NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 4, 2021

3:29 p.m.

REGULAR SESSION

SENATOR JAMAAL T. BAILEY, Acting President

ALEJANDRA N. PAULINO, ESQ., Secretary

P R O C E E D I N G S

ACTING PRESIDENT BAILEY: The Senate will come to order.

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

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

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

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

ACTING PRESIDENT BAILEY: The reading of the Journal.

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

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

Presentation of petitions.

Messages from the Assembly.

The Secretary will read.

THE SECRETARY: Senator Rivera

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

ACTING PRESIDENT BAILEY: The substitution is so ordered.

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

ACTING PRESIDENT BAILEY: The substitution is so ordered.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Gianaris.

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

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

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

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

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

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

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

(Response of "Aye.")

ACTING PRESIDENT BAILEY: Opposed, nay.

(No response.)

ACTING PRESIDENT BAILEY: The Resolution Calendar is adopted.

Senator Gianaris.

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

ACTING PRESIDENT BAILEY: The

Secretary will read.

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

ACTING PRESIDENT BAILEY: Senator Kennedy on the resolution.

SENATOR KENNEDY: Thank you, Mr. President.

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

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

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

many others.

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

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

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

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

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

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

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

Thank you, Mr. President.

ACTING PRESIDENT BAILEY: Thank you, Senator Kennedy.

Senator Ryan on the resolution.

SENATOR RYAN: Thank you, Mr. President.

I applaud Senator Kennedy for bringing this resolution forward today.

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

the heck moves to Buffalo to retire?

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

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

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

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

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

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

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

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

little is because he gave to everybody who needed it.

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

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

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

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

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

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

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

Thank you very much, Mr. President.

ACTING PRESIDENT BAILEY: The question is on the resolution.

All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BAILEY: Opposed?

(No response.)

ACTING PRESIDENT BAILEY: The resolution is adopted.

Senator Gianaris.

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

ACTING PRESIDENT BAILEY: The Secretary will read.

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

ACTING PRESIDENT BAILEY: Senator May on the resolution.

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

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

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

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

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

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

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

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

men.

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

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

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

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

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

who know her.

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

Thank you.

ACTING PRESIDENT BAILEY: Thank you, Senator May.

Senator Mannion on the resolution.

SENATOR MANNION: Thank you, Mr. President.

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

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

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

And while Le Moyne prepares its

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

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

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

I also have to acknowledge a young

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

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

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

Thank you, Mr. President.

ACTING PRESIDENT BAILEY: The question is on the resolution.

All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BAILEY: Opposed?

(No response.)

ACTING PRESIDENT BAILEY: The resolution is adopted.

Senator Gianaris.

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

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

ACTING PRESIDENT BAILEY: The Secretary will read.

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

ACTING PRESIDENT BAILEY: Senator May on the resolution.

SENATOR MAY: Thank you, Mr. President.

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

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

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

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

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

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

ACTING PRESIDENT BAILEY: Senator

Serino on the resolution.

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

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

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

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

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

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

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

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

Thank you, Mr. President.

ACTING PRESIDENT BAILEY: The question is on the resolution.

All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BAILEY: Opposed?

(No response.)

ACTING PRESIDENT BAILEY: The resolution is adopted.

Senator Gianaris.

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

ACTING PRESIDENT BAILEY: The

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

Senator Gianaris.

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

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

SENATOR GIANARIS: The Senate stands at ease.

ACTING PRESIDENT BAILEY: The Senate will stand at ease.

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

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

ACTING PRESIDENT BAILEY: The Senate will return to order.

Senator Gianaris.

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

ACTING PRESIDENT BAILEY: The

Secretary will read.

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

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

The bill is reported direct to third reading.

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

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

(Response of "Aye.")

ACTING PRESIDENT BAILEY: Opposed, nay.

(No response.)

ACTING PRESIDENT BAILEY: The Rules Committee report is accepted.

Senator Gianaris.

SENATOR GIANARIS: Take up the calendar, please.

ACTING PRESIDENT BAILEY: The

Secretary will read.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BAILEY: The bill is passed.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

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

Ayes, 61. Nays, 2.

ACTING PRESIDENT BAILEY: The bill is passed.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

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

Ayes, 56. Nays, 7.

ACTING PRESIDENT BAILEY: The bill is passed.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

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

Ayes, 62. Nays, 1.

ACTING PRESIDENT BAILEY: The bill is passed.

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

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

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

Ayes, 61. Nays, 2.

ACTING PRESIDENT BAILEY: The bill is passed.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

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

Ayes, 56. Nays, 7.

ACTING PRESIDENT BAILEY: The bill is passed.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce

the results.

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

Ayes, 62. Nays, 1.

ACTING PRESIDENT BAILEY: The bill is passed.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BAILEY: The bill is passed.

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

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

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT BAILEY: Lay it aside.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

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

Ayes, 62. Nays, 1.

ACTING PRESIDENT BAILEY: The bill is passed.

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

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT BAILEY: Lay it aside.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BAILEY: The bill is passed.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BAILEY: The bill is passed.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Senator Mayer to explain her vote.

SENATOR MAYER: Thank you, Mr. President.

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

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

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

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

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

customer had validly earned in transacting with the cards.

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

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

Thank you. I vote aye.

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

Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BAILEY: The bill is passed.

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

ACTING PRESIDENT BAILEY: Read the last section.

THE SECRETARY: Section 2. This

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

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

Ayes, 60. Nays, 3.

ACTING PRESIDENT BAILEY: The bill is passed.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce

the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BAILEY: The bill is passed.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

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

Ayes, 43. Nays, 20.

ACTING PRESIDENT BAILEY: The bill is passed.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BAILEY: The bill is passed.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BAILEY: The bill is passed.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BAILEY: The bill is passed.

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

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

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

The Secretary will read.

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

ACTING PRESIDENT BAILEY: The substitution is so ordered.

The Secretary will read.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the

roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Senator Mayer to explain her vote.

SENATOR MAYER: Thank you, Mr. President.

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

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

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

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

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

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

I vote aye.

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

Senator Kavanagh to explain his vote.

SENATOR KAVANAGH: Thank you, Mr. President.

I rise also to explain my vote on

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

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

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

apartment.

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

And for those reasons, I vote aye.

Thank you very much.

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

Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BAILEY: The bill is passed.

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

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

ACTING PRESIDENT BAILEY: The Secretary will ring the bell.

The Secretary will read.

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

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

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

ACTING PRESIDENT BAILEY: Thank you, Senator Lanza.

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

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

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

SENATOR STEC: Thank you, Mr. President.

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

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

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

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

Thank you.

ACTING PRESIDENT BAILEY: Thank you, Senator.

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

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

SENATOR LANZA: Request a show of hands.

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

ACTING PRESIDENT BAILEY: Without objection, so ordered.

Announce the results.

THE SECRETARY: Ayes, 20.

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

Are there any other Senators wishing to be heard?

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

Read the last section.

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

(Pause.)

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Senator Bailey to explain his vote.

SENATOR BAILEY: Thank you, Madam President.

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

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

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

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

And I know it's been a long battle,

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

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

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

Senator Rivera to explain his vote.

SENATOR RIVERA: Thank you, Madam President.

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

And to the best of their ability

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

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

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

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

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

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

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

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

Thank you, Madam President.

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

Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT MAYER: The bill is passed.

The Secretary will read.

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

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

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

ACTING PRESIDENT MAYER: Thank you, Senator Lanza.

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

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

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

SENATOR BOYLE: Thank you, Madam President.

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

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

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

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

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

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

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

I respectfully request you reconsider your ruling.

ACTING PRESIDENT MAYER: Thank you, Senator Boyle.

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

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

SENATOR LANZA: Request a show of hands.

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

ACTING PRESIDENT MAYER: Without objection, so ordered.

Announce the results.

THE SECRETARY: Ayes, 20.

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

Senator Boyle.

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

ACTING PRESIDENT MAYER: Senator Rivera, do you yield?

SENATOR RIVERA: Absolutely,

Madam President.

ACTING PRESIDENT MAYER: The Senator yields.

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

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

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

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

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

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

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

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

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

to be happy.

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

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

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

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

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

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

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

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

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

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

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

SENATOR BOYLE: Madam President, on the bill.

ACTING PRESIDENT MAYER: Senator Boyle on the bill.

SENATOR BOYLE: Yes, thank you.

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

and not the Governor.

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

And I appreciate your effort.

ACTING PRESIDENT MAYER: Senator Gallivan.

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

ACTING PRESIDENT MAYER: Senator Rivera, do you yield?

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

(Laughter.)

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

ACTING PRESIDENT MAYER: Senator Rivera yields.

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

(Laughter.)

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

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

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

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

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

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

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

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

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

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

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

SENATOR GALLIVAN: Excuse me. Excuse me, Madam President.

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

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

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

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

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

ACTING PRESIDENT MAYER: The Senator yields.

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

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

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

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

come back to the last question.

Does that include assisted living facilities?

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

SENATOR GALLIVAN: Thank you.

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

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

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

bill needed to look like.

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

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

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

ACTING PRESIDENT MAYER: Senator

Rivera, do you continue to yield?

SENATOR RIVERA: I do.

ACTING PRESIDENT MAYER: The Senator yields.

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

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

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

SENATOR GALLIVAN: I realize that, but --

(Overtalk.)

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

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

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

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

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

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

yield.

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

SENATOR RIVERA: I do, Madam President.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR GALLIVAN: Thank you for that answer.

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

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

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

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

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

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

SENATOR GALLIVAN: Will the sponsor continue to yield.

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

SENATOR RIVERA: Yes, Madam President.

ACTING PRESIDENT MAYER: The Senator yields.

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

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

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

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

SENATOR GALLIVAN: Will the sponsor continue to yield.

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

SENATOR RIVERA: Yes, Madam President.

ACTING PRESIDENT MAYER: Yes, the Senator yields.

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

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

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

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

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

that flexibility.

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

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

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

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

SENATOR RIVERA: Yes, Madam President.

ACTING PRESIDENT MAYER: The Senator yields.

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

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

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

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

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

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

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

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

going to be that difficult.

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

SENATOR GALLIVAN: If the sponsor will continue to yield.

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

SENATOR RIVERA: Yes, Madam President.

ACTING PRESIDENT MAYER: The Senator yields.

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

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

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

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

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

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

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

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

In other words, saying like we're

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

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

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

SENATOR GALLIVAN: Will the sponsor continue to yield.

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

SENATOR RIVERA: Yes, Madam President.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR GALLIVAN: Thank you for that answer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SENATOR RIVERA: Yes, Madam President.

ACTING PRESIDENT MAYER: The Senator yields.

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

SENATOR RIVERA: Through you,

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

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

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

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

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

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

SENATOR RIVERA: I will,

Madam President.

ACTING PRESIDENT MAYER: The Senator yields.

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

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

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

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

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

SENATOR GALLIVAN: Will the sponsor continue to yield.

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

SENATOR RIVERA: I do, Madam President.

ACTING PRESIDENT MAYER: The Senator yields.

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

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

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

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

those conversations at the same time.

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

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

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

SENATOR RIVERA: I do, Madam President.

ACTING PRESIDENT MAYER: The Senator yields.

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

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

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

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

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

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

as well.

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

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

SENATOR RIVERA: Yes, Madam President.

ACTING PRESIDENT MAYER: The Senator yields.

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

(Laughter.)

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

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

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

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

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

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

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

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

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

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

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

$64 million.

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

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

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

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

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

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

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

SENATOR RIVERA: Yes, Madam President.

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

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

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

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

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

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

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

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

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

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

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

SENATOR RIVERA: Sure will, Madam President.

ACTING PRESIDENT MAYER: The Senator yields.

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

And in an earlier answer -- and I

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

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

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

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

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

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

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

SENATOR RIVERA: Yes, Madam President.

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

(Laughter.)

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

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

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

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

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

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

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

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

SENATOR RIVERA: I do, Madam President.

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

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

SENATOR RIVERA: One second.

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

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

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

SENATOR GALLIVAN: Will the sponsor continue to yield.

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

SENATOR RIVERA: I will, Madam President.

ACTING PRESIDENT MAYER: The Senator yields.

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

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

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

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

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

So we know over the course of the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Laughter.)

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR GALLIVAN: I suppose it depends on the answer.

(Laughter.)

SENATOR GALLIVAN: So Senator Rivera talked about a commitment, which I very much appreciate, and no doubt our colleagues and those served by nursing homes appreciate. But I'm assuming -- or I guess does that commitment mean working to ensure that there's sufficient and adequate funding to accomplish these goals?

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

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

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

SENATOR GALLIVAN: On the bill, Madam President.

ACTING PRESIDENT MAYER: Senator Gallivan on the bill.

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

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

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

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

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

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

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

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

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

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

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

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

Thank you, Madam President.

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

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

Read the last section.

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

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Senator May to explain her vote.

SENATOR MAY: Thank you,

Madam President.

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

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

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

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

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

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

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

Senator Serino to explain her vote.

SENATOR SERINO: Thank you, Madam President.

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

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

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

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

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

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

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

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

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

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

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

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

Senator Brisport to explain his vote.

SENATOR BRISPORT: Thank you, Madam President.

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

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

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

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

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

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

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

Madam President, I vote aye.

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

Senator Jackson to explain his vote.

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

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

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

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

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

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

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

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

Madam Chair, I vote aye.

ACTING PRESIDENT MAYER: Senator

Jackson to be recorded in the affirmative.

Senator Rivera to explain his vote.

SENATOR RIVERA: Thank you, Madam President.

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

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

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

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

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

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

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

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

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

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

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

Announce the results.

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

Ayes, 54. Nays, 9.

ACTING PRESIDENT MAYER: The bill is passed.

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

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

ACTING PRESIDENT MAYER: Motions and resolutions.

Senator Liu.

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

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

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

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

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

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

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

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

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

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

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

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

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