NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

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3:34 p.m.

REGULAR SESSION

SENATOR ROXANNE J. PERSAUD, Acting President

ALEJANDRA N. PAULINO, ESQ., Secretary

P R O C E E D I N G S

ACTING PRESIDENT PERSAUD: The Senate will come to order.

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

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

ACTING PRESIDENT PERSAUD: Pastor Kim L. Singletary, of the Overcomers Ministries International Church in Hudson, New York, will deliver today's invocation.

Pastor?

PASTOR SINGLETARY: Let us pray.

Almighty God, eternal source of wisdom and justice, we gather today in these esteemed chambers mindful of the profound responsibility entrusted to each member of this Senate.

We ask Your guidance when they deliberate and legislate matters that shape the lives of millions across our great state and also our nation.

Grant the grace of clarity of thought, compassion in judgement and courage in decision-making. May their debates be marked by

respect and their decisions by integrity, always aiming to serve the common good.

In a state enriched by diverse cultures, beliefs and perspectives, help us to honor that diversity, fostering unity without conformity.

Let our actions reflect the highest ideals of public service, promoting justice, equity and peace for all New Yorkers. May this session be guided by wisdom, our laws be just, and our service be selfless.

We ask for Your blessing upon this Senate, our Governor and governing bodies, our state and all its people.

Amen.

(Response of "Amen.")

ACTING PRESIDENT PERSAUD: Reading of the Journal.

THE SECRETARY: In Senate, Friday, April 25, 2025, the Senate met pursuant to adjournment. The Journal of Thursday, April 24, 2025, was read and approved. On motion, the Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

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: Good afternoon, Madam President.

We're going to begin today by taking up previously adopted Resolution 234, by Senator Sepúlveda. Please read that resolution's title and call on Senator Sepúlveda.

ACTING PRESIDENT PERSAUD: The Secretary will read.

THE SECRETARY: Resolution 234, by Senator Sepúlveda, memorializing Governor Kathy Hochul to proclaim April 14, 2025, as Bangla New Year Day in the State of New York.

ACTING PRESIDENT PERSAUD: Senator Sepúlveda on the resolution.

SENATOR SEPÚLVEDA: Thank you, Madam President, for allowing me to speak on this

resolution honoring the Bangladeshi community.

It's truly an honor to bring up the resolution as we gather to celebrate the Bengali New Year, Pohela Boishakh, which occurred on April 14th. I want to extend my warmest and most heartfelt greetings to the entire Bangladeshi community as you celebrate this beautiful and vibrant tradition.

The new year is a time to renew your dreams, strengthen community bonds, and look to the future with optimism and determination. This rich Bengali heritage, with its music, art, cuisine and strong sense of community, deeply enriches the cultural diversity of our state and brings immeasurable value to our society.

Today, through this resolution, we do more than mark the start of a new calendar year; we honor centuries of history, tradition and the resilient spirit that defines the Bengali identity. Pohela Boishakh is not just a holiday -- it's a vibrant expression of culture, unity and hope.

I'm deeply committed to promoting diversity, inclusion and respect for all cultures, identities and traditions that make our

state such a great place to live.

In every song, in every traditional dish, in every colorful and joyful parade we see the soul of a people who are proud of their heritage and full of hope for their future.

The Bangladeshi community is an essential part of our social fabric of New York. Through your hard work, dedication to education, entrepreneurial spirit, and generosity, you have enriched our communities in countless ways. From family-owned businesses and community leaders to young students and tireless workers, you embody the immigrant spirit that strengthens and inspires our state.

I want to offer a special tribute to community leaders, cultural organizations, religious leaders and social organizations whose dedication makes celebrations like this possible across our city and state. Your work is invaluable, and your impact is profound.

On this occasion I would like to recognize Dr. Nazrul Islam, senior economist and vice chairman of the Muktadhara Foundation; Bishawjit Saha, founder and president of NRB Worldwide; and all our distinguished guests in

the gallery who are here today to celebrate.

I close by once again thanking you for the opportunity to share this special moment with you. From my office in Albany, to every corner where your joyful songs of Pohela Boishakh are heard, please know that you have in me a steadfast ally and a friend for history.

Thank you very much. Dhonnobad!

(Applause from galleries.)

ACTING PRESIDENT PERSAUD: Thank you, Senator.

Senator Comrie on the resolution.

SENATOR COMRIE: Thank you, Madam President.

I share the Bangladeshi community with Senator Liu and Senator Stavisky in Queens.

I've been honored to work with the Bangladeshi community since before 2001 -- back in 19 -- 1985, I want to say, was my first contact with the Bangladeshi community, working with the Bangladeshi community helping to get the first Bangladeshi American elected to any school board in this city, Morshed Alam, who I still have a great relationship with.

My district is enriched by the

vibrant Bangladeshi community. Their traditions, faith and festivals are strengthening the cultural fabric of Southeast Queens and the entire state. Bangladeshi-owned businesses, from bustling grocery stores to neighborhood restaurants, are the cornerstone of our local economy in many parts of Queens.

Bangladeshi entrepreneurs not only create jobs but keep our commercial corridors alive and thriving. The rise of Bangladeshi civic participation in elections, community boards and advocacy shows the growing power of our immigrant communities.

Their engagement is vital to a stronger, more representative democracy. I'm proud of the Bengali community in Queens and throughout the state. I'm honored to rise today to support you with this resolution.

Thank you, Madam President.

ACTING PRESIDENT PERSAUD: Thank you, Senator.

(Applause from galleries.)

ACTING PRESIDENT PERSAUD: Senator Stavisky on the resolution.

SENATOR STAVISKY: Thank you,

Madam President.

And thank you, Senator Sepúlveda, for not just bringing the resolution but bringing our friends from the Bangladesh community to Albany.

As Senator Comrie said, we have a close relationship with the Bangladesh community in Queens. And I am so proud to represent so many of them in the eastern and southern part of my district.

And yes, they are a vital part of our business community, our social fabric, and everything that makes the State of New York a welcoming home for people looking for a fresh start.

I'm again delighted that Senator Comrie mentioned our mutual friend Morshed Alam, because he is a leader in the Bangladesh community in Queens. I am so proud to have known him during all of his -- I think -- campaigns. And we wish him the best.

But the Bangladesh community is at the forefront of all things in Queens that are good. And we welcome you, and we congratulate you on all your accomplishments but also your

anniversaries.

Thank you.

ACTING PRESIDENT PERSAUD: Thank you, Senator.

(Applause from galleries.)

ACTING PRESIDENT PERSAUD: Senator Bailey on the resolution.

SENATOR BAILEY: Thank you, Madam President.

I just want to say thank you, Senator Sepúlveda, for introducing this resolution.

It bears worth repeating every time that this auspicious day comes on that my first TV interview, when I was running for office back in 2016, was not with, quote, unquote, traditional media, it was with Bangla-speaking television. It was with Time TV.

And so I will never forget how warmly I was greeted by the Bangla-speaking community, by the Bangladesh community within the Bronx. Although I've been redistricted, unfortunately, out of the 204th area, you all remain in my heart, as you are continuously hardworking individuals who give to community

over self all the time.

And so I just want to say thank you for doing what you do. And I want to say I will always work with you. Even if you're not necessarily specifically in my district, you'll always be a part of my district in my heart.

Dhonnobad!

Thank you, Madam President.

(Applause from galleries.)

ACTING PRESIDENT PERSAUD: Thank you.

Senator Fernandez on the resolution.

SENATOR FERNANDEZ: Thank you, Madam President.

And thank you, Senator Sepúlveda, for this resolution honoring Bangla New Year. I rise in proud support of this.

April 14th marks Bangla New Year Day, a celebration of renewal, reflection, and hope for the future. In Bengali tradition, the New Year is a time to set aside the burdens of the past to begin anew, with purpose, and to reaffirm the values that guide families, communities, and generations.

Here in New York the Bengali

community has carried that spirit forward, preserving language, culture, tradition and contributing to the vitality and the diversity of our communities and our state. Their story reminds us that renewal is not only an act of celebration but an enduring commitment to building a stronger future.

I proudly support this resolution.

(Applause from galleries.)

ACTING PRESIDENT PERSAUD: Thank you, Senator.

Senator Liu on the resolution.

SENATOR LIU: Thank you, Madam President.

I want to welcome our Bangladeshi friends and community leaders to the chambers of the State Senate.

I agree with everything that my eloquent and distinguished colleagues have said already.

I thank Senator Sepúlveda on this resolution, and I urge all of our colleagues to vote yes. Thank you.

(Applause from galleries.)

ACTING PRESIDENT PERSAUD: Thank

you, Senator.

To our guests, I welcome you on behalf of the Senate. We extend to you the privileges and courtesies of this house.

Please rise and be recognized.

(Extended standing ovation.)

ACTING PRESIDENT PERSAUD: The resolution was adopted on January 22nd.

Senator Gianaris.

SENATOR GIANARIS: Thank you, Madam President.

You know, as someone who also represents Queens, I can say that we love the Bangladeshi community so much, we're going to honor them twice here today.

(Laughter.)

SENATOR GIANARIS: So I ask you to take up privileged Resolution 812, by Senator Fernandez, read that resolution's title and recognize Senator Fernandez.

ACTING PRESIDENT PERSAUD: There's a privileged resolution at the desk.

The Secretary will read.

THE SECRETARY: Resolution 812, by Senator Fernandez, memorializing Governor Kathy

Hochul to proclaim March 26, 2025, as Bangladesh Independence Day in the State of New York.

ACTING PRESIDENT PERSAUD: Senator Fernandez on the resolution.

SENATOR FERNANDEZ: Thank you, Madam President.

And yes, today is a double whammy. We are calling it a celebration of Bangladesh here in Albany.

This afternoon we had an amazing event, celebrating the New Year with music, dance, cultural stories and also -- what this resolution is about, this next one -- Bangla Independence Day.

In 1971 the people of Bangladesh made history. Against overwhelming odds, they stood up for their language, for their culture, and for the simple dignity of self-governance.

This resolution honors the bravery, the resilience of a nation born from struggle, in recognizing March 26th as Bangladesh Independence Day, a day when millions remember the sacrifices made during the fight for freedom. And shout out to our freedom fighters that are here in Albany

from the '70s and that time.

Today the people of Bangladesh were amongst the first in the world to defend their mother tongue as a cornerstone of national identity. The preservation of the Bengali language in the face of oppression proved to be not just a matter of words, but of pride, heritage, and self-determination.

Today Bangladesh stands as a proud nation: Vibrant, dynamic, and filled with hope for the future.

I am deeply fortunate to represent a beautiful Bangladesh community -- along with Senator Sepúlveda -- in Parkchester, one of the largest in New York City. Together we broke bread, we've tackled local issues, we've built businesses and celebrated culture.

I'm honored to be here joined by some of our dynamic leaders and our guests on the floor. A few names to mention: Abdus Sahid, from the Bangladesh Welfare Organization. Mamum Islam, from the Bronx Bangladeshi Community Organization. Balil Islam, CEO of our -- one of our favorites, Golden Palace. Nurul Islam. Md Ali. Samad Miah, of the Bangladesh Society of

the Bronx, one of the oldest organizations in the Bronx starting this movement. And so many more.

And I truly thank you for being here and giving us the honor of your work, your love for your country, and for educating us a little more here in Albany. You have all played such an integral part -- and not just for the Bronx, but for New York City and New York State -- in celebrating our beautiful diversity.

I urge my colleagues to please support this resolution, welcome our guests here once again on the floor, and celebrate Independence Day.

Thank you.

(Applause from galleries.)

ACTING PRESIDENT PERSAUD: Thank you, Senator.

Senator Bailey on the resolution.

SENATOR BAILEY: Thank you, Madam President.

I just wanted to speak on two back-to-back resolutions because it's kind of dope. And I think -- in all seriousness, I think that from this perspective, from this view, I saw an incredibly vibrant population. But during the

round of applause on the resolution, I turned around and see an equal amount of vibrant Bangla-speaking Bangladeshi folks. And to me that means everything.

We come from different places throughout the state to do the business of the people. And, you know, like we're in April and we're still trying to figure things out. But one thing that the Bangladeshi individuals have always figured out again is to make sure that they continue to weave that fabric of community together.

See, whether you're from the Bronx, whether you're from Queens or any point in between -- or from Brooklyn. Sorry, Madam President, Brooklyn always has to be in the house as well. But any point north, or anywhere you're at, the Bangla-speaking population is always going to continue to unite together.

So I stand here in solidarity with you for Happy New Year and Independence Day, and any other day that somebody from the Bangladeshi community is doing something continuously positive in our community.

So I vote aye on this resolution,

Madam President, and I look forward to many more years of celebration with this community.

Thank you.

ACTING PRESIDENT PERSAUD: Thank you.

(Applause from galleries.)

ACTING PRESIDENT PERSAUD: Senator Ramos on the resolution.

SENATOR RAMOS: Thank you, Madam President. {In Bangla.}

(Riotous cheers, applause.)

SENATOR RAMOS: I rise -- I rise as the proud State Senator of Jackson Heights. And having been born and raised in my community, I have seen how the Bangladesh community has grown into a vibrant force.

I'm very thankful for their friendship, for their food, for their resiliency. We know that today we're celebrating Independence Day, we're celebrating New Year's. We might as well throw Mother Language Day in there. Because their story is one of incredible strength and I always stand in awe of their work ethic, their sense of entrepreneurship, and their dedication to making New York even better every year.

So thank you, and congratulations to the entire Bangladeshi community.

(Applause from galleries.)

ACTING PRESIDENT PERSAUD: Thank you.

Senator Sepúlveda on the resolution.

SENATOR SEPÚLVEDA: Thank you, Madam President.

Thank you, Senator Fernandez, for bringing this resolution.

To me, it's also an honor to speak on two resolutions for the Bangladeshi community that's been such a vibrant community in my district. Even though Senator Fernandez has the largest district now, I have such a close relationship over the years. These are one of the very first people that endorsed me and helped me when I ran for office 15 years ago. And so they are embedded deeply in my heart.

And they refer to me as Luis bhai. "Luis bhai" means Luis brother. And it's an honor for me to be referred to that way in this great community.

We must remember that the Bangladesh celebration today is of great significance for

the people of Bangladesh. It's a group of individuals with courage and determination that achieved their independence on March 26, 1971. This day not only marks the liberation of a nation, but also the rebirth of an indomitable spirit, a spirit that remains a source of inspiration to all of us.

Today I want to pay tribute to the collective strength and courage of the Bangladesh people who with sacrifice and unity fought for their future, for freedom, and for justice. In these 54 years since independence, Bangladesh has proven to be an example of resilience, overcoming challenges, and embracing progress with an unwavering commitment to development and democracy.

March 26th is not only a historic date for Bangladesh, but also a day to reflect on the ideals of equality, self-determination and unity that transcends borders. It is a day to renew our commitment to peace, justice and human rights for all, and everywhere in the world.

Today we raise our voices together with the people of Bangladesh and celebrate their achievements, their culture and their history.

May the spirit of Bangladesh independence continue to light the way to a better future for all of us where justice, equality and peace prevails.

{In Bangla.} Dhonnobad!

(Applause from galleries.)

ACTING PRESIDENT PERSAUD: Thank you, Senator.

Senator Myrie on the resolution.

SENATOR MYRIE: Thank you, Madam President.

I have the honor of representing Kensington, in Brooklyn, home to a thriving Bangladeshi community.

So I just wanted to express my gratitude, celebration, solidarity with this community. You are what makes this city great, what makes this state great. You come here for opportunity not just for your children and your families, but for the community as well.

So today we celebrate with you, we honor you, and we thank you for your contributions.

Thank you.

(Applause from galleries.)

ACTING PRESIDENT PERSAUD: Thank you, Senator.

Senator Comrie on the resolution.

SENATOR COMRIE: I'm going to try a twofer also, Madam President.

I rise to celebrate and acknowledge the Bangladesh community, your independence and your fight to continue to make sure that you're a major fabric of this community.

I want to mention that I had the opportunity, thanks to Senator Sepúlveda, to visit Bangladesh a few years ago. And I found that the spirit of independence, the spirit of entrepreneurship, the spirit of pride in the Bangladesh community stems from a community and a country that focuses on entrepreneurship, that focuses on getting things done despite differences.

In many different ways, everyone that is from Bangladesh is focusing on doing the right thing.

So I just want to congratulate you on celebrating your independence. And please know that the Senate home is always a place for you to come to express your concerns and your

desires as you fight to make sure that you continue to show your culture, to show your pride, and to show your dignity, so that we can all adopt that here in this state.

Thank you very much for being here. Happy Independence Day.

ACTING PRESIDENT PERSAUD: Thank you, Senator.

(Applause from galleries.)

ACTING PRESIDENT PERSAUD: The question is on the resolution.

All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT PERSAUD: Opposed, nay.

(No response.)

ACTING PRESIDENT PERSAUD: The resolution is adopted.

To our guests, once again I welcome you on behalf of the Senate. We extend to you the privileges and courtesies of this house.

Please once again rise and be recognized.

(Standing ovation.)

ACTING PRESIDENT PERSAUD: Senator

Gianaris.

SENATOR GIANARIS: Madam President, let's move on to privileged Resolution 846, by Senator Ramos. Let's take that up, read its title, and recognize Senator Ramos.

ACTING PRESIDENT PERSAUD: There is a privileged resolution at the desk.

The Secretary will read.

THE SECRETARY: Resolution 846, by Senator Ramos, memorializing Governor Kathy Hochul to proclaim April 28, 2025, as Workers Memorial Day in the State of New York.

ACTING PRESIDENT PERSAUD: Senator Ramos on the resolution.

SENATOR RAMOS: Thank you, Madam President.

I rise to affirm a simple human right. No job should cost anyone their life.

Every year this body takes up a resolution to Workers' Memorial Day. It's important we mourn those we've lost to honor their memories and to recommit ourselves to the fight for dignity and safety in the workplace.

It was Mother Jones who said: "Mourn the dead and fight like hell for the

living." And the today we mourn and we raise hell in remembrance of our loved ones -- those who should be here with us, but aren't, and those who stand with us for the battles ahead.

We are here because of the tireless work of the labor movement, our workers, and our civil rights leaders. We walk in the footsteps of labor champions like Mother Jones, Dolores Huerta, and A. Philip Randolph. Of activists. Of the single mother working three jobs to support her children. Of all those homeless and living in shelters despite having a job.

The future of this country is built by workers who are too often bruised, burned, suffocated, and buried. These tragedies overwhelmingly affect immigrants, especially Black and brown workers who continue to be exploited, underpaid and left behind.

We recognize the living pain of our people -- the voices I hear in Jackson Heights, Corona, East Elmhurst and Elmhurst -- workers who are tired of being called essential but treated as expendable, who work and toil with no reward in sight.

As the daughter of working-class

immigrants and as someone who proudly represents the beating heart of Queens, carrying this resolution is always a tremendous honor for me -- to ensure that those we have lost are remembered, and to hold those accountable for building a safer future for all New Yorkers.

But symbolism alone is not justice. Action is. That's why I've passed legislation to create New York State's workplace fatalities registry, the first of its kind, to ensure transparency, accountability and protection for workers across the state.

I've passed legislation to include mental health trauma in workers' compensation. And still it is not enough, because the most profitable corporations and the greediest of people in the world continue to put their profit over the safety of their workers.

So every year I fight to pass paid sick leave for domestic workers, and I continue my crusade for the TEMP Act, to create a heat standard for workers in construction, agriculture, landscaping, car washes, warehousing and food service.

We must do more. And for all the

names we cannot say, for all the lives we cannot count, this year I am reading 27 names. These names don't represent the totality of the lives lost, but they are our responsibility to remember.

We honor and send love to: Jui Mei Tang, spa worker; Sean Johnson, helicopter pilot; Juan Carlos Sosa, textile machine operator; Jason Forte, heavy equipment operator; Harvinder Singh, construction worker; Richard Errico, sanitation worker; Paulo Couto, construction worker; Jose Portillo, building superintendent; Mamadou Barry, Uber driver; Nelvern Samuel, sanitation enforcement agent; Naveed Afzal, rideshare driver; Efrain Patino Guerra, hotel cab dispatcher; Edgar Ordonez, NYPD recruit; Grzegorz Czupa, construction worker; Herb Henry Alesna (LIUNA Local 731), construction worker; Leocadio Tello, construction worker; Keller Penate, scissor lift operator; Angel Lata Landi, construction worker; Ray Hodges, USPS letter carrier (NALC); Anton Albert, bouncer; Michael Biuso, sanitation worker; Johanci Chapman, driver; Vladamir Cruz, construction worker; Peter Forrest, ambulette driver; Ricardo Louis, MTA

track worker (TWU 100); Frankley Duran, restaurant worker; Robbie Miller, social worker.

And for those names who we may not have today, those lives mattered too.

We will never stop fighting until every worker is safe, protected and paid what they're worth. Not one more.

Thank you.

ACTING PRESIDENT PERSAUD: Thank you, Senator.

Senator Mayer on the resolution.

SENATOR MAYER: Thank you, Madam President.

And thank you, Senator Ramos, for each year reminding us of how important this particular resolution is.

I point out that in 1989 the AFL-CIO declared this day as Workers' Memorial Day. And today, April 28th, is the 50th anniversary of the effective date of OSHA, the Occupational Safety and Health Act of 1970. For those of us who have been around a long time, there was a huge fight to get OSHA passed. This was not a little small piece of legislation.

And it is very unfortunate now that

there's a regulatory freeze of OSHA. And I am hopeful that the courts will ensure that OSHA continues to be a strong source of protection for our working men and women.

But I do want to lift up the voices of those in Westchester who have died in the last few years.

Maria Coto, who was a social worker with the Westchester County Department of Social Services, who was brutally beaten and killed during a home visit in which she inadvertently knocked on the wrong door.

Jose Vega. In 2021, a 46-year-old Connecticut resident working, as so many of our immigrant neighbors, on a construction site at a home where a trench collapsed on top of him and killed him. And at that time the DA brought, for at first time in Westchester County, the charges of criminally negligent homicide in the death of this worker.

We need to do better ensuring that our laws protect these workers when this kind of Criminally negligent homicide occurs. And we have far to go to do a better job.

But I would point out that

Alejandro Manuel Caisaguano Pelliso, in February 2020, a 26-year-old Bronx resident, was killed at a construction site in New Rochelle.

These construction worker deaths have been on a steady increase. Eighty-six percent of construction deaths in the state occur at nonunion work sites, predominantly immigrant workers.

This year on Workers' Memorial Day let us lift up the voices we have lost, and let us recommit ourselves to ensuring there is safety for every men and women, regardless of immigration status, who works in our state, who puts their life on the line simply to have a job. That is something we must change.

Thank you, Senator Ramos, for reminding us each year that is our commitment.

Thank you.

ACTING PRESIDENT PERSAUD: Thank you, Senator.

Senator C. Ryan on the resolution.

SENATOR CHRIS RYAN: Thank you, Madam President.

And thank you, Senator Ramos, for bringing this resolution forward.

So I rise not just as a Senator in this great body amongst some great leaders, but as a lifelong union member, a 28-year union member of the Communications Workers of America and a former president of the Communication Workers of America Local 1123, but an advocate who has seen firsthand the difference that organized labor makes in the protecting of the live of working men and women.

On Workers' Memorial Day -- Senator Ramos said it -- you know, we say that we in the labor movement, we say we mourn for the dead and fight like hell for the living. You know, for me this is a little personal. I've stood shoulder to shoulder with workers who knew the risks of the job that we were taking on, but they believed in me to see to it that as their president and their labor representative, we made sure that workplaces were safe.

But I've also had to attend the services of fellow brothers who have lost their lives to electrocution, who have been hit and run over and killed by motor vehicles.

You know, it's funny -- and we say, you know, CWA, we wear red on Thursdays. And

people don't always know why we wear red on Thursdays. But when CWA was on strike in 1989, one of our fellow union brothers named Gerry Horgan was on a picket line and unfortunately run over and killed by a replacement worker. So we always remember that every Thursday, to this date, we wear red on Thursday to commemorate that, and we don't forget it.

You know, every year -- we spoke of it, every year thousands of workers lose their lives for simply doing their job. As a matter of fact, in 2023, 5,283 working people were killed on the job, and countless more injured and sickened because their safety was seen as an expense instead of a right.

Unions have always been the first line of defense against dangerous workplaces, whether it's fighting for OSHA standards, leading health and safety training, negotiating for lifesaving equipment, or empowering our workers to speak up. You know, the union has made these workplaces safer for everybody.

But, you know, today and always I believe we as lawmakers have an obligation to

pass meaningful legislation to protect those that are on the job. And quite frankly, we do -- we do also as society.

So today we remember those who have lost their lives -- to every worker and every job in every corner of this state.

Thank you.

ACTING PRESIDENT PERSAUD: Thank you, Senator.

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

(Response of "Aye.")

ACTING PRESIDENT PERSAUD: Opposed, nay.

(No response.)

ACTING PRESIDENT PERSAUD: The resolution is adopted.

Senator Gianaris.

SENATOR GIANARIS: Madam President, all of today's resolutions are open for cosponsorship.

ACTING PRESIDENT PERSAUD: 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: I have a couple of motions here.

On behalf of Senator Hinchey, I wish to call up Senate Print 2182, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT PERSAUD: The Secretary will read.

THE SECRETARY: Calendar Number 150, Senate Print 2182, by Senator Hinchey, an act to amend the Public Service Law.

SENATOR GIANARIS: Move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT PERSAUD: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT PERSAUD: The bill is restored to its place on the Third Reading Calendar.

SENATOR GIANARIS: I offer the following amendments.

ACTING PRESIDENT PERSAUD: The amendments are received.

SENATOR GIANARIS: On behalf of

Senator Fahy, on page 17 I offer the following amendments to Calendar Number 497, Senate Print 4713, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Gianaris.

SENATOR GIANARIS: Please take up the calendar at this time.

ACTING PRESIDENT PERSAUD: The Secretary will read.

THE SECRETARY: Calendar Number 391, Senate Print 4728, by Senator Sanders, an act in relation to establishing the New York State Cryptocurrency and Blockchain Study Task Force.

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce

the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 398, Senate Print 4369, by Senator Comrie, an act to amend the Not-For-Profit Corporation Law.

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: In relation to Calendar 398, voting in the negative are Senators Martinez and Walczyk.

Ayes, 58. Nays, 2.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 452, Senate Print 3071A, by Senator Sanders, an act to amend the Education Law.

SENATOR LANZA: Lay it aside.

SENATOR GIANARIS: Lay it aside for the day, please.

ACTING PRESIDENT PERSAUD: The bill will be laid aside for the day.

THE SECRETARY: Calendar Number 458, Senate Print 4892B, by Senator Stavisky, an act to amend the Education Law.

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: In relation to Calendar 458, voting in the negative:
Senator Martins.

Ayes, 59. Nays, 1.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number

470, Senate Print 1463, by Senator Kavanagh, an act to amend the Environmental Conservation Law.

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT PERSAUD: Lay it aside.

THE SECRETARY: Calendar Number 486, Senate Print 1225, by Senator Rivera, an act to amend the Social Services Law.

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 505, Senate Print 4767, by Senator Bailey, an act to amend the Executive Law.

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 565, Senate Print 2294, by Senator Skoufis, an act to amend the General Municipal Law.

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 612, Senate Print 1641, by Senator Fernandez, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 662, Senate Print 1380, by Senator Serrano, an act to amend the Parks, Recreation and Historic Preservation Law.

ACTING PRESIDENT PERSAUD: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day after it shall have become a law.

ACTING PRESIDENT PERSAUD: Call the

roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: In relation to Calendar 662, voting in the negative are Senators Murray and Ortt.

Ayes, 58. Nays, 2.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

SENATOR SERRANO: Thank you. Can you please go to the reading of the controversial calendar.

ACTING PRESIDENT PERSAUD: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 470, Senate Print 1463, by Senator Kavanagh, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT PERSAUD: Senator Borrello, why do you rise?

SENATOR BORRELLO: Well, hello, Madam President.

ACTING PRESIDENT PERSAUD: Hello.

SENATOR BORRELLO: How are you today?

ACTING PRESIDENT PERSAUD: I am well, how are you?

(Laughter.)

SENATOR BORRELLO: Good, I am well. You look lovely.

ACTING PRESIDENT PERSAUD: Nice blue.

SENATOR BORRELLO: And I love yours as well.

That's all, thank you.

(Laughter.)

SENATOR BORRELLO: Would the sponsor answer a few questions.

ACTING PRESIDENT PERSAUD: Will the sponsor yield?

SENATOR KAVANAGH: Madam President, yes. For a moment I thought it was just a greeting, but I'm also happy to yield.

ACTING PRESIDENT PERSAUD: The sponsor will yield.

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

The sponsor memo for this bill actually mentions great success of recycling programs in states like California, Oregon, and even nearby Connecticut and Rhode Island. So does this bill mirror those successful programs?

SENATOR KAVANAGH: Through you, Madam President, it does substantially. Several of the elements of this are informed by those programs.

I should note the Oregon program has been enacted but is not yet fully in effect. But the other states have demonstrated that if you create an extended producer responsibility program for mattresses, you get very high rates of collection. You also get very high rates of recycling.

So they are -- this bill is partly inspired and mirroring provisions of those and also is modeled on some of the other extended producer responsibility laws that we've passed in New York that are also administered by the Department of Environmental Conservation, as this one would be.

SENATOR BORRELLO: Thank you.

Madam President, will the sponsor

continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR BORRELLO: Well, you know, I think one of the key components here that makes this successful is essentially the fee that's attached. And by the way, the industry has been trying to do this for years, and having New York in this program would substantially improve the total number of mattresses that will be recycled.

So why wouldn't we just institute that fee that has been successful not just in other states, but with other programs like our paint recycling program?

SENATOR KAVANAGH: Through you, Madam President. If the industry wanted to do this in New York, they have the capacity to do this.

So it is true that we've gotten a generally favorable response to the concept of EPR from industry participants. But of course if

industry participants wanted to set up a collection program and make it convenient for consumers and recycle mattresses, they're certainly already entitled to do that.

It has been shown that when you put a program like this in place that is essentially a mandate, you get much higher rates of participants because it levels the playing field.

It says, basically, anybody who sells mattresses has to participate, and that increases participation rates. And it also means that somebody choosing to set up this program doesn't have to bear the cost while one of their competitors may not be.

So I think it's fair to say that industry has been open to supporting programs. The element that my colleague talks about is an issue that we've been talking about with EPR programs at least for 10 years, since we had some conversations about 10 years ago regarding paint collection.

It is just a fact that New York in general, as we've done our kind of modern EPR programs, has done them somewhat differently. The expectation is that the industry, the various

participants in the industry, will work together to figure out the most effective and efficient way to collect mattresses and meet their obligations to handle them responsibly, and that they will distribute the cost among themselves and they will do it in the most efficient way possible.

If you create a fixed fee that -- as some people have proposed -- every purchaser of a mattress would have to pay, it diminishes the incentive for the industry to do this efficiently. If they're going to get $20 per mattress regardless of how efficient they are, they're likely to, you know, spend the $20 and not worry too much about keeping the cost to the consumers at a minimum.

The other thing is that we have actually heard formally from certain retailers of lower-cost mattresses that they oppose having a single fixed fee because if you're selling a mattress at a few hundred dollars and there's a set fee on it and another retailer that's selling mattresses at a few thousand dollars, maybe, has the same fee, then they would be at -- the sort of low-cost retailer would be at a disadvantage.

So, for example, Ikea, which is a major retailer in our state and also a major producer of mattresses, has said that they would strongly prefer we do this without a fee.

SENATOR BORRELLO: Madam President, will the sponsor continue to yield.

ACTING PRESIDENT PERSAUD: Will the sponsor yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR BORRELLO: You bring up the cost. You know, if I go to the grocery store and buy, you know, a case of Pepsi and the cans are as little as 35 or 40 cents, but yet I'm still paying a five-cent deposit mandated by New York State government, that would be about the same percentage as, say, a $15 or $20 fee on a $200 mattress.

But it prevents people -- it encourages them to bring those cans back and has created kind of a whole cottage industry which funds, essentially -- that deposit funds the whole infrastructure that it's created in our

deposit program.

Why wouldn't we use that same model for this?

SENATOR KAVANAGH: Through you, Madam President. I support the Bottle Bill. I would actually support increasing that fee and also making more funds available to some of the participants in that industry that need to recycle those.

One big difference is that fee is fully returned to the consumer if they return the product. In this case, what the industry is proposing is charging a fee and then keeping the fee and using it to cover their costs.

And again, we don't usually think in this house that it's a good idea to specify what private-sector enterprise ought to charge for a particular service or a particular product.

And again, other states have seen this differently. I'm not saying it's a crazy idea to set a fee. There are various programs around the world that have a fee structure similar to the one that my colleague is proposing. But there are many other examples of places that don't do it that way.

What this bill proposes is to say that if you're producing -- if you're selling mattresses in New York State, you need to be selling mattresses that are coming from a producer that has an approved program and that they ought to internalize that cost and share it in the most efficient way among producers in their industry.

SENATOR BORRELLO: Madam President, will the sponsor continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR BORRELLO: So in my district I have a couple of major manufacturers, one being Serta, I'm sure a brand that everyone's heard. Also Jamestown Mattress. I happen to sleep on a Jamestown Mattress made right in my district.

You're asking them to bear the responsibility for that recycling even if someone goes across the border -- my district borders the

State of Pennsylvania. Literally you can stand with one foot in my district and the other foot in the State of Pennsylvania for about a hundred miles straight.

And often people go to Pennsylvania because it's -- quite frankly, it's cheaper to buy things there. So if someone goes over there and buys something and they bring it back to New York and then they turn it in to the manufacturers, I don't understand, why should Jamestown Mattress pay for a mattress made in China that was bought in Erie, Pennsylvania, and recycled in New York State? How will we handle that?

SENATOR KAVANAGH: Through you, Madam President. First of all, a great -- it happens that this is a particular industry where most of the products sold are made in the United States. I think that's unusual for manufactured products. So the big producers like Tempur-Pedic and Sealy and Serta are largely manufacturing their mattresses in the United States, although not necessarily in New York State.

The way this program would work is

that manufacturers that -- producers of mattresses would be required to enroll in a program that explains how their product can be returned conveniently.

Now, it is true that the average mattress lasts many years. It is true that no one is going to, you know, put a bar code on each mattress and track whether it is a New York-sold mattress and its being returned to a New York producer. Hopefully other states like -- we already have one neighboring state do this. Hopefully other states will do this, and perhaps some of these costs will be shared across borders.

But for now, what it requires is that programs meet a fraction -- you're selling a certain amount into the market, you have to collect a certain fraction of that number. So no one's going to say, Well, mattresses that come from Pennsylvania don't count toward your target.

In fact, if you have a target that you have to meet, encouraging people to return their mattress when they're done with it, regardless of where it comes from, will help you meet your target.

But we're not saying a hundred percent of all mattresses sold or a hundred percent of all mattresses disposed of must get back into the system. We are suggesting that if you are producing and selling mattresses in our state, that you take responsibility for collecting mattresses that are discarded in our state.

And there's probably just as many mattresses in New York that will end up getting discarded in Pennsylvania -- and, frankly, local governments in Pennsylvania will bear that cost, as local governments are bearing the cost now.

But this is -- you know, we think it's a wash that some mattresses may cross borders during the course of being used, before they're discarded.

SENATOR BORRELLO: Madam President, will the sponsor continue to yield?

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR BORRELLO: You mention a certain percentage. It's actually a significant percentage. About a third, about one in every three mattresses sold in the United States are foreign-made.

And in some cases, when you start talking about mattress dumping, where it might have been made in China and then transported to another country with, you know, a different set of rules, and then end up in New York State -- how are we going to track this? And why wouldn't we just give the industry the ability to create an infrastructure, as has been successfully done in other states, with funding so that they can really recycle any mattress?

You're talking about one in every three mattresses is made outside the United States, and we're making them 100 percent responsible for 100 percent of the mattresses here in New York State. Don't you think that's an unfair burden?

SENATOR KAVANAGH: Through you, Madam President. I think we might be working with different data here. My understanding is just Sealy and Tempur-Pedic are responsible for

45 percent of the entire mattress market sold. And they assert that they manufacture all their mattresses in the United States. They may have some components that are not from the United States, as most products do these days.

But putting that aside, this bill will require more regulation on mattresses that are not made in the United States than is currently the case. Right now anybody -- any mattress from anywhere can be sold. And when the consumer is done with it, it gets disposed of through municipal waste programs and municipalities bear the cost.

What we would be saying is if you're selling mattresses, you must only be selling mattresses that are subject to an EPR program that has been approved by DEC. Which means if a Chinese manufacturer or a Danish manufacturer are selling mattresses in New York, they will now be subjected to a program that accounts for the disposal costs.

So this, if anything -- if you think that there are people dumping mattresses into New York that want to do it -- I use that as a trade term, not as a -- not literally dumping.

But if they are putting mattresses into the New York market right now, there's no regulation on what happens with them after they're done.

This would provide regulation. It would provide equal regulation regardless of where the mattress is manufactured.

SENATOR BORRELLO: Will the sponsor continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KAVANAGH: Happily, Madam President.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR BORRELLO: So with that said, you know, obviously with the proliferation of online purchases, are we going to prohibit Amazon from shipping a nonparticipating mattress to New York State? How are we going to stop that?

SENATOR KAVANAGH: We will -- the bill would specifically prohibit that. You are not permitted, in this bill, to sell mattresses unless they are part of a program approved by DEC that addresses the question of what's going to

happen at the end of life.

And for what it's worth, that program can be done in a number of ways. Like theoretically a mattress producer could create their own program, or they could work with another competitor in the industry that they want to work jointly with, or they could create -- which is more likely, they could create a single entity that is statewide, often called a producer responsibility organization, where they all pool their resources, they basically take a mattress back at each collection site regardless of the manufacturer, and then they allocate the cost among themselves, which businesses are quite adept at.

So this would -- yeah, Amazon would be violating the law if they were selling a mattress in the New York market that was not part of an approved program.

SENATOR BORRELLO: Madam President, will the sponsor continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KAVANAGH: Yes. Yes, Madam President.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR BORRELLO: And here's the question you've been waiting for. Who's going to be the mattress police?

(Laughter.)

SENATOR KAVANAGH: Through you, Madam President. I guess the short answer would be the DEC, although I don't think there would be a lot of badges and guns involved in this enforcement effort.

Basically if you want to sell mattresses -- I mean, first of all, as you know, EPR programs exist in many markets. We've had EPR programs in -- for a third of a century in some European countries that work quite well.

The bill would require, if you want to sell mattresses in New York, that you're part of an approved program approved by DEC. There are time frames within which to approve that. DEC would list all the manufacturers that are participating in those programs. So if you want to sell -- if you're a retailer, all you have to do is check the list and see that that is a brand of mattress that is approved. And if you're

violating the law, then you're violating the law.

And again, the principal -- you know, the principal obligation here is for industry participants, manufacturers of mattresses -- producers of mattresses, which includes importers, people who are taking a mattress that's technically made by somebody else and importing it to New York. If you're bringing a mattress into the New York market, you have to participate in this program. And the program has to be approved by DEC as to the convenience of it and the sufficiency of it. And if you do that, then your mattress is sellable in New York.

SENATOR BORRELLO: Madam President, will the sponsor continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR BORRELLO: So this brings up an interesting, I guess, conundrum. You can very easily, in my district -- and people do it every day -- go to Erie, Pennsylvania, which is

literally minutes from Jamestown. So you have Jamestown Mattress making mattresses in Jamestown that will be complying and footing the bill. And they're going across the border and the consumer buys a noncompliant mattress and brings it back to New York.

Is that person now essentially handling mattress contraband? What's going to happen to those folks?

SENATOR KAVANAGH: Through you, Madam President. There's nothing in this bill that would prohibit somebody from buying a mattress across the border and using it for their personal use.

If they're buying mattresses across the border and setting up a retail operation selling those mattresses, and those mattresses are not from a brand that is participating in a PRO -- or, sorry, that is complying with the law, then that retailer, as soon as they become a retailer, they might be violating this law.

But there's nothing that's -- we're not checking your mattress label at the border, as it were.

I will note that it is -- the likely

outcome here is the same as -- it's likely to be the same as it has been in other states, which is most -- most companies that want to sell mattresses in New York, which is probably most makers of mattresses, will likely set up a program, have it probably joined together with all the other mattress producers, set up a single program and have DEC approve it and then we'll proceed from there.

So I don't think it's likely to be a problem that every once in a while some -- or maybe not even -- in my district they probably go to a mall in New Jersey and buy a mattress if they're not buying it in New York. And that's -- there's nothing in this bill that would prevent that.

SENATOR BORRELLO: Madam President, on the bill.

ACTING PRESIDENT PERSAUD: Senator Borrello on the bill.

SENATOR BORRELLO: Thank you, Senator Kavanagh, for that.

I think one of the things that we always forget here in New York State is that we are not the center of the universe and that

everything does not revolve around what happens in New York State. And in fact people have options, now more than ever. You can order something online, ship it into New York State, no one's going to know the difference.

But we're going to make sure that manufacturers, many of whom are based here in New York State, who every day think of reasons why they should leave New York State -- which is happening at a record pace -- are going to say to themselves, Why should we have to shoulder this burden when we can lift up our operations and move it a few miles down the road to Pennsylvania and not have to deal with this any longer?

And then they can become the manufacturers that are shipping into New York State without having to shoulder this burden.

But the interesting thing about this particular bill is that there's just one little thing that would make this, you know, something that would be embraced by the industry. And that is a fee that has been successful in all those other states that the sponsor mentions in his justification. The key has been a small -- a nominal fee, somewhere between 16 and 22 dollars

per mattress, so that they can create the infrastructure necessary to recycle these mattresses. And it's actually a good thing because so many of the parts go into other things that can be used successfully.

But we don't want to do that here in New York State. Why? Well, because we have a lot of people that are buying, you know, low-cost mattresses and we don't want them to have to pay that burden.

Well, like I said before, I go in and buy, you know, a case of Pepsi and pay 45 cent a can at the grocery store and I'm paying an extra five cents. And in fact there's a big problem where I live. There's a big problem that people in Pennsylvania actually buy cans of soda that they actually didn't pay the at deposit on, and they bring them to New York State to collect the deposit.

It's a huge multi-million-dollar problem here in New York State. And we're going to create an even bigger multi-million-dollar problem with, of all things, mattresses.

So I think that the intention is good. The industry supports it. But yet we

don't really have the key element here, which is to create the funding to create the proper infrastructure.

And in those other states -- this is very important. I asked the question, how many mattresses are actually being recycled? I was really expecting him to say like 10 percent, 15 percent. Sixty-seven percent of mattresses in those other states that have a recycling program are being recycled. That's a huge impact.

So what are we really talking about here? Do we want to have an impact? Do we want to keep those mattresses out of our landfills and off the side of the road? And for what? For but a small fee that will be added to those mattresses to create that infrastructure. Which the industry supports.

So I think we can support this with that change. But if we don't, if we don't continue to unfairly burden manufacturers like we do in so many industries in New York State, it's going to create another, I guess, you know, failure for us to support the businesses here in New York State.

Like the businesses in my district.

Like Jamestown Mattress. Like Serta. That have been there, employing hundreds of people. Union employees that will be sacrificed because we don't want to charge a nominal fee to create a program that would have a huge benefit.

So I'm going to be a no on this bill, with the hope that that amendment can be made sometime.

Thank you, Madam President.

ACTING PRESIDENT PERSAUD: Thank you, Senator.

Senator Walczyk.

SENATOR WALCZYK: Thank you, Madam President. I'll go briefly on the bill.

ACTING PRESIDENT PERSAUD: Senator Walczyk on the bill.

SENATOR WALCZYK: Thank you.

So this bill aims to see more mattresses recycled in the State of New York. The Mattress Recycling Council has been in operation for over 10 years, as my esteemed, distinguished and well-respected colleague George Borrello pointed out, and now in those four states -- California, Oregon, Rhode Island and Connecticut, 67 percent -- 15 million

mattresses -- through a small assessment of a fee at retail point of sale, and oversight from whatever the environmental department in that state is, a program that appears to be working very well and numerically with 15 million mattresses recycled, is obviously working well for those states.

Local governments have brought up this issue, and they are relieved in those states because mattresses can be pretty difficult and bulky to deal with. They take up a lot of space in a landfill. They can be an impediment to human health for those who are dealing with them. They very quickly degrade when they're left out in the elements or in a bad situation.

But this bill doesn't adopt the program that has been proven in those -- you know, in the marketplace of ideas in the 50 United States of America. We in this body have the opportunity to look at what other states are doing and listen to the industry and what they might say. This is a perfect example of that marketplace of ideas. If you want to do a mattress recycling bill, perfect, there's a program that's been working, supported by the

industry in four other states.

So instead, this bill is looking to sort of recreate the wheel and put New York's own spin on it.

And with that, I would ask the sponsor to yield for some questions.

ACTING PRESIDENT PERSAUD: Will the sponsor yield?

SENATOR KAVANAGH: Through you, Madam President, yes, I yield.

And I'd be happy to respond to some of the statement -- the questions in the form of statement that my colleague has mentioned. But it's his time, so --

SENATOR WALCZYK: I'll allot that time, Madam Chair.

ACTING PRESIDENT PERSAUD: Go ahead, Senator.

SENATOR KAVANAGH: Yeah, so just a couple of points.

First of all, to points that both of my colleagues have made, the question -- the EPR programs are broadly successful in the manner that my colleagues have suggested these particular mattress programs are successful.

When you require that producers take back their product and do what's responsible for it, you get high rates of recycling.

And that is the idea that it is true, they get -- they exceed 70 percent recycling rates with EPR mattress programs in each of the four states that have had the programs long enough to have data.

The idea that that success results from the fee is perplexing. That success results from the fact that manufacturers are required to set up a convenient way to take mattresses back, and then they are required to in fact take them back and then they're required to dispose of them or reuse the materials in a responsible manner.

What we're discussing here today is whether to impose that cost individually in a set fee on each consumer or impose it on the industry collectively to be distributed in a manner that the industry itself decides is rational. Or the status quo, which is what we would be doing if we didn't pass this bill, which is to continue to have every local government in the state bear the cost of disposing of these mattresses.

So consumers are going to pay this

as taxpayers or they're going to pay it as a fee when they purchase a mattress or they're going to pay any price increase that the industry chooses to impose as a result of this product -- of this work they need to do. And it's clear that there's some work that needs to be done in order to do this. But there's no reason to think that that amount would be necessarily the fixed fee that we would impose on here.

And I would also just note that we have numerous EPR programs all over the country, including in New York State, that are not based on a point-of-purchase fee as the industry is suggesting here, including our own electronic waste program that's been around for a very long time, including other programs that we have for other products.

We as a general matter have not done modern EPR programs with fees. We do have some fee-based programs that are decades old, including the tire program where you pay a fixed fee when you turn a tire in.

But there's no reason to think that this issue of how to allocate costs is going to materially impact the effectiveness of this

program. And there's no reason to think it's going to be detrimental to any particular manufacturer of mattresses, including the -- you know, the work that's being done in my colleagues' districts.

SENATOR WALCZYK: Through you, Madam President, will the sponsor yield.

ACTING PRESIDENT PERSAUD: Will the sponsor yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR WALCZYK: So you just mentioned three different options of how the taxpayers are going to pay for this, or either the consumer is going to pay for it one of two ways. But your bill on page 5, line 23, says "The program shall be free to the consumer, convenient and adequate to serve the needs of the consumers in all areas of the state, and on an ongoing basis."

How do you enforce that this is free to the consumer? You know, especially given your remarks saying the consumers have three options

to pay for this: Either the taxpayers -- but you haven't chosen that route -- either the fixed fee -- but you haven't chosen that route -- and, by your own words, through the manufacturer we anticipate the costs are going to increase, yet the language of your bill says the consumer can't bear the cost.

SENATOR KAVANAGH: Through you, Madam President, I think that language is a straightforward acknowledgment that there's no specific fee for returning your mattress.

Incidentally, what the industry is proposing is not -- as I understand it from their representatives, their very capable representatives here in Albany, what they seem to be proposing is a fee upon purchasing a mattress at the point of sale so that that money can then be used to create a recycling program. So in that -- even in their program, you wouldn't be paying a fee to recycle your mattress.

But it's pretty straightforward. What we're saying is that the -- when they set up their program, it needs to be convenient for consumers and you can't charge a fee for returning your mattress.

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR WALCZYK: In the states that run this program that already have a fixed fee -- somewhere between $16 and $22.50, I think, for the four states that are running it now -- consumers can anticipate what that is because it's a state program that's run.

But what do you anticipate that the cost of an increase in mattress purchase will be in the State of New York when your bill is implemented?

SENATOR KAVANAGH: Through you, Madam President. I have no particular reason to think that the net cost of this program will be different.

But I honestly don't know whether -- the -- the argument against -- the argument

for -- again, I and the sponsors of those bills in those states would largely agree that this is an essential program, that it diminishes our solid waste problem, that it addresses the fact that a substantial fraction of our contribution to climate change is through inefficient solid waste management. So we largely agree.

The issue -- what I don't know is whether those participants in that market would realize efficiencies if they didn't say you get $20 whether you're efficient or you get $20 whether you're inefficient.

Presumably that fee has been set to cover their actual cost, and it presumably is doing so. But the theory here is that an efficient industry, without imposing a specific fixed fee set by the government, might do things better in a more efficient way.

So people who are purchasing mattresses will likely do what they do now, which is shop around, see the best deal they can get, relative to the quality and all the other factors they might consider, and purchase a mattress.

Mattresses -- a typical queen-sized mattress exceeds a thousand dollars in cost,

although there's a very wide range. They can go for as much as $5,000. So there's a very wide range in cost, a very wide range in materials, a very wide range in, you know, the experience people are looking for.

This will be very -- for a purchase that people make, you know, once or twice a decade, this will be a small imposition and meanwhile it will prevent their local governments from having to bear this cost effectively for free, you know, without any participation from the industry.

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR WALCZYK: There's nothing in this bill that caps the cost of a mattress or controls the price of mattresses in the State of New York, is there?

SENATOR KAVANAGH: No. Through you, Madam President, what I hear the Minority suggesting, my esteemed colleagues, is that we have, in fact -- effectively they're suggesting a price control on a particular service, which is the service of taking your mattress back.

But there's nothing else in this that sets the cost of mattresses, the production of mattresses, or the sale price of mattresses.

SENATOR WALCZYK: Through you, Madam President, would the sponsor continue to yield?

ACTING PRESIDENT PERSAUD: Will the sponsor yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR WALCZYK: I didn't mean to make any such suggestion.

What type of mattress do you sleep on? What brand of mattress do you sleep on?

(Laughter.)

SENATOR KAVANAGH: Through you, Madam President, that seems like a bit personal

with the cameras rolling.

(Laughter.)

SENATOR KAVANAGH: I -- and through you, Madam President, I have no idea.

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KAVANAGH: Through you, Madam President, as long as my colleague doesn't try to elicit too many expressions of ignorance of the details of my daily life, I'd be happy to, yes.

ACTING PRESIDENT PERSAUD: So the sponsor will yield except for personal questions.

SENATOR WALCZYK: I'll tread lightly, Madam President.

I was hoping to not explore the details of your bedroom but, rather, the manufacturing process and where that mattress may have come by -- may have come from. Because I think in some of my line of questioning we're going to illuminate some of those things today.

But if we could go to page 3,

line 48 of your bill, briefly. This is a requirement that there is a mattress return location in every county in the State of New York. Also requiring that 70 percent of the State of New York have a mattress return facility within 15 miles of their residence.

How many sites in the State of New York will that be?

SENATOR KAVANAGH: Through you, Madam President, I don't think there'd be any reliable way of estimating that.

I suppose you could take the number of square miles and then remember your high school geometry and figure out the radius and the circumference -- the ratio of the radius of a circle to the area of a circle and then -- but that would suppose that they are evenly distributed, which they won't be. Presumably they'll be in, you know, shopping malls and other places where they're convenient for people.

Again, these kinds of convenience programs are a standard aspect of the programs that my colleagues have been suggesting have done well in other parts of the country. But there's -- basically the idea here is under

normal circumstances what happens is the industry as a whole, which is very good at figuring out convenient places to purchase mattresses, would also create a convenient way for people to take them back.

So we're not saying that the same store that sells them has to take them back. We're saying that the industry has to make sure there are convenient places for people to take them back. And if everybody's working together, that means a certain number of distribution points and a certain number of collection points. And that provision is intended to make sure it's convenient for all New Yorkers.

SENATOR WALCZYK: And through you, Madam President, would the sponsor continue to yield?

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR KAVANAGH: So on the county requirement, every county in the State of

New York would have to have at least one. That includes Hamilton County, population of 5,000, large county in the Adirondacks?

SENATOR KAVANAGH: Yes. Through you, Madam President, yes.

But it also -- but the requirement about relative distances would also apply there. So presumably there would quite likely be more than one site in Hamilton County. Although, theoretically, they could be on the other -- they could be near Hamilton County but on the other side of the border; they would still count.

But yes, there's a -- in order -- I come from a very populous county in the state, a very densely populated county in the state, the County of New York. But we want to make sure that people all over the state have some -- have a convenient ability to return the mattress.

SENATOR WALCZYK: Through you, Madam President, would the sponsor continue to yield?

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR WALCZYK: Did you reach out to rural counties or the APA, say, to say whether they could site one of these mattress return facilities?

I'm not aware that you can even purchase a mattress in Hamilton County. There's only 5,000 residents. Who would pay for that location?

SENATOR KAVANAGH: Through you, Madam President, I have not talked about the particular -- you're talking about the Adirondack Park? I have not talked with the Adirondack Park Authority about this bill.

I have talked with various representatives of counties and towns and villages which generally support these programs, because otherwise they are bearing the cost of disposing of these mattresses.

But yeah, the requirement that there be at least one site in that county is something that the industry as a whole would have to address for the benefit of the residents of Hamilton County. If somebody were to tell us and

say that Hamilton County, of all counties in the state, needs some kind of an exception, I suppose we could address that.

But, you know, there are certainly businesses, retail businesses, other kinds of businesses -- there are certainly disposal sites. I mean, people have places to dispose of their garbage within Hamilton County, one presumes. So perhaps those could be places where they could also turn their mattress in.

SENATOR WALCZYK: And through you, Madam President, would the sponsor continue to yield?

ACTING PRESIDENT PERSAUD: Will the sponsor yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR WALCZYK: So are you saying it would fall on the county as a municipality to provide that site?

SENATOR KAVANAGH: No, I am saying -- through you, Madam President -- that the industry would be required to identify a site

in that county that is willing to take mattresses back as part of this program.

And I am suggesting one possibility, which is not uncommon in EPR programs, is for a site that is the place where you bring other things you need to dispose of, you also bring your mattresses there.

And in this case then the industry would be responsible for covering costs of that and also taking -- taking the mattress from there.

So I'm saying the siting of -- the idea that we couldn't find any site in Hamilton County where this activity could occur, it's not -- you know, it doesn't require some large facility. It doesn't require any extensive equipment. It's merely a drop-off site is what would be required here.

And I'm saying that it's likely you could do that. And if I were in the industry, I would consider looking at places where people -- right now people are taking their mattresses typically to a place where they get disposed of in a landfill. We will be saying it doesn't go to the landfill, but the same place you might

drop it off to have it dumped in a landfill could theoretically serve as a collection point.

It's just that the mattress doesn't then go to a landfill, it goes to the industry for appropriate and responsible handling.

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR WALCZYK: You keep repeating the term "the industry would." Who would ultimately site a place in Hamilton County? Who would be responsible for siting a place in Hamilton County where people would have the right to return their mattresses?

SENATOR KAVANAGH: Through you, Madam President, I am not sure in -- I'm not even quite sure in what manner my colleague is using the word "siting."

If my colleague is suggesting that

they would need some special approval to create such a site, it seems to me that this would be -- you know, this would be akin to many other businesses people might establish.

But I don't profess to know the ins and outs of siting things in Hamilton County per se.

What I am suggesting is that states, including states with very rural areas, with very underpopulated areas, have had similar convenience requirements and they've managed to comply with this law. And all it would take to comply with this law is to find some place in Hamilton County -- with this particular provision of law, provide some place in Hamilton County that is willing and able to take people's mattresses back when they are done with them.

If you're talking about the mattresses of a total of 5,000 people, and they use them -- people typically use mattresses, let's say, every five to 10 years, you'd be talking about taking a very small number of mattresses back countywide. And that's a service that it seems to me is pretty easy to site.

If in the implementation of this it

became clear that there was some good reason we couldn't site a mattress collection point anywhere in Hamilton County, I suppose the DEC, over the course of the next couple of years, could alert us to that fact and we can try to address it. But it seems to me unlikely that the problem with this is that there's no place in Hamilton County to bring your mattress.

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR WALCZYK: So on page 4 of your bill you say: "To meet these convenience goals, the producer or representative organization shall" -- which makes it a requirement -- "enter into voluntary agreements."

How do you mandate a voluntary agreement?

SENATOR KAVANAGH: Through you,

Madam President. The provision that my colleague is referring to would be voluntary from the perspective of the other party to it.

We're requiring that the industry -- that the industry engage in these various practices in order to -- in order to create a program that is effective and efficient.

It would not -- there's nothing in this bill that would require that any particular -- I think you're referring to the voluntary agreements to (reading) establish collection sites at public and private solid waste facilities, transfer stations, landfills, recyclables handling and recovery facilities that are permitted or registered with the department, or other suitable sites for the collection of discarded mattresses.

So if you're requiring to do any one of those things, including other suitable sites for collection of mattresses, what you're saying is they're required to enter agreements for suitable sites. And there are various examples of what those might be, which are some of the ones I just mentioned in response to the previous question.

But basically the industry would be required to set up collection sites, and they would be -- they would do that through a series of, you know, five different methods, with various subparts of some of those methods. And once they've done that, then they would have a plan and DEC would approve the plan.

SENATOR WALCZYK: Through you, Madam President, would the sponsor continue to yield?

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR WALCZYK: All right, I'll move off of that one for a moment.

I'm curious about mattresses and where they're manufactured in the world, because on page 6, line 43, you're requiring the department shall maintain a list of producers. Would that be an international list of producers from all mattress manufacturers in the globe?

SENATOR KAVANAGH: Through you,

Madam President, it would be producers that are -- that have plans that have been submitted and approved by the department.

So the -- it doesn't require that they survey the world for producers. It requires that producers that have sought authority to have their mattresses sold in New York are listed by the DEC. So if somebody is a retailer or a consumer and they want to know if they're purchasing from a producer that has complied with the law, they can just check the list.

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR WALCZYK: Because in this chamber we can't do something that impacts manufacturing in Mexico or Poland or Italy or Slovenia, right? Is that correct?

SENATOR KAVANAGH: Through you,

Madam President. We have substantial authority over things are that sold here.

And again, I would just note that "producer" is defined in the bill, it's not some hypothetical concept. And, you know, "producer" means any person who manufactures or renovates mattresses that are sold, offered for sale, or distributed to a consumer in this state.

So the producers they would have to list are producers that are selling mattresses in this state. And it would be impermissible to sell a mattress in this state without getting an approved plan from the DEC.

So that's the list that they would be doing. We're not affecting the manner in which mattresses are manufactured or sold outside the state.

SENATOR WALCZYK: Sure.

And through you, Madam President, would the sponsor continue to yield?

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT PERSAUD: The

sponsor yields.

SENATOR WALCZYK: And I won't hit the bed-in-a-box online sales. I thought the previous debate did a pretty great job on that.

On page 7, line 20, you outline the mattress collection advisory board in this new program. There are 12 members. One of those 12 would be from mattress producers. Zero from local governments. But we've already talked about local governments quite a bit here today.

Why no one from local governments as a voting member on the advisory board?

SENATOR KAVANAGH: Through you, Madam President. There are several specific kind of criteria for some of the appointees here, because we wanted to make sure that there were mattress producers and mattress retailers and mattress recyclers and mattress collectors represented, because they have special expertise.

But I would note that also both the Majority and the Minority leaders of each house have appointees to this board. And if the Minority in this house wanted to appoint a representative of local government, that would get a member of local government on this board.

And again, there are several other appointees that are not categorically specific. So -- and again, generally speaking, local governments benefit from this program because they are currently responsible for taking these products back in most cases, under our state system. They would largely be relieved of that obligation under this bill.

But if they -- certainly local governments have the ability to talk to the DEC or us as they go forward, and they would also possibly have the opportunity to participate in this board.

SENATOR WALCZYK: Through you, Madam President, will the sponsor continue to yield?

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR WALCZYK: Yeah, I was asking specifically about the 12 voting members and why there wasn't someone on --

ACTING PRESIDENT PERSAUD: Excuse me, the sponsor has not yielded.

SENATOR KAVANAGH: So I do yield. I had not yielded, but I will yield now. Thank

you.

ACTING PRESIDENT PERSAUD: Yes, the sponsor yields.

SENATOR WALCZYK: I was asking specifically about the 12 voting members. I understand that the Legislature can appoint nonvoting members to the advisory board.

Why isn't anybody from local government able to vote on this advisory board? We know it has a big impact there.

SENATOR KAVANAGH: Through you, Madam President, that issue has never been raised to me, including similar bills with similar provisions that have similar advisory boards.

Like the carpet stewardship program, which is going into effect soon in New York, has a very similar structure. This structure is actually modeled on that. And that bill and this bill have been supported by local governments without suggesting that change.

Certainly if local governments or their representatives suggested an interest in participating in this board, I think that would be worthy of consideration.

But I have never, having had lots of

conversations with representatives of local governments, including conversations where they're largely supportive of EPR -- again, because it relieves them of costs and various other burdens. But that this is the -- the bill as it reads is as it is because we are reflecting an express desire to have input on these plans as they are implemented. And that desire has never been expressed to me, at least, by any local government.

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR WALCZYK: Did you receive a memo in support from New York Product Stewardship Council? Have you seen that one?

SENATOR KAVANAGH: Through you, Madam President, there was a draft of a letter regarding this bill from the New York Product

Stewardship Council that was circulated today, but I understand it is a draft and is not in final form.

And I understand from a conversation with the Product Stewardship Council they expect to release such a thing by the end of the day.

But I don't believe they have an official position on this bill as of yet. Although they are, as their name notes, generally very supportive of product stewardship programs because they're the Product Stewardship Council.

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR WALCZYK: I've got the non-drafted version with a signature on it in front of me. It says they strongly encourage your consideration of an amendment requiring retailers to collect a program fee established by

a producer responsibility organization, with oversight from DEC -- much in line with exactly what my colleague and I have expressed about the other four states that have a model.

Is that something you would consider amending this bill in the near term?

SENATOR KAVANAGH: Through you, Madam President. We've had an ongoing conversation about this fee issue now for a couple of years. If we pass this bill today, it will be the second time. We passed it last year, I believe we passed it the year before as well, without the fee.

We're always open to new ideas. But as of today, amending the bill of course would leave it not passable today, and I think it's important that at this late date in the session we move forward.

And again, I will emphasize that I spoke with a representative of the board of the New York State Product Stewardship Council about 10 minutes before session started today, and this -- I assume the same document I have, which is dated today, I am told is not an official position of the New York Product Stewardship

Council, and that they will be releasing an official position by the end of the day.

But we have duly considered this issue now for several years in the context of this EPR program and many others, and we have decided in New York State to go forward generally by not imposing a specific fixed fee on consumers for these programs. And that is the intent reflected in the current version of this bill.

SENATOR WALCZYK: And through you, Madam President, would the sponsor continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR WALCZYK: The International Sleep Products Association also put out a memorandum, this one in opposition on this bill, pointing out how this impacts the industry and also correctly pointing to the four states that have been successful and the models that they've used in those four states.

Have you read that memo from the industry, the people that are impacted here?

SENATOR KAVANAGH: Through you, Madam President. I believe I have. I've read -- again, much of this material has been around since last June when we last debated this bill.

I'm not -- I'm not prepared to quote that memo, but I am quite aware that the mattress industry has chosen to assert that they are supportive of EPR for mattresses, but oppose this particular bill because of the fee issue.

SENATOR WALCZYK: And through you, Madam President, would the sponsor continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR WALCZYK: You keep coming back to "mattress industry," so I want to talk about that for a moment. My colleague earlier pointed out that foreign producers actually sell 30 percent of the mattresses here in the

United States. We're one of the largest importers of mattresses for a number of different markets.

But I'm not sure if many realize the federal government and the International Trade Commission have been playing whack-a-mole for mattress dumping into markets for a long time. In fact, in 2021, under President Biden's administration, the Commerce Department imposed tariffs on mattress imports -- from Turkey, at 20 percent; from Thailand, at 37 percent; from Malaysia, at 43 percent; from Cambodia, 52; from Serbia, at 112 percent; and from Vietnam at 668 percent tariffs -- because these countries were subsidizing mattress exports in order to push into, dump into our market and try and squeeze out some manufacturers here in the United States.

So how does your bill play into that international whack-a-mole that the federal government has been doing with foreign producers?

SENATOR KAVANAGH: Through you, Madam President. I'm glad that we're using -- we're both using the word "dumping" in two different senses during this debate, this bill

being about not dumping mattresses in landfills.

But I -- this bill does not have any particular bearing on international trade disputes or the use of tariffs to address unfair trade practices from other countries.

I would say the net effect of this is to increase regulation. It probably does, at least on the margins, benefit our, you know, home mattress industry because manufacturers would be required to have their brand and their trademark registered and listed by the DEC in order to have their mattresses sold legally in New York.

But it's not particularly aimed to address those issues. And, you know, those issues are principally the province of the federal government.

SENATOR WALCZYK: And through you, Madam President, would the sponsor continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR WALCZYK: Not sure if you're aware, but the tariffs from 2021 didn't work. When I talk about whack-a-mole, last spring there was an appeal to the Biden administration once again for illegal dumping by new countries this time -- by Mexico, Bosnia-Herzegovina, Italy, Poland, Philippines, Taiwan and Slovenia -- some of those tariffs recommended as high as 745 percent to bring the dumped mattresses down to fair -- or up to fair market value in the United States.

How will DEC get compliance from a producer in Slovenia ultimately? How does that producer, how are they the ones that pay, versus the consumer in the State of New York that's purchasing the mattress?

SENATOR KAVANAGH: Through you, Madam President, the producer -- it's -- to be candid -- well, I do not want to get into the question of whether Slovenia is dumping or not dumping. But presuming there are international trade practices issues that somebody wants to address with tariffs, they would be free to do that.

The way this bill would work is that

if a mattress from Slovenia that is made by a manufacturer or branded as a -- in a particular way that is not registered and subject to an approved program by the DEC, would not be permitted to be sold in New York.

And so they would -- somebody -- presumably the Slovenian manufacturer doesn't presumably come here and sell the mattresses out of the back of a truck. They need somebody to sell them out of retail. And if they're doing so, then they are -- if they're complying with the program, then their mattress can be sold in New York. And if they're not complying with the program, then their mattress cannot be sold in New York.

SENATOR WALCZYK: Through you, Madam President, would the sponsor continue to yield?

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR WALCZYK: And for online

sales, how are we going to ensure that New Yorkers that are buying a bed-in-a-box, that the producer of that bed is ultimately, in whatever online way they've purchased it -- if there's no point-of-sale fee here, you're just requiring the industry, as you put it, to put this entire program together and not shift any cost onto consumers somehow.

How do you make sure that those companies that are manufacturing a bed-in-a-box and selling it in New York State, how do you make sure that they're in compliance?

SENATOR KAVANAGH: Through you, Madam President, just to respond, I am not suggesting that no cost would ever be shifted onto the consumer.

I am suggesting that creating a fixed fee that every consumer pays regardless of the cost to the industry is not a consumer-friendly practice.

And so what I'm proposing is that the industry continue to compete to sell their product at the best price they can sell it at, and not -- I'm not suggesting that that is a cost-free activity. And I'm not suggesting that

the industry won't choose to pass some of that cost along to consumers.

Again, my colleagues are suggesting not just that they pass the actual cost on, but that we set up-front a fee that consumers have to pay regardless of what it actually costs the industry to provide this service.

In terms of how you enforce this, we have lots of rules that people need to comply with if they want to legally sell things into New York. If you sell something, for example, to a New Yorker and you know it's a New Yorker and you're shipping it to New York, you're required to collect New York sales tax regardless of whether you are in New York, whether you're shipping the product from New York. I suppose this would work in a similar way.

But again, the bulk of the -- the bulk of the mattresses, the great bulk of the mattresses are selling by -- sold by companies that are, generally speaking, known retailers or known direct, you know, companies that are both producing and selling mattresses. And my assumption is that they would not want to engage in what would be effectively a bootleg mattress

sale business to avoid their obligations to -- you know, to treat their products responsibly.

But if --

ACTING PRESIDENT PERSAUD: Thank you, Senator.

SENATOR KAVANAGH: But if they were violating the law by selling a mattress that is not registered, then DEC would be able to take an enforcement action against them.

ACTING PRESIDENT PERSAUD: Senator Walczyk, your debate time is up.

SENATOR WALCZYK: Thank you, Madam President.

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

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

Senator Gianaris.

SENATOR GIANARIS: Madam President, we've agreed to restore this to the noncontroversial calendar.

ACTING PRESIDENT PERSAUD: The bill will be restored to the noncontroversial calendar.

Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Senator Walczyk to explain his vote.

SENATOR WALCZYK: Thank you, Madam President.

Briefly, at a time when we are talking about affordability for New Yorkers, we shouldn't be creating new bureaucrat boondoggles, not knowing -- and you saw in debate today, not knowing what the end cost to consumers will be.

This bill in fact says the program shall be free to the consumer, convenient and adequate to serve the needs of consumers in all areas of the state on an ongoing basis. Yet the sponsor, by his own admission, says, Well, I fully anticipate that the producers of mattresses will be shifting those costs onto the consumers.

So do I. In the states that have done mattress recycling programs, they've attached a fee when you purchase your mattress. It usually calculates out to a buck or two a year

is what you end up paying for that thousand-dollars mattress so that it can be recycled in those states that have been successful in recycling 15 million mattresses already there.

I would much rather adopt a program like that than take on a new boondoggle where we don't even know what the cost is going to be and who's going to pay for it at the end of the day, especially at a time when affordability matters so much to New York's families.

So I'll be voting no. Thank you, Madam President.

ACTING PRESIDENT PERSAUD: Thank you, Senator.

Senator Walczyk to be recorded in the negative.

Announce the results.

Oh, Senator Kavanagh to explain his vote.

SENATOR KAVANAGH: Just -- thank you. I know we've had a long debate and you've heard a lot from me. Just briefly.

You know, this bill is part of our broader effort to ensure that we are handling

solid waste in a responsible manner -- in fact, not treating it as waste whenever possible.

EPR programs have been effective in many contexts, including the programs that my colleagues on the other side of the aisle are extolling the virtues of. They work because they divert valuable materials from landfills and other places where we treat something as worthless and they divert them back into productive materials for new economic activity and new recycling.

In this case, they in particular prevent localities from bearing the cost of disposal.

And as I noted earlier, the New York Solid Waste Management Plan notes that almost 12 percent of our entire contribution of greenhouse gases comes from solid waste in New York. It's almost as large as the entire electricity generation sector in our state. So this is a significant problem. We have a great solution here.

And notwithstanding a difference of opinion on a very minor aspect of this view -- this bill, I think it's a great step forward that

we're taking to support this. And I appreciate it, and I will be voting in the affirmative.

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

Announce the results.

THE SECRETARY: In relation to Calendar 470, those Senators voting in the negative are Senators Ashby, Borrello, Bynoe, Canzoneri-Fitzpatrick, Chan, Cooney, Gallivan, Griffo, Helming, Lanza, Martinez, Mattera, Murray, O'Mara, Ortt, Palumbo, Rhoads, Scarcella-Spanton, Stec, Tedisco, Weber and Weik.

Ayes, 38. Nays, 22.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

SENATOR GIANARIS: Thank you, Madam President.

For the members of the Majority, there will be an immediate conference following session.

And with that, is there any further business at the desk?

ACTING PRESIDENT PERSAUD: There is no further business at the desk.

SENATOR GIANARIS: Move to adjourn until tomorrow, Tuesday, April 29th, at 11:00 a.m.

ACTING PRESIDENT PERSAUD: On motion, the Senate stands adjourned until Tuesday, April 29th, at 11:00 a.m.

The Majority has a conference immediately following.

(Whereupon, at 5:12 p.m., the Senate adjourned.)