
13 just dedicated mostly to gay seniors.

14 And then he would start talking
15 about the problems faced by, you know, young gay
16 couples with children. And the next thing you
17 know, he's up there with his wallet giving more
18 donations.

19 And then he wanted to talk to you
20 about the problems facing gay youth, especially
21 homeless gay youth. And he just never stopped.

22 But if I have a memory of Bruce,
23 it's him sitting at a neighborhood picnic in a
24 chair, with his Mets cap on, and just a big smile
25 on his face. And people would come up and talk

1 to him, and he'd dispense a little wisdom, he
2 would talk about the Mets, and then the next
3 person would come up.

4 So Bruce was somebody who was, you
5 know, a proud Buffalonian by adoption. We were
6 so happy to have him in our community. I will
7 miss him, I will miss his sunny disposition, his
8 special way of advocacy. But I'll mostly miss
9 him for what he taught me in the world. And so
10 today I'm very happy to have stood up to honor
11 the life and the legacy of Bruce Kogan.

12 Thank you very much, Mr. President.

13 ACTING PRESIDENT BAILEY: The
14 question is on the resolution.

15 All in favor signify by saying aye.

16 (Response of "Aye.")

17 ACTING PRESIDENT BAILEY: Opposed?

18 (No response.)

19 ACTING PRESIDENT BAILEY: The
20 resolution is adopted.

21 Senator Gianaris.

22 SENATOR GIANARIS: Thank you,
23 Mr. President. We're now going to move to
24 Resolution 682, by Senator May, read its title,
25 and recognize Senator May.

1 ACTING PRESIDENT BAILEY: The
2 Secretary will read.

3 THE SECRETARY: Senate Resolution
4 682, by Senator May, commemorating the
5 75th Anniversary of Le Moyne College.

6 ACTING PRESIDENT BAILEY: Senator
7 May on the resolution.

8 SENATOR MAY: Thank you,
9 Mr. President. I am pleased to offer this
10 resolution, together with my colleague
11 Senator Mannion, in honor of Le Moyne College's
12 75th anniversary.

13 Le Moyne is the reason I live in
14 Syracuse. My husband started working teaching
15 there in 1994. At the time I had never heard of
16 Le Moyne, and I couldn't have found Syracuse on a
17 map. But we quickly realized that this was an
18 extraordinary institution that makes its city,
19 its region, and the world a better place.

20 Le Moyne was founded in the Jesuit
21 tradition, which means it is not only a place of
22 serious inquiry where students' minds get a
23 rigorous education, but also a place that values
24 service and the spiritual and emotional
25 development of its students.

1 Its world-class faculty engages
2 students in research and practical experiences
3 that contribute to the fact that nearly all
4 graduates find jobs in their chosen fields.

5 There are many other colleges that
6 could say the same, but Le Moyne does more than
7 this. It recently started a unique program
8 called Manresa that is aimed at complementing the
9 regular coursework with classes and experiences
10 aimed at developing a sense of vocation, of
11 purpose in life.

12 Le Moyne also goes farther than most
13 institutions in making it possible for students
14 of limited means, often the first in their
15 generation to attend college, not only to attend
16 but to thrive.

17 Le Moyne's motto is "Where greatness
18 meets goodness." I want to mention a few people
19 at Le Moyne who exemplify this motto.

20 Andrew Lunetta graduated from
21 Le Moyne in 2012. While in college, he went on a
22 service trip to Dominica and got involved in
23 helping homeless residents of that Caribbean
24 island. Back in Syracuse, he started a project
25 to refurbish old bicycles to give to homeless

1 men.

2 And after graduation, he founded a
3 nonprofit called A Tiny Home for Good that builds
4 tiny homes for homeless veterans and other
5 homeless people so that they can finally have the
6 home they want. His work is literally changing
7 the landscape of our city for the better.

8 Jeanette Epps graduated from
9 Le Moyne in 1992 with a degree in physics. She
10 went on to get a Ph.D. in aerospace engineering,
11 and in 2009 she was chosen as one of nine members
12 of NASA's 20th class of astronauts.

13 She is slated to go to the
14 International Space Station this year as the
15 first black woman at an international space
16 station.

17 And finally, I want to acknowledge
18 Le Moyne's president, Linda LeMura, the first
19 female lay woman to lead a Jesuit institution.

20 Linda brings boundless energy and
21 passion to the job -- as I can attest, because
22 she has me on speed dial and calls me about every
23 issue that she thinks is important to the
24 institution. But with that boundless passion,
25 she inspires the admiration and affection of all

1 who know her.

2 Congratulations to Le Moyne on
3 75 wonderful years, and here's to 75 more.

4 Thank you.

5 ACTING PRESIDENT BAILEY: Thank
6 you, Senator May.

7 Senator Mannion on the resolution.

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

10 And thank you to Senator May for
11 allowing me to join with her in acknowledging
12 75 years of Le Moyne College.

13 "But Love the Truth and Peace."
14 That is the founding ideal of Le Moyne College,
15 and it is as relevant now as it was 75 years ago
16 when the Jesuits established a new college in
17 Central New York to provide a well-rounded
18 education.

19 Guided by that principle and their
20 faith and their values, a pillar of Central
21 New York has grown -- a beacon on the heights
22 that attracts the best and the brightest. It's
23 where for generations the local kids can get a
24 degree and compete at the next level.

25 And while Le Moyne prepares its

1 students for the world, it also helps keep many
2 close to home. Le Moyne alumni have reached the
3 top of their fields in New York, across the
4 country, and around the world, from politicians
5 to pollsters to a baseball commissioner. And
6 glass-shattering women, including current
7 President Linda LeMura who, in keeping a watchful
8 eye over her students, moved into an off-campus
9 community to make sure that they were following
10 the correct guidelines.

11 Also there are stars in business and
12 industry -- actual stars, as Senator May
13 referenced. I'm referring, of course, to
14 Le Moyne alumna and current NASA astronaut
15 Jeanette Epps.

16 But my favorite alumni include a
17 couple of future alumni from Westvale, New York.
18 My wife, Jennifer Brady Mannion, Class of 1995,
19 an English major, education minor, who played
20 four years of intercollegiate tennis and reminds
21 me frequently that the women's tennis team had
22 the highest GPA of any team at Le Moyne. We were
23 married almost 24 years ago in the chapel on
24 campus.

25 I also have to acknowledge a young

1 man, Jack Mannion, Class of 2021, business
2 analytics major, and a young woman,
3 Quinn Mannion, Class of 2024, a biology major.
4 Both have had their parents entrust the College
5 of Le Moyne with helping them achieve their big
6 dreams and their big future and their limitless
7 potential.

8 It's my honor to have Le Moyne
9 College in the 50th Senate District, and it is
10 all of our honor to have such a fine institution
11 of higher learning in our state.

12 Have faith on the Heights -- someday
13 soon Dolphy Day will be back. Fins up!

14 Thank you, Mr. President.

15 ACTING PRESIDENT BAILEY: The
16 question is on the resolution.

17 All in favor signify by saying aye.

18 (Response of "Aye.")

19 ACTING PRESIDENT BAILEY: Opposed?

20 (No response.)

21 ACTING PRESIDENT BAILEY: The
22 resolution is adopted.

23 Senator Gianaris.

24 SENATOR GIANARIS: And now,
25 Mr. President, Resolution 713, also by

1 Senator May. Please read its title and recognize
2 Senator May.

3 ACTING PRESIDENT BAILEY: The
4 Secretary will read.

5 THE SECRETARY: Senate Resolution
6 713, by Senator May, memorializing Governor
7 Andrew M. Cuomo to proclaim May 9-15, 2021, as
8 Skilled Nursing Care Week in the State of
9 New York.

10 ACTING PRESIDENT BAILEY: Senator
11 May on the resolution.

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

14 Everyone is aware of the tragic year
15 that we have seen in our skilled nursing
16 facilities here in New York and around the
17 country. If there's a silver lining to the
18 pandemic, it is that we can no longer ignore the
19 critical work that these facilities do year in
20 and year out.

21 Skilled nursing centers provide
22 rehabilitation for people recovering from surgery
23 and acute care, or they become homes for
24 residents who are in the last years of their
25 lives. Families depend on them to provide not

1 just medical care but compassion, patience,
2 understanding, even love. The staff care not
3 only for their residents but for concerned
4 families and loved ones.

5 In the context of the pandemic, they
6 have also been dealing with the demands and costs
7 of infection control, with the physical and
8 emotional toll of losing residents and staff to
9 the disease, with ever-changing guidance from the
10 federal and state governments. Through all that,
11 they have gotten the vast majority of their
12 residents vaccinated and continue to provide the
13 day-to-day care that is so important.

14 The theme of this National Skilled
15 Nursing Care Week is "Together through the
16 seasons." It's a time to recognize the good work
17 of these facilities and, we hope, to celebrate
18 the fact that families are increasingly able to
19 be together with their loved ones as it becomes
20 easier to visit nursing homes.

21 I thank my colleagues for bringing
22 this resolution forward to recognize skilled
23 nursing homes, and I vote in favor of the
24 resolution.

25 ACTING PRESIDENT BAILEY: Senator

1 Serino on the resolution.

2 SENATOR SERINO: Thank you,
3 Mr. President, and very nice to see you.

4 I rise today to honor the thousands
5 of New Yorkers who have dedicated their lives to
6 protecting and caring for some of our most
7 vulnerable neighbors.

8 Those who choose the path of skilled
9 nursing care do so with compassion and a
10 dedication to their patients that is often
11 unparalleled, and they deserve our thanks and our
12 gratitude.

13 Throughout the COVID-19 pandemic,
14 many of those working in New York's skilled
15 nursing care centers have been true unsung
16 heroes, often going far above and beyond the call
17 of duty to protect the residents that they serve.

18 In my community especially, I have
19 seen firsthand time and time again all the ways
20 that they work to bring a vibrancy to their
21 facilities and to empower their residents to age
22 with dignity, often becoming more like family
23 than staff.

24 However, too often during the COVID
25 crisis, these New Yorkers have not gotten the

1 thanks that they deserve. They've been
2 scapegoated by a state whose own policies put
3 themselves and their residents directly in harm's
4 way, and their needs too often went overlooked.

5 As we look to rebuild in the wake of
6 the pandemic, may we honor their work and
7 dedication as caregivers far beyond this one
8 week, by advocating for the policies and the
9 resources that they need to provide the best
10 possible care for the residents they so
11 selflessly serve.

12 Thank you, Mr. President.

13 ACTING PRESIDENT BAILEY: The
14 question is on the resolution.

15 All in favor signify by saying aye.

16 (Response of "Aye.")

17 ACTING PRESIDENT BAILEY: Opposed?

18 (No response.)

19 ACTING PRESIDENT BAILEY: The
20 resolution is adopted.

21 Senator Gianaris.

22 SENATOR GIANARIS: Mr. President,
23 at the request of the sponsors, the resolutions
24 we just took up are open for cosponsorship.

25 ACTING PRESIDENT BAILEY: The

1 resolutions are open for cosponsorship. Should
2 you choose not to be a cosponsor of the
3 resolutions, please notify the desk.

4 Senator Gianaris.

5 SENATOR GIANARIS: There will be an
6 immediate meeting of the Rules Committee in
7 Room 332.

8 ACTING PRESIDENT BAILEY: There
9 will be an immediate meeting of the
10 Rules Committee in Room 332.

11 SENATOR GIANARIS: The Senate
12 stands at ease.

13 ACTING PRESIDENT BAILEY: The
14 Senate will stand at ease.

15 (Whereupon, the Senate stood at ease
16 at 3:50 p.m.)

17 (Whereupon, the Senate reconvened at
18 3:56 p.m.)

19 ACTING PRESIDENT BAILEY: The
20 Senate will return to order.

21 Senator Gianaris.

22 SENATOR GIANARIS: Mr. President,
23 let's take up the Rules Committee report that is
24 at the desk.

25 ACTING PRESIDENT BAILEY: The

1 Secretary will read.

2 THE SECRETARY: Senator
3 Stewart-Cousins, from the Committee on Rules,
4 reports the following bill:

5 Senate Print 6481, by
6 Senator Skoufis, an act to clarify qualifications
7 for certain supplemental costs associated with an
8 emergency rental assistance program.

9 The bill is reported direct to third
10 reading.

11 SENATOR GIANARIS: Move to accept
12 the report of the Rules Committee.

13 ACTING PRESIDENT BAILEY: All those
14 in favor of accepting the report of the
15 Rules Committee signify by saying aye.

16 (Response of "Aye.")

17 ACTING PRESIDENT BAILEY: Opposed,
18 nay.

19 (No response.)

20 ACTING PRESIDENT BAILEY: The Rules
21 Committee report is accepted.

22 Senator Gianaris.

23 SENATOR GIANARIS: Take up the
24 calendar, please.

25 ACTING PRESIDENT BAILEY: The

1 Secretary will read.

2 THE SECRETARY: Calendar Number
3 288, Senate Print 2675, by Senator Gallivan, an
4 act to amend the General Municipal Law.

5 ACTING PRESIDENT BAILEY: Read the
6 last section.

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

9 ACTING PRESIDENT BAILEY: Call the
10 roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT BAILEY: Announce
13 the results.

14 THE SECRETARY: Ayes, 63.

15 ACTING PRESIDENT BAILEY: The bill
16 is passed.

17 THE SECRETARY: Calendar Number
18 335, Senate Print 2936, by Senator Kaminsky, an
19 act to amend the Environmental Conservation Law.

20 ACTING PRESIDENT BAILEY: Read the
21 last section.

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

24 ACTING PRESIDENT BAILEY: Call the
25 roll.

1 (The Secretary called the roll.)

2 ACTING PRESIDENT BAILEY: Announce
3 the results.

4 THE SECRETARY: In relation to
5 Calendar 335, those Senators voting in the
6 negative are Senators Akshar and Ritchie.

7 Ayes, 61. Nays, 2.

8 ACTING PRESIDENT BAILEY: The bill
9 is passed.

10 THE SECRETARY: Calendar Number
11 400, Senate Print 64, by Senator Persaud, an act
12 to amend the Social Services Law.

13 ACTING PRESIDENT BAILEY: Read the
14 last section.

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

17 ACTING PRESIDENT BAILEY: Call the
18 roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT BAILEY: Announce
21 the results.

22 THE SECRETARY: In relation to
23 Calendar 400, those Senators voting in the
24 negative are Senators Akshar, Borrello, Lanza,
25 Oberacker, O'Mara, Ritchie and Stec.

1 Ayes, 56. Nays, 7.

2 ACTING PRESIDENT BAILEY: The bill
3 is passed.

4 THE SECRETARY: Calendar Number
5 481, Senate Print 4856, by Senator
6 Reichlin-Melnick, an act to amend the
7 Insurance Law.

8 ACTING PRESIDENT BAILEY: Read the
9 last section.

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

12 ACTING PRESIDENT BAILEY: Call the
13 roll.

14 (The Secretary called the roll.)

15 ACTING PRESIDENT BAILEY: Announce
16 the results.

17 THE SECRETARY: In relation to
18 Calendar 481, voting in the negative:
19 Senator Ortt.

20 Ayes, 62. Nays, 1.

21 ACTING PRESIDENT BAILEY: The bill
22 is passed.

23 THE SECRETARY: Calendar Number
24 566, Senate Print 5402, by Senator Boyle, an act
25 in relation to authorizing Chabad of Islip

1 Township, Inc., to file an application for
2 exemption from real property taxes.

3 ACTING PRESIDENT BAILEY: Read the
4 last section.

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

7 ACTING PRESIDENT BAILEY: Call the
8 roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT BAILEY: Announce
11 the results.

12 THE SECRETARY: In relation to
13 Calendar 566, those Senators voting in the
14 negative are Senators Akshar and O'Mara.

15 Ayes, 61. Nays, 2.

16 ACTING PRESIDENT BAILEY: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 607, Senate Print 2903A, by Senator Kavanagh, an
20 act to amend the Criminal Procedure Law.

21 ACTING PRESIDENT BAILEY: Read the
22 last section.

23 THE SECRETARY: Section 2. This
24 act shall take effect on the 90th day after it
25 shall have become a law.

1 ACTING PRESIDENT BAILEY: Call the
2 roll.

3 (The Secretary called the roll.)

4 ACTING PRESIDENT BAILEY: Announce
5 the results.

6 THE SECRETARY: In relation to
7 Calendar 607, those Senators voting in the
8 negative are Senators Borrello, Helming, Lanza,
9 O'Mara, Ortt, Rath and Serino.

10 Ayes, 56. Nays, 7.

11 ACTING PRESIDENT BAILEY: The bill
12 is passed.

13 THE SECRETARY: Calendar Number
14 615, Senate Print 704A, by Senator Kaplan, an act
15 authorizing the Empire State Development
16 Corporation to develop a public awareness
17 campaign.

18 ACTING PRESIDENT BAILEY: Read the
19 last section.

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

22 ACTING PRESIDENT BAILEY: Call the
23 roll.

24 (The Secretary called the roll.)

25 ACTING PRESIDENT BAILEY: Announce

1 the results.

2 THE SECRETARY: In relation to
3 Calendar 615, voting in the negative:
4 Senator Skoufis.

5 Ayes, 62. Nays, 1.

6 ACTING PRESIDENT BAILEY: The bill
7 is passed.

8 THE SECRETARY: Calendar Number
9 639, Senate Print 5060, by Senator Kennedy, an
10 act to amend the Vehicle and Traffic Law.

11 ACTING PRESIDENT BAILEY: Read the
12 last section.

13 THE SECRETARY: Section 3. This
14 act shall take effect on the 30th day after it
15 shall have become a law.

16 ACTING PRESIDENT BAILEY: Call the
17 roll.

18 (The Secretary called the roll.)

19 ACTING PRESIDENT BAILEY: Announce
20 the results.

21 THE SECRETARY: Ayes, 63.

22 ACTING PRESIDENT BAILEY: The bill
23 is passed.

24 THE SECRETARY: Calendar Number
25 729, Assembly Print Number 108B, substituted

1 earlier by Assemblymember Gunther, an act to
2 amend the Public Health Law.

3 SENATOR LANZA: Lay it aside.

4 ACTING PRESIDENT BAILEY: Lay it
5 aside.

6 THE SECRETARY: Calendar Number
7 730, Senate Print 4532, by Senator Brouk, an act
8 to amend the Public Health Law and the
9 Insurance Law.

10 ACTING PRESIDENT BAILEY: Read the
11 last section.

12 THE SECRETARY: Section 3. This
13 act shall take effect on the 120th day after it
14 shall have become a law.

15 ACTING PRESIDENT BAILEY: Call the
16 roll.

17 (The Secretary called the roll.)

18 ACTING PRESIDENT BAILEY: Announce
19 the results.

20 THE SECRETARY: In relation to
21 Calendar 730, voting in the negative:
22 Senator Ryan.

23 Ayes, 62. Nays, 1.

24 ACTING PRESIDENT BAILEY: The bill
25 is passed.

1 THE SECRETARY: Calendar Number
2 733, Assembly Print Number 7119, substituted
3 earlier by Assemblymember Gunther, an act to
4 amend the Public Health Law.

5 SENATOR LANZA: Lay it aside.

6 ACTING PRESIDENT BAILEY: Lay it
7 aside.

8 THE SECRETARY: Calendar Number
9 737, Senate Print 4089, by Senator Hinchey, an
10 act to amend the Agriculture and Markets Law.

11 ACTING PRESIDENT BAILEY: Read the
12 last section.

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

15 ACTING PRESIDENT BAILEY: Call the
16 roll.

17 (The Secretary called the roll.)

18 ACTING PRESIDENT BAILEY: Announce
19 the results.

20 THE SECRETARY: Ayes, 63.

21 ACTING PRESIDENT BAILEY: The bill
22 is passed.

23 THE SECRETARY: Calendar Number
24 740, Senate Print 4112, by Senator Breslin, an
25 act to amend the Insurance Law.

1 ACTING PRESIDENT BAILEY: Read the
2 last section.

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

5 ACTING PRESIDENT BAILEY: Call the
6 roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 63.

9 ACTING PRESIDENT BAILEY: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 769, Senate Print 133, by Senator Mayer, an act
13 to amend the General Business Law.

14 ACTING PRESIDENT BAILEY: Read the
15 last section.

16 THE SECRETARY: Section 2. This
17 act shall take effect one year after it shall
18 have become a law.

19 ACTING PRESIDENT BAILEY: Call the
20 roll.

21 (The Secretary called the roll.)

22 ACTING PRESIDENT BAILEY: Senator
23 Mayer to explain her vote.

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

1 I want to explain my vote on this
2 important consumer protection bill, one of
3 many that this conference has brought to the
4 floor.

5 According to the Consumer Financial
6 Protection Bureau, rewards programs are among the
7 most important factors for consumers when
8 selecting a credit card. In fact, in 2019 more
9 than 60 percent of all new credit card accounts
10 were for rewards cards.

11 Unfortunately, rewards programs are
12 governed by agreements that are not mutually
13 agreed to by consumers and the companies. In
14 fact, credit card companies can unilaterally
15 close an account and basically steal your points.

16 And that's what happened to one of
17 my constituents, who had saved over 1 million
18 points, worth in excess of \$50,000, and then the
19 bank, shockingly and without notice, closed their
20 credit card and took their points. They stole
21 their points.

22 What is important to note is that
23 the bank refused to address the missing key
24 consumer protection issue, which is that they
25 will not turn over to customers the assets the

1 customer had validly earned in transacting with
2 the cards.

3 Consumers put their faith into
4 accruing points, like this constituent did, for
5 their retirement. And they are basically allowed
6 to be stolen. This bill addresses a serious
7 consumer problem that so many of our constituents
8 throughout the state have had.

9 I'm very pleased that it's passing.
10 I look forward to it passing in the Assembly as
11 well, and to restore some balance between
12 consumers and those that hold their credit cards.

13 Thank you. I vote aye.

14 ACTING PRESIDENT BAILEY: Senator
15 Mayer to be recorded in the affirmative.

16 Announce the results.

17 THE SECRETARY: Ayes, 63.

18 ACTING PRESIDENT BAILEY: The bill
19 is passed.

20 THE SECRETARY: Calendar Number
21 772, Senate Print 2819, by Senator Addabbo, an
22 act to amend the General Business Law.

23 ACTING PRESIDENT BAILEY: Read the
24 last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect on the 30th day after it
2 shall have become a law.

3 ACTING PRESIDENT BAILEY: Call the
4 roll.

5 (The Secretary called the roll.)

6 ACTING PRESIDENT BAILEY: Announce
7 the results.

8 THE SECRETARY: In relation to
9 Calendar 772, those Senators voting in the
10 negative are Senators Lanza, Oberacker and
11 Skoufis.

12 Ayes, 60. Nays, 3.

13 ACTING PRESIDENT BAILEY: The bill
14 is passed.

15 THE SECRETARY: Calendar Number
16 790, Senate Print 5475, by Senator Stavisky, an
17 act to amend the State Finance Law.

18 ACTING PRESIDENT BAILEY: Read the
19 last section.

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

22 ACTING PRESIDENT BAILEY: Call the
23 roll.

24 (The Secretary called the roll.)

25 ACTING PRESIDENT BAILEY: Announce

1 the results.

2 THE SECRETARY: Ayes, 63.

3 ACTING PRESIDENT BAILEY: The bill
4 is passed.

5 THE SECRETARY: Calendar Number
6 799, Senate Print 5046, by Senator Parker, an act
7 in relation to alternative finance investment
8 bonds.

9 ACTING PRESIDENT BAILEY: Read the
10 last section.

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

13 ACTING PRESIDENT BAILEY: Call the
14 roll.

15 (The Secretary called the roll.)

16 ACTING PRESIDENT BAILEY: Announce
17 the results.

18 THE SECRETARY: In relation to
19 Calendar 799, those Senators voting in the
20 negative are Senators Akshar, Borrello, Boyle,
21 Gallivan, Griffo, Helming, Jordan, Lanza,
22 Martucci, Mattera, Oberacker, O'Mara, Ortt,
23 Palumbo, Rath, Ritchie, Serino, Stec, Tedisco and
24 Weik.

25 Ayes, 43. Nays, 20.

1 ACTING PRESIDENT BAILEY: The bill
2 is passed.

3 THE SECRETARY: Calendar Number
4 801, Senate Print 3682, by Senator Felder, an act
5 to direct the commissioner of education to
6 examine, evaluate and make recommendations on the
7 provision of services by public school guidance
8 counselors.

9 ACTING PRESIDENT BAILEY: Read the
10 last section.

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

13 ACTING PRESIDENT BAILEY: Call the
14 roll.

15 (The Secretary called the roll.)

16 ACTING PRESIDENT BAILEY: Announce
17 the results.

18 THE SECRETARY: Ayes, 63.

19 ACTING PRESIDENT BAILEY: The bill
20 is passed.

21 THE SECRETARY: Calendar Number
22 805, Senate Print 4818, by Senator Thomas, an act
23 to amend Chapter 1017 of the Laws of 1963.

24 ACTING PRESIDENT BAILEY: Read the
25 last section.

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

3 ACTING PRESIDENT BAILEY: Call the
4 roll.

5 (The Secretary called the roll.)

6 ACTING PRESIDENT BAILEY: Announce
7 the results.

8 THE SECRETARY: Ayes, 63.

9 ACTING PRESIDENT BAILEY: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 831, Senate Print 1045, by Senator Ramos, an act
13 to amend the Labor Law.

14 ACTING PRESIDENT BAILEY: Read the
15 last section.

16 THE SECRETARY: Section 5. This
17 act shall take effect immediately.

18 ACTING PRESIDENT BAILEY: Call the
19 roll.

20 (The Secretary called the roll.)

21 ACTING PRESIDENT BAILEY: Announce
22 the results.

23 THE SECRETARY: Ayes, 63.

24 ACTING PRESIDENT BAILEY: The bill
25 is passed.

1 Senator Gianaris, that completes the
2 reading of today's calendar.

3 SENATOR GIANARIS: Thank you. Can
4 we now move on to the supplemental calendar.

5 ACTING PRESIDENT BAILEY: There is
6 a substitution at the desk.

7 The Secretary will read.

8 THE SECRETARY: Senator Skoufis
9 moves to discharge, from the Committee on Rules,
10 Assembly Bill Number 7280 and substitute it for
11 the identical Senate Bill 6481, Third Reading
12 Calendar 889.

13 ACTING PRESIDENT BAILEY: The
14 substitution is so ordered.

15 The Secretary will read.

16 THE SECRETARY: Calendar Number
17 889, Assembly Print 7280, by Assemblymember
18 Paulin, an ability to clarify qualifications for
19 certain supplemental costs associated with an
20 emergency rental assistance program.

21 ACTING PRESIDENT BAILEY: Read the
22 last section.

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

25 ACTING PRESIDENT BAILEY: Call the

1 roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT BAILEY: Senator
4 Mayer to explain her vote.

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

7 Yesterday the Senate moved to extend
8 the Emergency Eviction and Foreclosure Prevention
9 Act until August 31st. Had we not taken this
10 step, evictions for individuals who have been
11 unable to pay their rent and who have filed a
12 hardship declaration would potentially have been
13 allowed to proceed immediately, forcing families
14 out of their homes and threatening our progress
15 in fighting the spread of COVID. I was proud to
16 support that bill.

17 Today I'm pleased to vote for this
18 bill, which addresses some of the challenging
19 situations which we have been advised about where
20 tenants have either failed or could not fill out
21 the hardship declaration, causing real harm to
22 landlords, who must pay taxes, mortgage and other
23 essential expenses.

24 While these tenants are a minority,
25 and that should be noted, their behavior poses

1 challenges to our neighbors and our communities.
2 This bill, which will clarify the use of the
3 fully state-funded monies we set aside in the
4 budget, will expand income eligibility for the
5 federal funds above 80 percent of the AMI and
6 ensure that landlords who have made good faith
7 efforts to contact tenants, but have been unable
8 to do so, will be eligible for payment.

9 I am pleased that we have done both
10 these bills, addressing the real threat that
11 eviction poses in all of our communities, and at
12 the same time being mindful that landlords too
13 have expenses and needs that must be met.

14 I commend Senator Kavanagh for his
15 leadership, and certainly our Majority Leader for
16 finding a path of fairness and equity protecting
17 all of the residents of our communities.

18 I vote aye.

19 ACTING PRESIDENT BAILEY: Senator
20 Mayer to be recorded in the affirmative.

21 Senator Kavanagh to explain his
22 vote.

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

25 I rise also to explain my vote on

1 Senate Bill 6481, which as my colleague has noted
2 is to clarify the availability of \$100 million in
3 state money that was included in the State Budget
4 to cover the needs of landlords and tenants that
5 may not be addressed by the very generous
6 \$2.4 billion program that we provided with
7 federal funding.

8 As was announced yesterday by the
9 Executive that larger programs should be
10 available for application by the end of this
11 month, this bill is an important backstop for
12 those who may be deserving but not eligible for
13 that program. It does provide that tenants who
14 are otherwise eligible but whose income exceeds
15 80 percent of the area median income but are
16 nonetheless having a hardship, would be eligible
17 to have their rent arrears paid.

18 And it also does provide that
19 landlords who have been housing people in good
20 faith throughout this period, who may have made
21 efforts to get their tenants to apply but cannot
22 do so, either because the tenant declines to
23 apply for whatever reason, or perhaps because the
24 tenant hung on for a long time and built up rent
25 arrears but is no longer present in the

1 apartment.

2 So the message today is that once
3 again this house is taking proactive steps to
4 address the tremendous hardship that COVID-19 has
5 brought on. And although, you know, we have had
6 some controversy over exactly how to balance
7 these interests, we are stepping forward today
8 with a very important program to make sure that
9 as many tenants and landlords as possible are
10 covered for their legitimate needs in this
11 hardship.

12 And for those reasons, I vote aye.

13 Thank you very much.

14 ACTING PRESIDENT BAILEY: Senator
15 Kavanagh to be recorded in the affirmative.

16 Announce the results.

17 THE SECRETARY: Ayes, 63.

18 ACTING PRESIDENT BAILEY: The bill
19 is passed.

20 Senator Gianaris, that completes the
21 reading of today's supplemental calendar.

22 SENATOR GIANARIS: Let's now move
23 on to the controversial calendar, please.

24 ACTING PRESIDENT BAILEY: The
25 Secretary will ring the bell.

1 The Secretary will read.

2 THE SECRETARY: Calendar Number
3 729, Assembly Print 108B, by Assemblymember
4 Gunther, an act to amend the Public Health Law.

5 ACTING PRESIDENT BAILEY: Senator
6 Lanza, why do you rise?

7 SENATOR LANZA: Mr. President, I
8 believe there's an amendment at the desk. I
9 waive the reading of that amendment and ask that
10 Senator Stec be recognized and heard.

11 ACTING PRESIDENT BAILEY: Thank
12 you, Senator Lanza.

13 Upon review of the amendment, in
14 accordance with Rule 6, Section 4B, I rule it
15 nongermane and out of order at this time.

16 SENATOR LANZA: Accordingly,
17 Mr. President, I appeal the ruling of the chair
18 and ask that Senator Stec be recognized.

19 ACTING PRESIDENT BAILEY: The
20 appeal has been made and recognized, and
21 Senator Stec may be heard.

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

24 I rise to appeal the ruling of the
25 chair. The proposed amendment is germane to the

1 bill at hand because the amendment specifically
2 amends a part of the bill-in-chief by removing
3 certain language.

4 The bill as currently drafted places
5 a mandate on all of our hospitals, but one that
6 would be more difficult for our rural hospitals
7 to absorb than others, and therefore this
8 amendment would exclude these from those
9 provisions.

10 And for these reasons,
11 Mr. President, I strongly urge you to reconsider
12 your ruling of germaneness.

13 Thank you.

14 ACTING PRESIDENT BAILEY: Thank
15 you, Senator.

16 I want to remind the house that the
17 vote is on the procedures of the house and the
18 ruling of the chair.

19 Those in favor of overruling the
20 chair signify by saying aye.

21 SENATOR LANZA: Request a show of
22 hands.

23 SENATOR GIANARIS: We've agreed to
24 waive the showing of hands and record each member
25 of the Minority in the affirmative.

1 ACTING PRESIDENT BAILEY: Without
2 objection, so ordered.

3 Announce the results.

4 THE SECRETARY: Ayes, 20.

5 ACTING PRESIDENT BAILEY: The
6 ruling of the chair stands, and the bill-in-chief
7 is before the house.

8 Are there any other Senators wishing
9 to be heard?

10 Seeing and hearing none, the debate
11 is closed. The Secretary will ring the bell.

12 Read the last section.

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

15 (Pause.)

16 ACTING PRESIDENT MAYER: Call the
17 roll.

18 (The Secretary called the roll.)

19 ACTING PRESIDENT MAYER: Senator
20 Bailey to explain his vote.

21 SENATOR BAILEY: Thank you,
22 Madam President.

23 Let me applaud the sponsor,
24 Senator Rivera, for his tireless work on getting
25 this safe staffing bill across the line.

1 But as the grandson of a nurse, I
2 have a special connection to the profession of
3 nursing, having heard many stories and having
4 seen her evolution up the ranks from nursing, and
5 having conversations with so many constituents in
6 my community and so many women and men in labor
7 who have asked us to be able to do something
8 about their safety.

9 And within the confines of COVID-19,
10 now more than ever we've seen what safety is.
11 We've seen who is essential. And those
12 individuals who are essential, those workers who
13 are essential, it is critical to make sure that
14 we do things so that they can continue the
15 essential work that they do on behalf of the
16 individuals that go to seek care. Because when
17 somebody is seeking care, that patient expects
18 the best possible care. And that nurse wants to
19 give that patient the best possible care.

20 But we need to make sure that that
21 nurse is able to work in a capacity that's
22 comfortable, that makes sense, and that is
23 conducive to their skill as a nurse. And this
24 legislation goes a long way in achieving that.

25 And I know it's been a long battle,

1 and I want to thank our great leader for standing
2 firm at the table on behalf of women and men all
3 across the state and making sure that they know
4 that within the New York State Senate and the
5 New York State Legislature that their voices have
6 been heard.

7 And I thank all of my colleagues for
8 voting for this piece of legislation. I proudly
9 vote in the affirmative, Madam President.

10 ACTING PRESIDENT MAYER: Senator
11 Bailey to be recorded in the affirmative.

12 Senator Rivera to explain his vote.

13 SENATOR RIVERA: Thank you,
14 Madam President.

15 In the 11 years that I've been in
16 the Legislature, Madam President, there is one
17 issue that I have met -- and this is not an
18 exaggeration -- I have met more on this
19 particular issue than on any other issue
20 combined. There have been many meetings that
21 I've had over the years around the issue of safe
22 staffing, the idea that we need to make sure that
23 patients all across our state and residents in
24 our nursing homes are taken care of.

25 And to the best of their ability

1 medical professionals do their best, but it's
2 obvious that sometimes government is required to
3 step in to set some level of requirement, to make
4 sure that this actually occurs.

5 And so after many, many years of
6 having this conversation, advocates all across
7 the state making demands of us, I would actually
8 like to say and underline that it was, I believe,
9 the role of Andrea Stewart-Cousins that actually
10 got us over the finish line.

11 In recognition over what we saw over
12 the last year, the results of the pandemic, the
13 clear impact that lack of adequate staffing had
14 on the lives of New Yorkers, we all were
15 incredibly concerned. And the leader came to the
16 table and said to everyone involved: We need to
17 solve this, we need to fix this. And so she did
18 that.

19 And there were some moments that
20 were touch-and-go, Madam President. But I
21 believe that everybody understood how important
22 it was that we get this right. Ultimately we
23 chose, Madam President, to divide the original
24 bill into two different ones. We will be
25 discussing the other one at length, I believe.

1 But in short, I will say that what
2 we're doing here today by establishing clinical
3 staffing committees, by mandating them across the
4 state in every single institution, we are
5 securing the staff of that particular
6 institution, the administration of that
7 particular institution that recognize the impact
8 that the patients have on that institution, that
9 recognize the realities that are in that
10 particular institution, have it -- will have now
11 a clinical staffing committee, the obligation of
12 which would be to produce a staffing plan that is
13 specific to that institution.

14 So I will say, Madam President, that
15 I believe that it is a good result here because
16 it will force every single institution to
17 actually come together and, much like we did over
18 the last couple of months, Madam President,
19 sometimes maybe clash heads, but knowing clearly
20 that the safety of patients is above all, come up
21 with a plan that is implementable, that will
22 actually impact the safety of patients in that
23 particular institution.

24 And I believe that this is precisely
25 the way that we need to do it, Madam President, I

1 am glad to have been able to play a part in it,
2 and I vote in the affirmative.

3 Thank you, Madam President.

4 ACTING PRESIDENT MAYER: Senator
5 Rivera to be recorded in the affirmative.

6 Announce the results.

7 THE SECRETARY: Ayes, 63.

8 ACTING PRESIDENT MAYER: The bill
9 is passed.

10 The Secretary will read.

11 THE SECRETARY: Calendar Number
12 733, Assembly Print Number 7119, by
13 Assemblymember Gunther, an act to amend the
14 Public Health Law.

15 ACTING PRESIDENT MAYER: Senator
16 Lanza, why do you rise?

17 SENATOR LANZA: Madam President, I
18 believe there's an amendment at the desk. I
19 waive the reading of that amendment, and I ask
20 that Senator Boyle be recognized and heard.

21 ACTING PRESIDENT MAYER: Thank you,
22 Senator Lanza.

23 Upon review of the amendment, in
24 accordance with Rule 6, Section 4B, I rule it
25 nongermane and out of order at this time.

1 SENATOR LANZA: Accordingly,
2 Madam President, I appeal the ruling of the chair
3 and ask that Senator Boyle be recognized.

4 ACTING PRESIDENT MAYER: The appeal
5 has been made and recognized, and Senator Boyle
6 may be heard.

7 SENATOR BOYLE: Thank you,
8 Madam President.

9 I rise to appeal the ruling of the
10 chair. The proposed amendment is germane to the
11 bill at hand because both the amendment and the
12 bill-in-chief amend the Public Health Law and
13 both relate to hospital staffing.

14 Financially, nursing homes have
15 faced Medicaid cuts for over a decade and may
16 face closures resulting from the mandates in this
17 bill. New Jersey enacted similar nursing home
18 staffing requirements, but they provided
19 10 percent Medicaid increases to its nursing
20 facility rates, resulting in about \$130 million
21 in additional payments to these facilities.
22 Funding to this extent is not to be found in this
23 bill.

24 New York State's nursing and
25 residential care facilities have difficulties

1 recruiting nurses and nursing assistants. The
2 Center for Health Workforce Studies, CHWS,
3 reports that the largest shortage, at
4 44.9 percent, is nursing assistants, and the
5 nurse shortage is at 38.9 percent. In New York,
6 60 percent of healthcare job openings are
7 openings for personal care aides, health aides,
8 and certified nurse aides.

9 The survey data indicated the
10 shortage of qualified workers in noncompetitive
11 salaries among the reasons healthcare settings
12 have difficulty meeting demand.

13 Moreover, according to Stony Brook
14 University, there are not enough students in
15 nursing schools now to meet the required ratio
16 standards.

17 While I understand the intent of
18 this bill and I appreciate its goals, what I'm
19 asking is to consider the amendment germane.
20 Quite simply, this amendment would treat nursing
21 homes exactly the way we're treating hospitals --
22 no split, no change, the way it's been
23 legislatively looked at for years.

24 I respectfully request you
25 reconsider your ruling.

1 ACTING PRESIDENT MAYER: Thank you,
2 Senator Boyle.

3 I want to remind the house that the
4 vote is on the procedures of the house and the
5 ruling of the chair.

6 Those in favor of overruling the
7 chair signify by saying aye.

8 SENATOR LANZA: Request a show of
9 hands.

10 SENATOR GIANARIS: We have agreed
11 to waive the showing of hands and record each
12 member of the Minority in the affirmative.

13 ACTING PRESIDENT MAYER: Without
14 objection, so ordered.

15 Announce the results.

16 THE SECRETARY: Ayes, 20.

17 ACTING PRESIDENT MAYER: The ruling
18 of the chair stands, and the bill-in-chief is
19 before the house.

20 Senator Boyle.

21 SENATOR BOYLE: Madam President,
22 would the sponsor yield for a question.

23 ACTING PRESIDENT MAYER: Senator
24 Rivera, do you yield?

25 SENATOR RIVERA: Absolutely,

1 Madam President.

2 ACTING PRESIDENT MAYER: The
3 Senator yields.

4 SENATOR BOYLE: Senator, I only
5 have one question, but it's a big one. I preface
6 my question with the fact that I am a long-time
7 cosponsor, supporter for over a decade of this
8 safe staffing legislation. My question is, what
9 happened? Why the split?

10 I can tell you that I was looking
11 forward to the idea of voting for a safe staffing
12 legislation for nursing homes and hospitals
13 treated equally. Now, if there had to be some
14 deal for the hospitals, I understand that.
15 That's what happens legislatively.

16 But why not the same thing for the
17 nursing homes? The nursing homes, should they
18 get better lobbyists? I only question this
19 because I know what's happened lately is we go
20 out of here after passing a bill and the Governor
21 says: It was my idea, I did it all, we've been
22 talking about this for weeks and I was behind the
23 scenes pulling the strings.

24 I just want to make sure that that's
25 not what happened, because I want the truth

1 before we vote on this bill. So, Senator, why
2 the split? Why are we treating nursing homes
3 differently than the hospitals?

4 SENATOR RIVERA: Thank you.
5 Through you, Madam President.

6 You might have -- I don't know how
7 good the microphone is, they might have heard a
8 little chuckle. Because even though it is an
9 extremely important question that I will
10 absolutely answer, the chuckling part was the
11 part where it was suggested that perhaps the
12 Governor was the one that came up with this idea.

13 Let me say for the record, and
14 trying not to chuckle, no, no, sir, it was not
15 the Governor that came up with this idea.

16 But to answer the serious part of
17 your question, which is an important one, what
18 happened is that ultimately we came to the
19 conclusion, through the conversations with all
20 the stakeholders -- and as you probably know,
21 through you, Madam President, as the Senator, as
22 Senator Boyle knows, sometimes it is when certain
23 compromises need to be made to reach an agreement
24 that could actually be implemented, some folks
25 are going to be unhappy. Not everyone is going

1 to be happy.

2 I am happy because I know that this
3 is the best way that we could have gone forward.

4 But what happened ultimately,
5 Madam President, was that we decided that the
6 approaches needed to be different. The hospital
7 setting and the nursing home setting are two
8 different settings.

9 In the case of nursing homes, we
10 have a -- anyone who has -- who fulfills -- who
11 meets certain criteria and certain requirements
12 to be -- to need nursing home care is someone who
13 is, by default, a very vulnerable individual.
14 Whether it be because of mental issues, whether
15 it be because of physical ailments, they require
16 a lot of care. And we believe that the setting
17 between that and a hospital is very different.

18 We thought that it was necessary to
19 actually establish a standard. And I'll
20 remind -- through you, Madam President -- the
21 original bill, the standard was at 4.1 hours.
22 And we ultimately decided that the balance that
23 needed to be reached here, both to make sure that
24 adequate care would be provided to patients, but
25 that institutions all across the state would be

1 able to meet these requirements, we came up --
2 the ultimate time that we came up with was
3 3.5 hours, Madam President.

4 The way that that is broken down is
5 2.2 minimum from nurses aides and certified nurse
6 aides -- the difference requires -- might require
7 a little bit of an explanation, but there's two
8 standards there -- and 1.1 hours minimum of
9 licensed nurse care per day.

10 And Madam President, through you,
11 the important thing to remember here is that we
12 have a situation in which an individual that
13 obviously is someone who requires care, in one
14 24-hour period -- what we are requiring with this
15 piece of legislation, Madam President, is that
16 3.5 hours of it is dedicated to actual care to
17 individuals.

18 I'm not sure if you are,
19 Madam President, a nerd. I know that I am. May
20 the Fourth be with you today. I'm not sure if
21 you saw, a couple of years ago, there was a
22 terrible movie called Justice League. And just a
23 couple of months ago after a -- something that
24 takes too long to explain, the director released
25 something called the Snyder cut. So the

1 director, Zach Snyder, released a version of it
2 that was 4 hours and 2 minutes long.

3 So, Madam President, what we're
4 saying is that what we're requesting or we're
5 requiring with this piece of legislation is that
6 less time than what is required to watch a crappy
7 movie with Superman in it, we have 3.5 hours
8 where actual people that are professionals,
9 whether it's nurses aides or licensed nurses,
10 actually take care of individuals. We believe
11 that this is necessary, it's important. And so
12 we need different approaches, Madam President,
13 which is why ultimately we came up with two
14 bills.

15 And I will underline again this was
16 not something that was the Governor's idea.

17 SENATOR BOYLE: Madam President, on
18 the bill.

19 ACTING PRESIDENT MAYER: Senator
20 Boyle on the bill.

21 SENATOR BOYLE: Yes, thank you.

22 And I just want to say I appreciate
23 the chairman's hard work over the years on this
24 legislation. I know it was a tremendous effort
25 on your part, and we're here because of you --

1 and not the Governor.

2 And -- but to say that, as I said,
3 as a long-time cosponsor, supporter of safe
4 staffing, as the son of a nurse, I was looking
5 forward to supporting this. I was able to do it
6 on the hospital one. But unfortunately, because
7 of the dichotomy, not treating nursing homes the
8 same as hospitals, I'm going to have to vote no
9 on this bill.

10 And I appreciate your effort.

11 ACTING PRESIDENT MAYER: Senator
12 Gallivan.

13 SENATOR GALLIVAN: Thank you,
14 Madam President. Would the sponsor yield to a
15 series of questions.

16 ACTING PRESIDENT MAYER: Senator
17 Rivera, do you yield?

18 SENATOR RIVERA: Through you,
19 Madam President, as long as I don't get asked
20 about the Governor again, Madam President --

21 (Laughter.)

22 SENATOR RIVERA: -- I will be more
23 than happy to yield.

24 ACTING PRESIDENT MAYER: Senator
25 Rivera yields.

1 SENATOR GALLIVAN: Madam President,
2 I won't ask that question again.

3 (Laughter.)

4 SENATOR GALLIVAN: Through you,
5 Madam President. This particular bill, of
6 course, we know Senator Boyle alluded to this.
7 We have safe staffing as it relates to hospitals,
8 a separate bill. This relates to nursing homes.

9 The first question I have for the
10 sponsor -- through you, Madam President -- is who
11 does this apply to? What is the definition of a
12 nursing home?

13 SENATOR RIVERA: Through you,
14 Madam President, there is -- you will allow me a
15 second, because there is a statutory definition.
16 And I don't have it available immediately, but I
17 will look for it in a second and, through you,
18 Madam President, we'll put it into the record.

19 So through you, Madam President, the
20 staff is busy looking through Public Health Law
21 to tell us exactly what the definition is, which
22 is -- I want to make sure that I answer it for
23 the Senator on the record. But there is a
24 statutory definition. We're going to look for
25 it. We can either wait for a few minutes while

1 we find it in Public Health Law or we can come
2 back to it when they find it.

3 SENATOR GALLIVAN: No,
4 Madam President, if I can move on to another
5 question. And when they're ready, they could
6 provide that answer.

7 A number of the questions I have are
8 going to focus on a couple of different areas.
9 So a number will focus on the workforce, and then
10 I would like to talk about the funding for this.
11 But we'll focus on the workforce just a little
12 bit.

13 So you talked about why this was
14 different than the hospital bill. And in the
15 hospital bill, all the stakeholders became part
16 of the ultimate solution. Did that take place
17 with this particular bill?

18 SENATOR RIVERA: Through you,
19 Madam President, we certainly sought out all the
20 appropriate stakeholders in this issue, yes,
21 whether we're talking about -- we did talk to
22 providers, both nonprofit and for-profit
23 providers.

24 I will actually point out,
25 Madam President, that there's a section of the

1 bill that deals with the potential circumstances
2 that might lead the state to actually consider
3 the things that have to be considered by the
4 state when and if they issue penalties if these
5 standards are not met. And based on the input
6 that we got from some of the providers, we
7 included certain conditions here, whether it's
8 extraordinary circumstances, including natural
9 disasters, et cetera --

10 SENATOR GALLIVAN: Excuse me.

11 Excuse me, Madam President.

12 ACTING PRESIDENT MAYER: I believe
13 Senator Rivera is answering the question, Senator
14 Gallivan.

15 SENATOR RIVERA: Yes. Very, very
16 quickly, I will say the answer is yes,
17 Madam President, we did take into account many
18 stakeholders. Some of their suggestions made it
19 into the final piece of legislation, some did
20 not, much like in any negotiation that happens.

21 SENATOR GALLIVAN: Through you,
22 Madam President, if the sponsor will continue to
23 yield.

24 ACTING PRESIDENT MAYER: Senator
25 Rivera, do you continue to yield?

1 SENATOR RIVERA: Yes,
2 Madam President, I will yield.

3 ACTING PRESIDENT MAYER: The
4 Senator yields.

5 SENATOR GALLIVAN: Could you tell
6 us what stakeholders or experts that you
7 consulted with in establishing the actual
8 staffing standards? Not by name, but by
9 position.

10 SENATOR RIVERA: First of all,
11 Madam President, through you, to answer the
12 initial question, it is in Public Health Law --
13 the definition is as follows: "'Nursing home'
14 means a facility provided therein nursing care to
15 sick, invalid, infirm, disabled or convalescent
16 persons, in addition to lodging and board or
17 health-related services, or any combination of
18 the foregoing, and in addition thereto providing
19 nursing care and health-related services, or
20 either of them, to persons who are not occupants
21 of the facility."

22 And I don't know the exact section,
23 but that is -- that is the --

24 SENATOR GALLIVAN: Madam President,
25 I'd like to follow up on that answer before we

1 come back to the last question.

2 Does that include assisted living
3 facilities?

4 SENATOR RIVERA: Through you,
5 Madam President, it does not.

6 SENATOR GALLIVAN: Thank you.

7 So going back to the experts or
8 stakeholders, are you able to tell us who
9 specifically that you consulted with until
10 establishing the actual staffing ratios? And
11 again, not by name, but what industry they might
12 be in, who they were -- titles, organizations.

13 SENATOR RIVERA: Certainly.
14 Through you, Madam President. As is true of any
15 of these type of conversations, we -- I mean,
16 there's certainly -- whether we're talking about
17 advocates for workers, whether we're talking
18 about owners or representatives of private
19 facilities or proprietary facilities, as well as
20 nonprofits, owners of nonprofits, workers
21 themselves, family members, they all participated
22 in this conversation.

23 So ultimately, while we get
24 suggestions from all of them, it was an internal
25 conversation amongst us about what the ultimate

1 bill needed to look like.

2 So there is -- and we certainly
3 share drafts with folks so that they can give us
4 their input. But as we do with most legislative
5 issues, Madam President, as I'm sure you know, we
6 take as many folks into account and then we come
7 up with the final bill. Although so I couldn't
8 necessarily tell you like the -- I'm sure that I
9 could go back and -- and it is, Madam President,
10 certainly FOILable. So if you want to go through
11 months of meetings that were had on these issues
12 and many others, I'm sure that we can find that
13 information.

14 Bottom line, Madam President,
15 through you, is that we took all stakeholders
16 into account. I don't think we talked to every
17 single person that might have had something to
18 say, but certainly to enough that gave us
19 information and provided us with the data
20 necessary for us to be able to make a decision on
21 what this needed to look like.

22 SENATOR GALLIVAN: Through you,
23 Madam President, will the sponsor continue to
24 yield.

25 ACTING PRESIDENT MAYER: Senator

1 Rivera, do you continue to yield?

2 SENATOR RIVERA: I do.

3 ACTING PRESIDENT MAYER: The
4 Senator yields.

5 SENATOR GALLIVAN: No, I -- it's
6 not necessary to go back with all the
7 individuals.

8 So how specifically -- how did you
9 arrive at the exact number, the 3.5 broken into
10 the 2.2 and the 1.1?

11 SENATOR RIVERA: Well, through you,
12 Madam President, first of all, I am math
13 illiterate, so I have to double-check. The 2.2
14 plus 1.1 equals 3.3, not 3.5.

15 SENATOR GALLIVAN: I realize that,
16 but --

17 (Overtalk.)

18 SENATOR RIVERA: Through you,
19 Madam President, I figured that Senator Gallivan
20 might ask eventually. The reality is that we
21 allowed for flexibility for other staff to be
22 able to fulfill that 0.2 that would make up that
23 3.5.

24 But to answer the question,
25 Madam President, we looked at the standards that

1 were across the states. There are 30 other
2 states that have some standards. There's many of
3 them that have lower standards. Some of them are
4 about at this level.

5 But we came to the conclusion that
6 based on the analysis that we made of the
7 facilities here in the State of New York, we
8 have -- this is data and information that is
9 provided actually to the federal government, both
10 on payroll-based journal data as well as the
11 facility's average daily census. Both of them,
12 Madam President, are publicly available
13 information, bits of information.

14 So we took all of that and we made
15 an analysis of all the different facilities in
16 the state, so we were able to break it down and
17 to give us an idea of who was close, who was
18 above it, who was below it. But we thought that
19 3.5, looking at what other states have done,
20 talking to stakeholders, that it was both an
21 achievable goal and one that would allow us to
22 create the safety conditions that we're trying to
23 create in these facilities.

24 SENATOR GALLIVAN: Through you,
25 Madam President, will the sponsor continue to

1 yield.

2 ACTING PRESIDENT MAYER: Senator
3 Rivera, do you continue to yield?

4 SENATOR RIVERA: I do,
5 Madam President.

6 ACTING PRESIDENT MAYER: The
7 Senator yields.

8 SENATOR GALLIVAN: Thank you for
9 that answer.

10 Is the Senator aware of the nursing
11 workforce shortage in New York State?

12 SENATOR RIVERA: Through you,
13 Madam President, I certainly am.

14 We have spoken to -- we have
15 spoken -- certainly some of our colleagues, I
16 will point out specifically Senator Rachel May,
17 has been a consistent voice on this, and many
18 other folks in our conference have been very
19 vocal about this issue. It's very likely,
20 Madam President, that you yourself have actually
21 brought this to our attention.

22 It is why not only is there a
23 recognition certainly that we need to do more in
24 the State of New York as it relates to
25 recruitment, to retention and to retraining, but

1 that with the recognition, Madam President, that
2 there might be some difficulties in being able to
3 achieve these numbers, at least in the first
4 year, we actually created a set of conditions
5 where if there is a good faith effort that is
6 made by the facility to be able to meet the
7 requirement, and yet they do not, that will be
8 certainly taken into account before they are
9 penalized.

10 So there is a recognition, as I said
11 earlier, Madam President, that we have a shortage
12 in the State of New York. We have much to do in
13 this state to make sure that, again, as I said,
14 we focus on recruitment, on retention and
15 retraining of staff for nursing homes. But I
16 believe that we can do that as we invest more
17 into facilities that will actually provide better
18 conditions not only for the patients and
19 residents there, but also for the workers.

20 SENATOR GALLIVAN: Will the sponsor
21 continue to yield.

22 ACTING PRESIDENT MAYER: Senator
23 Rivera, do you continue to yield?

24 SENATOR RIVERA: Yes,
25 Madam President.

1 ACTING PRESIDENT MAYER: The
2 Senator yields.

3 SENATOR GALLIVAN: Does this bill
4 contain any provisions that would help address
5 the staffing shortage throughout the state? As
6 it relates to nursing staffing.

7 SENATOR RIVERA: Madam President,
8 through you. There's nothing here that directly
9 deals with this except that we are making this
10 requirement of -- of this -- that there is a
11 minimum that must be met.

12 We believe that as we parrot -- and
13 I'm sure that the -- that Senator Gallivan,
14 through you, Madam President, will ask later
15 about the 70/40 standard that we set in our
16 budget. We believe that by doing this, by
17 actually requiring these facilities to spend more
18 on staffing and to dissuade bad actors, which
19 is -- I've said it many times, I've said it both
20 publicly and privately, that ultimately all of
21 these bills are about dissuading bad actors from
22 being in this business. It is about making sure
23 that those folks who are good actors can provide
24 the care necessary to these folks that are in
25 such need.

1 And so therefore we believe that by
2 establishing these standards, we're actually --
3 and by investing the money that we are going to
4 invest, like the \$64 million that we have already
5 appropriated -- I'm sure we'll get to that -- we
6 will be able to help these facilities meet these
7 standards and be able to have them pay their
8 workforce better.

9 SENATOR GALLIVAN: Will the sponsor
10 continue to yield.

11 ACTING PRESIDENT MAYER: Senator
12 Rivera, do you continue to yield?

13 SENATOR RIVERA: Yes,
14 Madam President.

15 ACTING PRESIDENT MAYER: Yes, the
16 Senator yields.

17 SENATOR GALLIVAN: So if we
18 recognize that there is a staffing shortage right
19 now, despite incentivizing the nursing homes to
20 hire more people, where do they get the people
21 from if they don't exist right now?

22 SENATOR RIVERA: Through you,
23 Madam President, that is exactly what I was
24 referring to earlier about the fact that we as a
25 state need to do more.

1 Now, I should mention that the bill
2 actually recognizes -- there's something else in
3 the bill that recognizes that we don't have
4 enough folks in the pipeline.

5 There is -- as I mentioned earlier,
6 there is a distinction when the bill goes into
7 effect next January, once it is passed and signed
8 into law, it will actually require that nurses
9 aides, as opposed to certified nurses aides, are
10 to do the 2.2 minimum standard, the 2.2 minimum
11 hours.

12 And then on January 1st of the year
13 following that, so in 2023, that would be when
14 the certified nurse aides standard would actually
15 click in. And the reason for that,
16 Madam President, is that we recognize that
17 particularly this last year, the pandemic made it
18 so difficult for some of these tests to actually
19 be carried out. And it made it impossible for
20 certain folks who are on the path already and who
21 are part of the network of nurses aides and are
22 looking to become certified nurses aides -- they
23 were not able to do so. And we don't want to
24 penalize either them or the facilities that are
25 looking to employ them, and so we allowed for

1 that flexibility.

2 So it is a reality -- Madam
3 President, through you -- and Senator Gallivan is
4 getting right to the heart of it. And we have
5 fought like heck at the table to make sure that
6 during the budget and during other parts of the
7 conversation that we do more in this state to
8 recruit, to retrain, to retain folks who are
9 actually part of the -- of the healthcare
10 workforce.

11 We need to do more. We have not
12 done enough. But I believe that this bill would
13 actually help us get there because it will make
14 sure that more resources are dedicated to the
15 staffing part of the equation, which is
16 ultimately what makes people healthier.

17 SENATOR GALLIVAN: Through you,
18 Madam President, would the sponsor continue to
19 yield.

20 ACTING PRESIDENT MAYER: Senator
21 Rivera, do you continue to yield?

22 SENATOR RIVERA: Yes,
23 Madam President.

24 ACTING PRESIDENT MAYER: The
25 Senator yields.

1 SENATOR GALLIVAN: Following the
2 same topic, would it not make more sense to
3 recruit, train, incentivize, to solve the
4 workplace shortage first, so that then it follows
5 you mandate nursing homes, say okay, we're
6 telling you you have to staff at this level -- a
7 level that they could actually do because they
8 have the people resources then to do it?

9 SENATOR RIVERA: Madam President,
10 through you. As difficult as it is, we must --
11 this is something that we must do at the same
12 time. We must actually not only chew gum and
13 walk at the same time, but in this case certainly
14 chew gum, juggle, and run a marathon at the same
15 time.

16 We recognize that there are
17 individuals -- and as we saw the last year, the
18 impact that staffing shortages had on not only
19 the health but, in all honesty, the lives of so
20 many New Yorkers. We know that it is necessary
21 to make sure that these institutions invest in
22 the staffing that's going to make sure that folks
23 are healthier and that folks stay alive.

24 So it is absolutely essential to do
25 it. And it is difficult. I am not saying it is

1 not. But I believe that as opposed to waiting to
2 see whether we can put more folks -- more
3 resources, which as I said earlier we need to do
4 and we fought to do at the table during the
5 budget -- that we can't wait. So we must
6 establish these standards, work with the
7 facilities.

8 And this is why that 64 million,
9 which again I know that we will bring up, is
10 meant -- which is meant to actually help these
11 facilities be able to meet the standards that are
12 being set by this bill.

13 We recognize that it's necessary for
14 them to have the resources. We recognize that
15 sometimes, even if they have the resources, it is
16 difficult because the staffing is -- the actual
17 individuals are not there. We created the
18 ability for the facility to be able to prove
19 we've done the best-faith effort at this moment,
20 and this is as best as we can do.

21 And by the way, Madam President, I
22 should mention that the majority of nonprofit
23 facilities across the state already meet these
24 standards; 60 percent of them do. The for-profit
25 ones, only 29 percent of them do. So it's not

1 going to be that difficult.

2 It is -- but again, as I said,
3 chewing gum, juggling, and marathoning at the
4 same time. If anybody can do it, New York can.

5 SENATOR GALLIVAN: If the sponsor
6 will continue to yield.

7 ACTING PRESIDENT MAYER: Senator
8 Rivera, do you continue to yield?

9 SENATOR RIVERA: Yes,
10 Madam President.

11 ACTING PRESIDENT MAYER: The
12 Senator yields.

13 SENATOR GALLIVAN: So you
14 mentioned -- Senator Rivera briefly mentioned the
15 commissioner. The commissioner -- this bill
16 requires that the Commissioner of the Department
17 of Health establish civil penalties, with a range
18 of penalties to account for mitigating factors.
19 Is that correct?

20 SENATOR RIVERA: Through you,
21 Madam President, it is.

22 SENATOR GALLIVAN: Could you
23 expound on the mitigating factors, please.

24 SENATOR RIVERA: Through you,
25 Madam President, I thought you'd never ask.

1 I did a little bit earlier, but I'll
2 do so again, Madam President.

3 As I stated earlier, and this is in
4 Section 2(b) of the bill, for those following at
5 home, page 2, line 26 going forward. "The
6 commissioner shall establish, by regulation,
7 civil penalties for facilities out of compliance
8 with minimum staffing levels. Such regulations
9 shall include a range of penalties to account for
10 mitigating factors which shall include" -- I will
11 not read all of the other words into the record,
12 Madam President. But there's three different
13 standards that we're talking about.

14 Number one, extraordinary
15 circumstances, which may include natural
16 disasters, other catastrophic events.

17 Number two, the frequency and nature
18 of noncompliance. And in this one I will take
19 one step back to say that it is important because
20 it will be -- the commissioner must take into
21 account, Madam President, whether a facility has
22 actually done this all the time, whether they
23 have regularly violated standards, or whether
24 they're doing it for the first time.

25 In other words, saying like we're

1 trying our best, we've done -- we've done -- you
2 know, we've been able to fulfill all the
3 requirements before, now we're having a little
4 bit of a difficulty. Consider that as to whether
5 you're going to issue penalties on us.

6 And number three, the existence of
7 an acute labor supply shortage. And there's a
8 long paragraph which I can be -- I'm certainly
9 tempted to read into the record, but the short
10 version is that we are taking into account the
11 fact that we recognize that there is a labor
12 shortage. And that when a facility in good faith
13 tries to fulfill the requirement and cannot do
14 it, that that needs to be taken into account.

15 That will be taken into account,
16 because it will be in statute, by the
17 Health Commissioner.

18 SENATOR GALLIVAN: Will the sponsor
19 continue to yield.

20 ACTING PRESIDENT MAYER: Senator
21 Rivera, do you continue to yield?

22 SENATOR RIVERA: Yes,
23 Madam President.

24 ACTING PRESIDENT MAYER: The
25 Senator yields.

1 SENATOR GALLIVAN: Thank you for
2 that answer.

3 And now following up on specifically
4 the acute labor shortage, there's a provision in
5 the bill that explicitly states, and I'll quote:
6 "It shall not be a defense if such nursing home
7 was unable to secure sufficient staff if the lack
8 of staffing was foreseeable and could be
9 prudently planned for."

10 So what assurances do nursing homes
11 have that they'll not be subject to substantial
12 fines if in fact they continue to do what they're
13 doing right now and there's no nurses or medical
14 people to hire?

15 SENATOR RIVERA: Well, through you,
16 Madam President, the section that
17 Senator Gallivan was referring to, it is
18 basically -- it basically says that -- it's in
19 reference, actually, both to the second and to
20 the third of the requirements, of the factors
21 that were listed above.

22 To wit, in one case we're talking
23 about the frequency and nature of noncompliance,
24 so it must be considered by the Department of
25 Health, by the Commissioner of Health, whether

1 there's a facility that just every -- you know,
2 every time that they go check on something, they
3 go like, aahh, you know, they did this wrong, I'm
4 sorry. As opposed to folks that demonstrate that
5 they have followed the rules, that they have done
6 everything to their capacity, and then in one
7 they kind of slipped up, there's something that
8 they have not been able to meet. Right?

9 And the second part, as it relates
10 to the acute labor supply shortage, it must be
11 taken into account. Now, an acute labor supply
12 shortage does not refer to if something was
13 foreseeable. Now, the rest of the paragraph,
14 Madam President, reads as follows: "If the lack
15 of staffing was foreseeable and could be
16 prudently planned for, or involved routine
17 staffing needs that arose due to typical staffing
18 patterns, typical levels of absenteeism, or time
19 off typically approved by the employer for
20 vacation, holidays, sick leave and personal
21 leave."

22 So in other words, you have to, as a
23 facility administrator, take into account that
24 you're going to have folks who are going to be
25 absent, folks who are going to be sick, folks who

1 are going to be on vacation, and that you can't
2 just argue because my folks are on vacation,
3 because I have a couple of folks that didn't come
4 in -- that by itself is not a defense, but
5 because we're talking about the frequency and
6 nature of noncompliance.

7 Now, again, if there's a facility
8 that has a demonstrated pattern of just not doing
9 the right thing, Madam President, and are -- you
10 know, people are never -- they're on vacation,
11 what am I going to do -- that, to me, is
12 something that needs to be taken into account and
13 in that regard will actually, could actually
14 potentially be used by the commissioner.

15 But what the -- I'm sure,
16 Madam President, what the -- what Senator
17 Gallivan is referring to is the fact that the
18 opposite might actually be used, right. That the
19 commissioner might say, Well, I'm going to
20 penalize you because of what you're -- because of
21 these things. It actually, because of that
22 second and third part, because of both of them,
23 those other factors are connected, because of the
24 labor supply -- that is something that is
25 recognized in a particular region, that is not

1 just for that facility but for facilities in that
2 region, for hospitals in that region, et cetera.

3 I believe that we have crafted it in
4 such a way so that -- listen, no thing is
5 perfect. But I think that this is crafted in a
6 way that we're actually both protecting the folks
7 who are good actors and making sure that the
8 folks who are bad actors don't get away with
9 stuff.

10 SENATOR GALLIVAN: Will the sponsor
11 continue to yield. Through you, Madam President.

12 ACTING PRESIDENT MAYER: Senator
13 Rivera, do you continue to yield?

14 SENATOR RIVERA: Yes,
15 Madam President.

16 ACTING PRESIDENT MAYER: The
17 Senator yields.

18 SENATOR GALLIVAN: Under this
19 bill -- Senator Rivera just mentioned the
20 regional labor supply, the commissioner must
21 consider that. What data does the Department of
22 Health consider, what data do they utilize or
23 what will they utilize in making this
24 determination?

25 SENATOR RIVERA: Through you,

1 Madam President, there are -- there are data sets
2 that the department already uses to determine
3 different regions around the state.

4 As far as the data sets that would
5 be used -- deeper data sets -- if you give me one
6 second, Madam President. (Pause.)

7 Through you, Madam President, there
8 is a -- we're talking about -- for Senator
9 Gallivan, we're talking about data that is kept
10 by the Department of Labor, that is kept by the
11 Department of Health. I believe that there's a
12 particular contractor whose job it is to
13 determine whether there are certain labor
14 shortages in particular parts of the state.

15 So there is already data that is
16 available and analyzed by both the Department of
17 Labor, by the Department of Health and other
18 agencies to determine labor shortages across the
19 state.

20 SENATOR GALLIVAN: Through you,
21 Madam President, will the sponsor continue to
22 yield.

23 ACTING PRESIDENT MAYER: Senator
24 Rivera, do you continue to yield?

25 SENATOR RIVERA: I will,

1 Madam President.

2 ACTING PRESIDENT MAYER: The
3 Senator yields.

4 SENATOR GALLIVAN: Let's focus on
5 the nursing home and the operator. When we're
6 talking about the staffing, the Department of
7 Health looking at them, the Department of Health
8 having the ability to fine them, for the nursing
9 home specifically, what would constitute specific
10 evidence, what would they have to show that the
11 facility attempted to procure sufficient staffing
12 as required by the bill?

13 In other words, what would the
14 nursing home have to do to prove to the
15 Department of Health that they're trying and that
16 they shouldn't be subject to a fine?

17 SENATOR RIVERA: Through you,
18 Madam President. The exact nature of this is not
19 spelled out in the bill, but I would believe that
20 if you can demonstrate, Madam President, that you
21 have put out ads online, ads in local papers,
22 that you have done interviews, that you've
23 reached out to prior staff, that you have made
24 offers to certain folks that might not have been
25 accepted -- there are ways for you to demonstrate

1 that you have indeed, in good faith, tried to get
2 folks to come and work in your facility.

3 So even though again -- Madam
4 President, through you -- it is not spelled out
5 specifically in the bill, I believe that it is --
6 that it would be up to the facility to be able to
7 demonstrate. And if they can show all this
8 evidence, like look, I've made calls, I've sent
9 emails, I've had interviews, I've made offers,
10 all of these things together will likely -- could
11 then be used as a way to argue, hey, I've made
12 the effort. And I believe that it would be
13 accurate that they've made the effort.

14 SENATOR GALLIVAN: Will the sponsor
15 continue to yield.

16 ACTING PRESIDENT MAYER: Senator
17 Rivera, do you continue to yield?

18 SENATOR RIVERA: I do,
19 Madam President.

20 ACTING PRESIDENT MAYER: The
21 Senator yields.

22 SENATOR GALLIVAN: Given what we
23 have seen over the past year, does the sponsor
24 trust the Department of Health to properly do its
25 job as it relates to this bill?

1 SENATOR RIVERA: Through you,
2 Madam President, this is a -- I like this
3 question. I like this question. Because the
4 reality is that I have serious concerns about the
5 Department of Health.

6 And I would hope, and I've said this
7 many times -- and I will say it once more, and
8 for the record -- I am hoping that when this bill
9 is implemented we have Governor Hochul to deal
10 with, because I believe that the Department of
11 Health, as well as every other agency, will be a
12 different agency.

13 Now, it is true that the Department
14 of Health has done certain things in the last
15 year which have made us kind of a little leery of
16 them. But I believe that ultimately the way that
17 something like this must be implemented, it must
18 include the Department of Health. There are --
19 you know, I think that much in the same way that
20 we have had issues with the Department of Labor,
21 we must demand more from them, as we are doing.
22 We actually just had a long conversation today in
23 our conference about all the different ways the
24 Department of Labor needs to do better for the
25 State of New York. So I believe that we can have

1 those conversations at the same time.

2 Since we need to have this
3 implemented, the Department of Health needs to be
4 the entity that actually regulates it. I will be
5 holding them accountable, much like we're holding
6 the Department of Labor accountable right now.
7 And again, one more time -- through you,
8 Madam President -- hoping that it is under a
9 different governor than the one that we have
10 right now.

11 SENATOR GALLIVAN: Will the sponsor
12 continue to yield, Madam President.

13 ACTING PRESIDENT MAYER: Senator
14 Rivera, do you continue to yield?

15 SENATOR RIVERA: I do,
16 Madam President.

17 ACTING PRESIDENT MAYER: The
18 Senator yields.

19 SENATOR GALLIVAN: So in the budget
20 this year we dealt with nursing homes, in part,
21 and I think many people think that we dealt
22 specifically with staffing, albeit without
23 setting specific staffing ratios when it came to
24 spending. I guess, in short, we'll just call it
25 the 70/40. Would the sponsor agree that the

1 implementation of that spending and that
2 requirement is before us in time?

3 SENATOR RIVERA: Through you,
4 Madam President, yes. And I believe that it is
5 something that -- it will be implemented and it
6 can be implemented at the same time as this one.

7 I know that -- you know, I've
8 mentioned it more than a few times, I'll mention
9 it once more, because I know he's getting around
10 to it. We actually appropriated \$64 million for
11 a two-year appropriation, which means, when we
12 draw down federal money, a total of \$128 million
13 to help these facilities be able to meet the
14 standards that we're setting here.

15 So yes, we did set a standard of 70
16 and 40. And through you, Madam President, that
17 is 70 percent to direct patient care of a
18 particular revenue of the total revenue of a
19 particular institution, and 40 percent in
20 staffing specifically.

21 And it is -- and most facilities in
22 the state actually already meet those standards.
23 And this would actually -- the 64 million that
24 we've already appropriated will help us be able
25 to not only meet that standard but meet this one

1 as well.

2 SENATOR GALLIVAN: Through you,
3 Madam President, will the sponsor continue to
4 yield.

5 ACTING PRESIDENT MAYER: Senator
6 Rivera, do you continue to yield?

7 SENATOR RIVERA: Yes,
8 Madam President.

9 ACTING PRESIDENT MAYER: The
10 Senator yields.

11 SENATOR GALLIVAN: The sponsor is
12 dying for me to get to the \$64 million question.

13 (Laughter.)

14 SENATOR GALLIVAN: And I don't know
15 if I specifically have it.

16 LeadingAge, of course I know you're
17 familiar, the sponsor is familiar, represents a
18 significant amount of nursing homes in the state.
19 And there are other organizations that do the
20 same. But they estimated that our budget action,
21 the 70/40 requirement, will cost nursing homes
22 collectively across the state \$500 million, which
23 just in -- when you divide it out by the number
24 of nursing homes is a little over \$800,000 per
25 nursing home. The \$64 million, when you divide

1 that out, is about \$103,000 per nursing home.

2 Is the sponsor concerned about the
3 nursing homes' ability to financially do this,
4 given those figures and the Medicaid rate cut of
5 last year that took even more money away from
6 nursing homes?

7 SENATOR RIVERA: Through you,
8 Madam President, we disagree with the math.

9 With all due respect to LeadingAge,
10 that not only -- it's one of the organizations
11 certainly that we have spoken to, and some of the
12 recommendations that they had made it into the
13 final bill. But as far as the number, we
14 disagree with their math.

15 How did we reach the \$64 million?
16 Now, as I stated earlier, there is publicly
17 available information, federal information, that
18 each facility is required by law to provide to
19 the federal government. These are -- hold on,
20 where's that bad boy. Right here --
21 payroll-based journal data as well as the
22 facility's average daily census.

23 So we took all of that and we put it
24 into one spreadsheet, right, and we started
25 calculating. We said, what is the breakdown of

1 licensed nurses, certified nurses aides, and what
2 is the total average hour per -- per hour per
3 patient -- sorry, my brain is melting a little
4 bit -- per patient per day. Hours per patient
5 per day. Thank you, Madam President, for
6 allowing me that little ...

7 Anyway, we took that data, we put it
8 into one spreadsheet, and we said what would it
9 take for a facility to be able to meet the
10 requirement of 3.5? And we looked through it.
11 And as I stated earlier, just over 60 percent of
12 the nonprofit nursing homes already meet the
13 standards that we would set here. Just
14 29 percent of the for-profit nursing homes would
15 meet the standards right now.

16 So we said, what would it take to
17 actually help them to be able to fulfill that?
18 And we started calculating. That made it so that
19 that 64 million, which I will say again is a
20 two-year appropriation, 32 per year, one of them
21 referring to the last quarter of this fiscal
22 year, which starts in January and ends in April
23 of next year -- or March 31st, I should say --
24 that would be \$32 million, which with \$32 million
25 from the federal government would amount to

1 \$64 million.

2 And then on April 1st, which is the
3 fiscal year that would start April 1st of 2022,
4 we've already appropriated, Madam President,
5 \$32 million that with another 32 drawn down from
6 the federal government would amount to 64.

7 That means -- through you,
8 Madam President -- that we've already identified
9 a total of \$128 million for not the fiscal but
10 number year, right, January 1, 2022, which is
11 when this would go into effect, until December
12 31st of 2022.

13 And furthermore, Madam President,
14 there is a commitment from our leader, the same
15 one who made sure that this is actually done,
16 that we will absolutely look very closely at
17 whether that is enough money -- I repeat again,
18 \$128 million for the year of 2021, which is
19 fiscal years 2021-2022, 2022-2023. If we need
20 more, we're going to go get it.

21 Bottom line, I believe that we have
22 enough money that we've already identified to be
23 able to help these facilities meet these
24 standards based on the numbers that they
25 themselves report to the federal government about

1 whether they are providing care, how they are
2 providing it.

3 SENATOR GALLIVAN: Through you,
4 Madam President, will the sponsor continue to
5 yield.

6 ACTING PRESIDENT MAYER: Senator
7 Rivera, do you continue to yield?

8 SENATOR RIVERA: Yes,
9 Madam President.

10 SENATOR GALLIVAN: So I mentioned
11 the \$500 million estimate, estimated cost by
12 LeadingAge that I acknowledge the sponsor said
13 that he disputes or disagrees with, if I
14 understood correctly.

15 I recognize and acknowledge the
16 \$128 million that the state is being provided in
17 totality for this.

18 Now, if the sponsor, though, would
19 address the funding shortfall as it relates to
20 the 500 million -- despite the fact that he
21 disagrees with that -- plus now the \$260 million
22 estimate of additional costs for this particular
23 bill.

24 SENATOR RIVERA: One second,
25 Madam President. (Pause.)

1 Through you, Madam President. Well,
2 first, again, as I said, the numbers that I was
3 talking about that we -- the reason we disagree
4 with that math is because, again, we made the
5 calculation based on the numbers that they
6 themselves report.

7 And again, Madam President, they
8 just ask us to kind of focus this conversation
9 here again. We certainly care about these
10 facilities and want them to continue. We have
11 made the case many times and will continue to
12 make it that ultimately this is about dissuading
13 bad actors from staying in this business. And
14 what we're doing is we're centering patient care.

15 We believe that this amount of money
16 that we've already identified will be able to be
17 provided to the facilities that do not meet these
18 standards -- which, again, nonprofits, 60 percent
19 of them -- and just so you know, Madam President,
20 I mean in some of these instances we've got
21 facilities that are like 3.491. So we're
22 talking -- I don't even know what that means in
23 minutes -- that we would need to be able to help
24 them so that they can get a little bit over the
25 hump and employ someone so that they can actually

1 get all the way up to 3.5. There's many here
2 that are in the 3s, in the 3.4s, in the 3.2s.

3 The bottom line, Madam President, I
4 believe that we have identified the money that's
5 necessary to be able to fulfill the
6 requirements -- to help these facilities fulfill
7 the requirements, which at the core of it are
8 about these facilities centering patients and
9 being able to provide the care that they are
10 required to provide for the most vulnerable among
11 us.

12 SENATOR GALLIVAN: Will the sponsor
13 continue to yield, Madam President.

14 ACTING PRESIDENT MAYER: Senator
15 Rivera, do you continue to yield?

16 SENATOR RIVERA: Sure will,
17 Madam President.

18 ACTING PRESIDENT MAYER: The
19 Senator yields.

20 SENATOR GALLIVAN: Following up on
21 the funding, Senator Rivera -- if I understand
22 correctly -- believes that there is sufficient
23 funding to be provided nursing homes so they
24 could follow these mandates.

25 And in an earlier answer -- and I

1 don't recall the exact words. I want to make
2 sure I understand correctly. Did Senator Rivera
3 say that if the funding was not sufficient that
4 the colloquial "we" would secure the funding for
5 that purpose? Or something to that effect.

6 SENATOR RIVERA: Through you,
7 Madam President, I will certainly repeat it. I
8 will say that we obviously just went through a
9 budget process just a couple of weeks ago, and
10 during that process we were able to, based on the
11 calculations that we had, we said \$64 million, as
12 a two-year appropriation, would amount to 128,
13 would help us meet these requirements.

14 However, Madam President, it is
15 possible, it is possible that some of these need
16 to be recalculated. And what I said, and I'll
17 say it again, is that during the budget process
18 of next year we will look very closely once these
19 standards go into effect, starting on January 1st
20 of next year, we will have, by the time that
21 March rolls around, some numbers to be able to
22 tell us are we getting close, do we need more, do
23 we need to recalculate.

24 And at that moment we have a
25 commitment from our leader, which I will repeat

1 once again was the one that made sure that we are
2 talking about this today, that we are passing it
3 today, that it gets into law. She will actually
4 go into that room and say very clearly, We need
5 to make sure that we meet these requirements.
6 And so therefore the ask will be we need to -- if
7 there's more money that will need to be added, we
8 go-go get it. I think that is what he was
9 referring to. We go-go get it.

10 SENATOR GALLIVAN: Through you,
11 Madam President, will the sponsor continue to
12 yield.

13 ACTING PRESIDENT MAYER: Senator
14 Rivera, do you continue to yield?

15 SENATOR RIVERA: Yes,
16 Madam President.

17 SENATOR GALLIVAN: I was referring
18 to everything except for the last sentence, that
19 portion of it.

20 (Laughter.)

21 SENATOR GALLIVAN: Would it have
22 been possible to include language to that effect
23 in the legislation so that nursing homes and
24 citizens can be secure in the thought that, okay,
25 we're trying to do a good deed here to make sure

1 there's enough qualified staff to take care of
2 patients and the state is making sure that
3 there's sufficient funding to make that happen?

4 SENATOR RIVERA: Through you,
5 Madam President, we absolutely believe that there
6 is sufficient funding. And that is precisely my
7 point.

8 Now I'm saying that because things
9 change from year to year, there might be some
10 recalculation that has to be made during the
11 budget next year. But I'll remind you, I'll
12 remind everyone, it was at the beginning of this
13 the year that the Governor insisted that he was
14 not going to tax the rich one cent, and we were
15 able to go back and say no, no, we need to
16 reinvest in our New York, so guess what, you
17 goin' do something. And ultimately we got
18 4.5 billion in new revenue.

19 So there's certainly recalculations
20 that can occur. And what I'm saying is that
21 while I believe that we have, with this two-year
22 appropriation, which amounts to \$128 million for
23 the year 2021, to December 31st of 20 --
24 January 1, 2022, to December 31, 2022, which
25 would be two different fiscal years. But still,

1 all of that accounts for how to fulfill this
2 requirement. So we believe that we've actually
3 done that, Madam President.

4 SENATOR GALLIVAN: Through you,
5 Madam President, will the sponsor continue to
6 yield.

7 ACTING PRESIDENT MAYER: Senator
8 Rivera, do you continue to yield?

9 SENATOR RIVERA: I do,
10 Madam President.

11 SENATOR GALLIVAN: I'll address
12 that just a little bit of a different way.

13 I understand the sponsor believes
14 that there is sufficient funding. That belief or
15 not, couldn't the language -- or couldn't a
16 provision be added to this particular bill that
17 says something to the effect that the state will
18 ensure that there is sufficient funding to meet
19 this mandate to ensure that people in nursing
20 homes are properly taken care of through
21 sufficient staffing?

22 SENATOR RIVERA: One second.

23 Through you, Madam President, the --
24 we believe that when we're talking about
25 appropriations, we deal with it during the

1 budget. And in this case we did not feel it
2 necessary to add that particular language to this
3 piece of legislation.

4 But I will state once more,
5 Madam President, there is an absolute commitment
6 to make sure that we can help whatever facilities
7 need the assistance to be able to meet the
8 requirements, because we understand how important
9 it is that our fellow New Yorkers who are
10 vulnerable and in nursing homes are healthy and
11 safe.

12 SENATOR GALLIVAN: Will the sponsor
13 continue to yield.

14 ACTING PRESIDENT MAYER: Senator
15 Rivera, do you continue to yield?

16 SENATOR RIVERA: I will,
17 Madam President.

18 ACTING PRESIDENT MAYER: The
19 Senator yields.

20 SENATOR GALLIVAN: Thank you,
21 Madam President. I'm just about -- just about
22 finished with these questions. I would hope that
23 it is something that the sponsor can consider
24 amending to add that provision or a provision to
25 that effect in this particular bill.

1 The last question has to do with
2 COVID and what we've seen the last year. The
3 Governor's executive orders imposed a number of
4 very difficult challenges upon nursing homes and
5 additional costs in the way of PPE and other
6 things of that nature.

7 Is the sponsor concerned at all that
8 the impact of that while New York was -- of that
9 additional expenditures for nursing homes while
10 at the same time New York was cutting rates and
11 in other states, our neighbor in New Jersey,
12 increased funding to nursing homes -- is the
13 sponsor concerned at all that that will have a
14 negative impact as it relates to the
15 implementation of 70/40 and this particular safe
16 staffing bill?

17 SENATOR RIVERA: Through you,
18 Madam President, if the Senator could ask again.
19 I want to make sure that I understand if he's
20 asking me if I'm concerned that -- what exactly
21 would have an impact on the implementation? If
22 the Senator could repeat himself, please.

23 SENATOR GALLIVAN: I will. I'll
24 try to do it in a little less convoluted way.

25 So we know over the course of the

1 past year nursing homes faced a number of
2 financial challenges brought on by the pandemic,
3 brought on by various executive orders, brought
4 on by people's concerns about what was going on
5 in nursing homes. So their census was lower,
6 less revenues coming in. It all added up to
7 creating an even more significant financial
8 burden for nursing homes. We know that.

9 We also know that last year New York
10 State did another across-the-board Medicaid rate
11 cut that neither of us agree with. But
12 nonetheless, it also adds to the financial
13 burden.

14 So while in the past year there was
15 an additional financial burden while nursing
16 homes are trying to navigate through the
17 pandemic, neighboring states -- including
18 New Jersey among them specifically -- increased
19 funding to their nursing homes to help out.
20 New York State didn't do that.

21 We can't go backwards and change it,
22 I recognize that. So all the things that took
23 place. My question is, is the sponsor concerned
24 that that negative financial impact, that given
25 that, can nursing homes recover from that to

1 ultimately sufficiently implement the 70/40 rule
2 and sufficiently implement safe staffing and
3 survive?

4 SENATOR RIVERA: Through you,
5 Madam President, yes, I believe we can do that.

6 I made the -- you know, the -- and I
7 don't think -- was it an allegory, the whole
8 running and juggling at the same time? I forget
9 what -- but I made the suggestion earlier that we
10 need to do a lot of difficult things at the same
11 time.

12 And I recognize, as the Senator well
13 knows, as Senator Gallivan well knows -- through
14 you, Madam President -- that we fought tooth and
15 nail to make sure that some of the cuts that
16 happened last year and were implemented last year
17 did not go into effect. We fought to make sure
18 that the suggestions or the changes to the
19 Medicaid -- that the Medicaid Redesign Team put
20 forward that we thought impacted New Yorkers
21 negatively did not go into effect. Ultimately, a
22 lot of them did. We were able to do some -- a
23 lot better this year than we did last year.

24 So I do believe that while it is
25 difficult, not only do I believe it is possible,

1 but I repeat once again that we -- recognizing
2 that we want to make sure -- and the Majority
3 Conference is absolutely committed to this, to
4 make sure that good actors stay in this business
5 so that they can provide care for those that are
6 most vulnerable -- that we will do what we need
7 to do to make sure that we can help them do it.

8 So do I think that we can do it?
9 Yes, I do. And I am committed to making sure, as
10 is our entire conference, to making sure that we
11 can make it so.

12 SENATOR GALLIVAN: Through you,
13 Madam President, will the sponsor yield for one
14 last question.

15 ACTING PRESIDENT MAYER: Senator
16 Rivera, do you yield for a last question?

17 SENATOR RIVERA: With the belief
18 that perhaps it will be the last question but
19 probably he might have another follow-up, yes, I
20 will, Madam President.

21 (Laughter.)

22 ACTING PRESIDENT MAYER: The
23 Senator yields.

24 SENATOR GALLIVAN: I suppose it
25 depends on the answer.

1 (Laughter.)

2 SENATOR GALLIVAN: So

3 Senator Rivera talked about a commitment, which I
4 very much appreciate, and no doubt our colleagues
5 and those served by nursing homes appreciate.

6 But I'm assuming -- or I guess does that
7 commitment mean working to ensure that there's
8 sufficient and adequate funding to accomplish
9 these goals?

10 SENATOR RIVERA: Through you,
11 Madam President, it means -- it certainly means
12 securing the funding if necessary. But because
13 we are at the core of it making sure that
14 patients and residents in nursing homes are kept
15 safe, we are -- this is about that. It is
16 ultimately making sure that that happens.

17 And so we will absolutely commit
18 ourselves to -- as we do with the changes that
19 we've made in law the last couple of weeks and
20 months as it relates to nursing homes in the
21 State of New York. We know how serious it is,
22 how much these changes are necessary to make sure
23 that we can protect residents in nursing homes.
24 So we are committed to doing that, to make sure
25 that we can keep good actors in the mix so they

1 can continue to serve people who live in these
2 facilities and that we keep patients and
3 New Yorkers safe.

4 SENATOR GALLIVAN: On the bill,
5 Madam President.

6 ACTING PRESIDENT MAYER: Senator
7 Gallivan on the bill.

8 SENATOR GALLIVAN: I'd like to
9 thank Senator Rivera for answering the questions
10 and taking the time, and certainly for his
11 commitment to the citizens of the state as it
12 relates to their health as chair of the Health
13 Committee. I know we share many of the same
14 goals as all of our colleagues do, and concern
15 for people and their health.

16 And in this particular case, for our
17 loved ones who are in nursing homes, I'm also
18 pleased to hear Senator Rivera acknowledge the
19 good actors, the good nursing homes, the
20 overwhelming majority of those 621 nursing homes
21 who plug along every day to try to do the jobs
22 properly. And we should all share the goal of
23 rooting out the bad actors and holding the bad
24 actors accountable. So I thank him for those
25 things.

1 On the bill in particular, it
2 certainly is a laudable goal. And I don't know
3 anybody in this chamber who would not want to
4 make sure that we have a sufficient number of
5 professionals in nursing homes, health
6 professionals, to take care of our loved ones.
7 The question, of course, is how to go about it.

8 We know that we have a severe health
9 workforce shortage in New York State. We know
10 that there's other members working on it, that
11 there are going to be hearings. This issue has
12 been raised time and time again over the past
13 several years.

14 I have a concern right now, so many
15 nursing homes have so much trouble recruiting
16 qualified, competent healthcare professionals to
17 work in these particular roles that they're able
18 to meet these goals in the short term.

19 I'm also concerned -- we had an
20 extensive talk about funding. Given the cuts,
21 given the pandemic, the financial challenges that
22 have been presented and the additional financial
23 costs, expenditures being put on the backs of
24 nursing homes to accomplish this goal, I have
25 concerns about that funding being there.

1 And I also have concerns about
2 taking two major pieces of legislation to try to
3 accomplish these goals, the so-called 70/40
4 action that we took in the budget to require the
5 expenditures. We don't even know how that's
6 going to turn out.

7 That's going to incur additional
8 costs that -- the sponsor talked about additional
9 state funding to work towards covering those
10 costs, but we don't know if that's going to be
11 sufficient or not. He believes it is, I know
12 that. But we also know that we don't have enough
13 people to fill those positions.

14 So we have a question mark about the
15 implementation of that major piece of
16 legislation, and now at the same time we're
17 adding another major piece of legislation on top
18 of it.

19 My concern is that it becomes a
20 little bit too much and a little too ambitious to
21 accomplish in the short term and we may be better
22 off, while we're working to support nursing homes
23 achieve that 70/40 requirement, we focus on the
24 workforce and workforce development to try to
25 ensure that there's enough people to staff these

1 positions and the supply in the pipeline well
2 into the future.

3 For those reasons, while I care
4 deeply about nursing homes properly doing their
5 jobs and care deeply about our loved ones
6 receiving proper care, I'm more concerned in the
7 short term about the staffing and the funding and
8 the changes brought about by the 70/40
9 legislation. So I will not be supporting this;
10 at this particular time I'll be voting in the
11 negative.

12 Thank you, Madam President.

13 ACTING PRESIDENT MAYER: Are there
14 any other Senators wishing to be heard?

15 Seeing and hearing none, debate is
16 closed. The Secretary will ring the bell.

17 Read the last section.

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

20 ACTING PRESIDENT MAYER: Call the
21 roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT MAYER: Senator
24 May to explain her vote.

25 SENATOR MAY: Thank you,

1 Madam President.

2 In the past year our society has
3 learned to thank healthcare workers, the brave,
4 skilled front-line workers we have needed in this
5 time of emergency. But we need to do more than
6 thank them. We need to provide them with the
7 support they need to do their jobs. We need to
8 make sure that one nurse or one CNA does not have
9 more residents or patients to care for than they
10 realistically can care for.

11 This bill honors the nurses and CNAs
12 who have been there for our elders -- not just
13 during the pandemic, but long before that. They
14 are a special breed of people, fierce fighters
15 for those in their care.

16 When Kious Kelly died on March 24,
17 2020, the first R.N. in New York to succumb to
18 the virus, his sister said this: "Let me be
19 absolutely clear," she said. "Kious was not a
20 victim. He served with love. If you needed
21 care, you would get it. He ran toward the
22 oncoming enemy determined to bring survivors back
23 with him. That's who he was."

24 To the nursing staff in skilled
25 nursing facilities and hospitals, we see who you

1 are. I hope this bill and the previous one say
2 loud and clear, we honor your hard work and we
3 want you to have the conditions you need to do
4 your important job.

5 I want to thank Senator Rivera and
6 Majority Leader Stewart-Cousins for bringing this
7 bill to this point, and I proudly vote aye.

8 ACTING PRESIDENT MAYER: Senator
9 May to be recorded in the affirmative.

10 Senator Serino to explain her vote.

11 SENATOR SERINO: Thank you,
12 Madam President.

13 I've been a cosponsor of the Safe
14 Staffing Bill for years, but I just want to state
15 for the record that I'm incredibly disappointed
16 with how these bills have come to the floor
17 today.

18 To negotiate them behind closed
19 doors, split them in two and only invite certain
20 folks to the negotiating table at a time when the
21 public is screaming for transparency on the issue
22 of nursing home care, it's not right.

23 I heard today that these bills are
24 coming in response to challenges faced during the
25 pandemic. Right? But however, to pass

1 legislation without a full top-to-bottom review
2 of the state's response during the pandemic, as
3 we've been calling on for months, defies logic.

4 Until this body leverages its power
5 to do that, how can we say we're effectively
6 addressing any of the problems that might have
7 occurred?

8 All of us here today have the best
9 of intentions. I truly believe that. We all
10 want to do what is right to ensure that the
11 patients receive the very best care. But I
12 certainly hope that the implementation does not
13 result in the unintended consequences.

14 I just want to put on the record
15 that going forward, this house has to do better
16 by these facilities and the vulnerable residents
17 they serve. And that starts with dedicating the
18 appropriate resources that they need, as was
19 mentioned. This house has cut them short year
20 after year after year, and we need to acknowledge
21 how that absolutely hurts quality care.

22 We all share the goal of empowering
23 our seniors to age in place safely in their own
24 homes, but the need for skilled nursing will
25 always be there. And we need quality facilities

1 here in the state to ensure that it remains
2 available if and when it's needed.

3 It's time to redouble our commitment
4 to preserving the quality facilities, and that
5 means holding bad actors accountable, yes. But
6 it also means ensuring that those providing
7 quality care have the resources that they need to
8 continue doing so.

9 Thank you, Madam President, and I
10 vote aye. Thank you.

11 ACTING PRESIDENT MAYER: Senator
12 Serino to be recorded in the affirmative.

13 Senator Brisport to explain his
14 vote.

15 SENATOR BRISPORT: Thank you,
16 Madam President.

17 In the wake of COVID-19, and thanks
18 in large part to years of advocacy by many of our
19 colleagues in this room, it is widely recognized
20 that the chronic understaffing of healthcare
21 facilities is nothing short of deadly.

22 However, as we address this issue we
23 must also recognize that understaffing is one
24 symptom of a deeply reckless mindset that has
25 slowly seeped its way into every facet of our

1 governance. It has become normal to operate as
2 though leaving services and an infrastructure as
3 threadbare as possible is a reasonable or even
4 responsible thing to do.

5 I believe that intuitively we all
6 know that the exact opposite is true. And yet we
7 have gotten used to living within the confines of
8 the bare minimum. Workers squeezed by their
9 employers to the breaking point, taking on longer
10 hours with less sleep and less pay. Patients
11 forced to calculate the absolute smallest amount
12 of medical care they think they can survive with,
13 because they don't have access to adequate health
14 insurance. Subways and buses that come so
15 sporadically we have no idea when we will
16 actually get to work each day, even when that
17 work is essential to keeping New Yorkers alive.

18 This allowance for the bare minimum
19 is not a responsible way to operate, and it is a
20 wildly inefficient way to operate. It may be a
21 short-term savings for corporations of
22 billionaires, but the long-term cost to our
23 communities is astronomical.

24 I want to thank Senator Rivera for
25 getting us here today. Let's keep challenging

1 and dismantling the broken norm of accepting the
2 bare minimum -- not only in our hospitals and
3 nursing homes, but in every aspect of our
4 governance.

5 Madam President, I vote aye.

6 ACTING PRESIDENT MAYER: Senator
7 Brisport to be recorded in the affirmative.

8 Senator Jackson to explain his vote.

9 SENATOR JACKSON: Thank you,
10 Madam President, and good afternoon to my
11 colleagues.

12 First let me thank Senator Rivera in
13 answering all of the questions put forward by all
14 of our colleagues regarding this particular bill.

15 But I rise to explain my support for
16 both safe staffing bills, both with the hospitals
17 the nursing homes. As legislators we must
18 support our nurses and healthcare workers who
19 continue to work tirelessly to save lives.

20 It is no secret that having safe and
21 appropriate nurse staffing levels in nursing
22 homes and hospitals positively impacts patient
23 care. A year into this pandemic has shown us all
24 what many have already known, that nursing care
25 in nursing homes is essential. These workers

1 continue to provide the majority of care to
2 patients, so it's only right that our state
3 finally mandates that healthcare facilities hire
4 enough staff to care for their patients properly.

5 When it comes to nursing homes, that
6 means setting benchmarks for care. Research has
7 demonstrated that hospitals with lower nurse
8 staff levels lead to higher costs and mortality
9 from hospital-acquired complications. Ensuring
10 sufficient staffing of hospital personnel
11 protects patients, supports excellence in nursing
12 care, and promotes safer working conditions.

13 Improved outcomes will come from
14 giving clinical workers a say in the staffing
15 plans, ensuring that these facilities operate to
16 guarantee safety and to deliver top-notch
17 healthcare services.

18 The bottom line is that all
19 New Yorkers deserve safe quality healthcare. My
20 thanks to Senator Gustavo Rivera for his
21 excellent work as our Health Committee chair, and
22 the advocates who helped get the bills across the
23 finish line.

24 Madam Chair, I vote aye.

25 ACTING PRESIDENT MAYER: Senator

1 Jackson to be recorded in the affirmative.

2 Senator Rivera to explain his vote.

3 SENATOR RIVERA: Thank you,
4 Madam President.

5 I want to thank all Senators who
6 were -- who asked questions, Senator Gallivan,
7 Senator Boyle, as well as my colleagues who are
8 supportive of this.

9 But, Madam President, I want to
10 thank the advocates who have for so long fought
11 to make sure that this gets to the floor. The
12 nurses who -- many of whom gave their lives
13 during the last year and, even during the best of
14 times, put themselves in harm's way every day to
15 make sure that we are safe.

16 We owed them this, at the very
17 least, and I'm glad that we're getting it done
18 today.

19 And again, for the record,
20 Madam President, I wanted to thank Senator Andrea
21 Stewart-Cousins, without whom we would not be
22 here. She was the one that decided that 15 or
23 14 years, however long this bill had been around,
24 was long enough, that we needed to actually get
25 all stakeholders around the table, knock heads if

1 necessary, and actually get to a solution. And
2 we did.

3 And I believe that this is a -- that
4 both bills that we're passing today will have an
5 immense impact on the State of New York. And I
6 recognize that it is difficult, that many of
7 those institutions are strained because of the
8 pandemic. But we have a commitment to help them
9 out because we know how important it is,
10 Madam President, that each one of them serve the
11 individuals, the vulnerable populations that they
12 take care of. Those are the folks who we are
13 centering today -- the folks who serve them, the
14 healthcare workers, but specifically the
15 residents that need to be protected.

16 The many that we've lost, we're
17 doing this for them.

18 And so I thank the advocates, the
19 Senators that voted for it, the workers, the
20 patients. And lastly I will say that it is an
21 ongoing thing, Madam President, this is an
22 ongoing effort. We know that we're going to have
23 some tweaking probably to do when we figure out
24 how this is going to be implemented on a
25 day-to-day basis. We will take very good care

1 during that process because, again, we know how
2 important it is to protect those vulnerable among
3 us.

4 So, Madam President, I proudly vote
5 in the affirmative. Thank you.

6 ACTING PRESIDENT MAYER: Senator
7 Rivera to be recorded in the affirmative.

8 Announce the results.

9 THE SECRETARY: In relation to
10 Calendar 733, those Senators voting in the
11 negative are Senators Akshar, Borrello, Boyle,
12 Felder, Gallivan, Helming, O'Mara, Ortt and
13 Ritchie.

14 Ayes, 54. Nays, 9.

15 ACTING PRESIDENT MAYER: The bill
16 is passed.

17 Senator Liu, that completes the
18 reading of the controversial calendar.

19 SENATOR LIU: Madam President, may
20 we return to motions.

21 ACTING PRESIDENT MAYER: Motions
22 and resolutions.

23 Senator Liu.

24 SENATOR LIU: Madam President, on
25 page 20 I offer the following amendments to

1 Calendar Number 428, Senate Print 3909, and ask
2 that this said bill retain its place on the Third
3 Reading Calendar.

4 ACTING PRESIDENT MAYER: The
5 amendments are received, and the bill shall
6 retain its place on the Third Reading Calendar.

7 SENATOR LIU: Madam President, that
8 was for Senator Kennedy's bill.

9 Also, on page 29 I offer the
10 following amendments to Calendar Number 618,
11 Senate Print 5576, and ask that the said bill
12 retain its place on the Third Reading Calendar.
13 This bill is by Senator Mayer.

14 SENATOR MAYER: The amendments are
15 received, and the bill shall retain its place on
16 the Third Reading Calendar.

17 SENATOR LIU: Finally,
18 Madam President, on page 35 I offer the following
19 amendments to Calendar Number 706, Senate Print
20 Number 1746, and ask that the said bill shall
21 retain its place on Third Reading Calendar. This
22 bill is by Senator Kennedy.

23 ACTING PRESIDENT MAYER: The
24 amendments are received, and the bill shall
25 retain its place on the Third Reading Calendar.

1 SENATOR LIU: Madam President, is
2 there any further business at the desk?

3 ACTING PRESIDENT MAYER: Senator
4 Liu, there is no further business at the desk.

5 SENATOR LIU: I move to adjourn
6 until Wednesday, May 5th, at 11:00 a.m.

7 ACTING PRESIDENT MAYER: On motion,
8 the Senate stands adjourned until Wednesday,
9 May 5th, at 11:00 a.m.

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

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