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NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 14, 2018

11:59 a.m.

REGULAR SESSION

SENATOR JOSEPH GRIFFO, Acting President

FRANCIS W. PATIENCE, Secretary

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

2 ACTING PRESIDENT GRIFFO: Session  
3 will come to order.

4 I ask all present to please rise  
5 and, on this Flag Day, join with me as we recite  
6 the Pledge of Allegiance to our Flag.

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

9 ACTING PRESIDENT GRIFFO: In the  
10 absence of clergy, I ask all present to please  
11 bow your heads in a moment of silent prayer  
12 and/or reflection.

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

15 ACTING PRESIDENT GRIFFO: The  
16 reading of the Journal.

17 THE SECRETARY: In Senate,  
18 Wednesday, June 13th, the Senate met pursuant to  
19 adjournment. The Journal of Tuesday, June 12th,  
20 was read and approved. On motion, Senate  
21 adjourned.

22 ACTING PRESIDENT GRIFFO: Without  
23 objection, the Journal stands approved as read.

24 Presentation of petitions.

25 Messages from the Assembly.

1           The Secretary will read.

2           THE SECRETARY:    On page 58, Senator  
3 Bonacic moves to discharge, from the Committee on  
4 Rules, Assembly Bill Number 10365 and substitute  
5 it for the identical Senate Bill 8324, Third  
6 Reading Calendar 1325.

7           On page 61, Senator DeFrancisco  
8 moves to discharge, from the Committee on  
9 Finance, Assembly Bill Number 8156 and substitute  
10 it for the identical Senate Bill 6452, Third  
11 Reading Calendar 1371.

12           ACTING PRESIDENT GRIFFO:    The  
13 substitutions are so ordered.

14           Messages from the Governor.

15           Reports of standing committees.

16           Reports of select committees.

17           Communications and reports from  
18 state officers.

19           Motions and resolutions.

20           Senator DeFrancisco.

21           SENATOR DeFRANCISCO:    I'd like to  
22 call up Senator LaValle's bill, Print 6353,  
23 recalled from the Assembly, which is now at the  
24 desk.

25           ACTING PRESIDENT GRIFFO:    The

1 Secretary will read.

2 THE SECRETARY: Calendar Number  
3 1264, by Senator LaValle, Senate Print 6353, an  
4 act to amend the Environmental Conservation Law.

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

7 ACTING PRESIDENT GRIFFO: Call the  
8 roll on reconsideration.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 50.

11 SENATOR DeFRANCISCO: I now offer  
12 the following amendments.

13 ACTING PRESIDENT GRIFFO: The  
14 amendments are received.

15 SENATOR DeFRANCISCO: On page 62, I  
16 offer the following amendments to Calendar 1387,  
17 Senate Print 7940A, by Senator Seward, and ask  
18 that this bill retain its place on the  
19 Third Reading Calendar.

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

23 SENATOR DeFRANCISCO: On page 50, I  
24 offer the following amendments to Calendar 1219,  
25 Senate Print 692C, by Senator Ortt, and ask that

1 said bill retain its place on the Third Reading  
2 Calendar.

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

6 SENATOR DeFRANCISCO: On page 55, I  
7 offer the following amendments to Calendar 1291,  
8 Senate Print 7262, by Senator Murphy, and ask  
9 that said bill retain its place on the Third  
10 Reading Calendar.

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

14 SENATOR DeFRANCISCO: Please  
15 recognize Senator Klein.

16 ACTING PRESIDENT GRIFFO: Senator  
17 Klein.

18 SENATOR KLEIN: Mr. President, on  
19 behalf of myself, on page 9 I offer the following  
20 amendments to Calendar Number 214, Senate Print  
21 Number 6953, and ask that said bill retain its  
22 place on Third Reading Calendar.

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

1 Senator DeFrancisco.

2 SENATOR DeFRANCISCO: Yes, I'd like  
3 to move to adopt the Resolution Calendar, with no  
4 exceptions.

5 ACTING PRESIDENT GRIFFO: All in  
6 favor of adopting the Resolution Calendar  
7 indicate by saying aye.

8 (Response of "Aye.")

9 ACTING PRESIDENT GRIFFO: Opposed?  
10 (No response.)

11 ACTING PRESIDENT GRIFFO: The  
12 Resolution Calendar has been adopted.

13 Senator DeFrancisco.

14 SENATOR DeFRANCISCO: Now can we  
15 take up previously adopted Resolution 5669, by  
16 Senator Persaud, title only, and call on  
17 Senator Larkin to speak.

18 ACTING PRESIDENT GRIFFO: The  
19 Secretary will read.

20 THE SECRETARY: Legislative  
21 Resolution Number 5669, by Senator Persaud,  
22 commemorating June 14, 2018, as Flag Day.

23 ACTING PRESIDENT GRIFFO: Senator  
24 Larkin.

25 SENATOR LARKIN: Thank you,

1 Mr. President.

2                   Flag Day, huh? How many flags did  
3 we see on stores and -- and members? Knowing  
4 that this is a long, long line. It started years  
5 and years ago. At first it didn't go much until  
6 President Woodrow Wilson made it a specific day.  
7 And then later on, the date was changed and made  
8 a permanent date by President Truman in 1949,  
9 that June 14th would be the date of Flag Day of  
10 the United States of America.

11                   This flag represents not just a  
12 flag. And I know that some of you don't embrace  
13 the tone of what it means. Every military  
14 station today you will see the troops getting up  
15 at 5 o'clock, going out and doing physical  
16 fitness and then taking a stand of reveille,  
17 reveille meaning get up and get moving. And then  
18 these troops take the first time out and salute  
19 the flag, proudly defending you and I.

20                   This flag is not just a piece of  
21 material, it is something in our nation that says  
22 this is us, the United States of America. And if  
23 you don't like it, go to hell. Because there's a  
24 lot of us that have spent time in combat so that  
25 you can have a negative attitude.

1           The flag of the United States of  
2 America. Thank God we have it, thank God for  
3 those who respect it. And thank God for those  
4 who have given their lives in service of this  
5 type.

6           Thank you very much, Mr. President.

7           ACTING PRESIDENT GRIFFO: Thank  
8 you, Senator Larkin.

9           Senator DeFrancisco.

10          SENATOR DeFRANCISCO: I'd just like  
11 to point out something that happened the last  
12 couple of days relevant to this.

13          Senator Larkin not only talks the  
14 talk, he walks the walk. I was here yesterday, I  
15 didn't have a lapel pin with a flag on it, and he  
16 said to me: "You'd better have a flag pin on  
17 tomorrow." And guess what? The first thing I  
18 saw him this morning, I didn't have a flag pin  
19 on. And he pulls one out of his pocket, and I've  
20 got it. And I'm wearing it.

21          And the only reason I mention it is  
22 not only to show the true nature of Senator  
23 Larkin, but also to indicate that I'm a veteran.  
24 And I served during the Vietnam War era -- I  
25 didn't go to combat, thank God -- and I still



1 forget doing it. And I still don't do what I  
2 should do to provide honor for the flag that so  
3 many people fought for representing our country.

4 So thank you, Senator Persaud, for  
5 the resolution. It's an important one. Thank  
6 you, Senator Larkin, for your constant reminders  
7 on and off the Senate floor of how important our  
8 military, our flag, and our country are to all of  
9 us.

10 Thank you.

11 ACTING PRESIDENT GRIFFO: Thank  
12 you, Senator DeFrancisco.

13 As indicated, the resolution has  
14 been previously adopted on June 12th. It is open  
15 for cosponsorship. If you choose to be a  
16 cosponsor, please notify the desk.

17 Senator DeFrancisco.

18 SENATOR DeFRANCISCO: Yes, there's  
19 a hand-up at the desk by Senator Flanagan making  
20 committee assignments. Do you have that?

21 ACTING PRESIDENT GRIFFO: The  
22 hand-up is received and will be filed in the  
23 Journal.

24 SENATOR DeFRANCISCO: Thank you.  
25 At this point I'd like to call an immediate

1 meeting of the Rules Committee in Room 332.

2           ACTING PRESIDENT GRIFFO:    There is  
3 an immediate meeting of the Rules Committee in  
4 Room 332.

5           The Senate will stand at ease.

6           (Whereupon, the Senate stood at ease  
7 at 12:08 p.m.)

8           (Whereupon, the Senate reconvened at  
9 12:29 p.m.)

10          ACTING PRESIDENT GRIFFO:    The  
11 Senate will return to order.

12          Senator DeFrancisco.

13          SENATOR DeFRANCISCO:    I understand  
14 there's a report of the Rules Committee at the  
15 desk.

16          ACTING PRESIDENT GRIFFO:    There is  
17 a Rules Committee report at the desk, and the  
18 Secretary will read.

19          THE SECRETARY:    Senator Flanagan,  
20 from the Committee on Rules, reports the  
21 following bills:

22                 Senate Print 1330A, by Senator  
23 Valesky, an act to amend the State Finance Law;

24                 Senate 1862A, by Senator Golden, an  
25 act to amend the Civil Service Law;

1                   Senate 2412D, by Senator  
2 DeFrancisco, an act to amend the Judiciary Law;  
3                   Senate 2538A, by Senator Griffo, an  
4 act to amend the Vehicle and Traffic Law;  
5                   Senate 3502, by Senator DeFrancisco,  
6 an act to amend the State Law;  
7                   Senate 3541, by Senator Lanza, an  
8 act to amend the Public Health Law;  
9                   Senate 3644, by Senator Parker, an  
10 act to amend the Public Service Law;  
11                   Senate 5489B, by Senator Parker, an  
12 act to amend the Tax Law;  
13                   Senate 5631B, by Senator  
14 DeFrancisco, an act to amend the Vehicle and  
15 Traffic Law;  
16                   Senate 6274, by Senator Lanza, an  
17 act to amend Chapter 154 of the Laws of 1921;  
18                   Senate 6475A --  
19                   ACTING PRESIDENT GRIFFO:    Can I  
20 have some order, please.  
21                   The Secretary will continue.  
22                   THE SECRETARY:    Senate 6475A, by  
23 Senator O'Mara, an act to direct;  
24                   Senate 6622A, by Senator  
25 Ranzenhofer, an act to amend the General

1 Municipal Law;

2 Senate 6666, by Senator Amedore, an  
3 act to amend the Workers' Compensation Law;

4 Senate 7018, by Senator Persaud, an  
5 act to amend the Public Service Law;

6 Senate 7397A, by Senator  
7 Ranzenhofer, an act to amend the Tax Law;

8 Senate 7561A, by Senator O'Mara, an  
9 act to amend the Tax Law;

10 Senate 7815, by Senator Ranzenhofer,  
11 an act to amend the Tax Law;

12 Senate 7965, by Senator Breslin, an  
13 act to amend Chapter 454 of the Laws of 2010;

14 Senate 7990, by Senator Carlucci, an  
15 act to amend the Real Property Tax Law;

16 Senate 8127, by Senator Kaminsky, an  
17 act authorizing;

18 Senate 8193, by Senator Addabbo, an  
19 act to amend the Environmental Conservation Law;

20 Senate 8560A, by Senator Murphy, an  
21 act to amend the Alcoholic Beverage Control Law;

22 Senate 8639C, by Senator LaValle, an  
23 act to amend the Education Law;

24 Senate 8749, by Senator Sepúlveda,  
25 an act to amend the Education Law;

1           Senate 8769, by Senator Ortt, an act  
2 to amend the Mental Hygiene Law;

3           Senate 8823, by Senator Felder, an  
4 act to amend the Education Law;

5           Senate 8830, by Senator Seward, an  
6 act to amend the Agriculture and Markets Law;

7           And Senate 8955, by Senator Ortt, an  
8 act to amend the Public Health Law.

9           All bills reported direct to third  
10 reading.

11           SENATOR DeFRANCISCO: I move to  
12 accept the report of the Rules Committee.

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

16           (Response of "Aye.")

17           ACTING PRESIDENT GRIFFO: Opposed?

18           (No response.)

19           ACTING PRESIDENT GRIFFO: The  
20 Rules Committee report is accepted and before the  
21 house.

22           Senator DeFrancisco.

23           SENATOR DeFRANCISCO: Can we now go  
24 to messages from the Assembly.

25           ACTING PRESIDENT GRIFFO: We will

1 return to messages from the Assembly, and the  
2 Secretary will read.

3 THE SECRETARY: Senator Valesky  
4 moves to discharge, from the Committee on  
5 Finance, Assembly Bill Number 7819A and  
6 substitute it for the identical Senate  
7 Bill 1330A, Third Reading Calendar 1781.

8 Senator Parker moves to discharge,  
9 from the Committee on Energy and  
10 Telecommunications, Assembly Bill Number 2451 and  
11 substitute it for the identical Senate Bill 3644,  
12 Third Reading Calendar 1787.

13 Senator Parker moves to discharge,  
14 from the Committee on Investigations and  
15 Government Operations, Assembly Bill Number 2788B  
16 and substitute it for the identical Senate Bill  
17 5489B, Third Reading Calendar 1788.

18 Senator Lanza moves to discharge,  
19 from the Committee on Corporations, Authorities  
20 and Commissions, Assembly Bill Number 6991 and  
21 substitute it for the identical Senate Bill 6274,  
22 Third Reading Calendar 1790.

23 Senator Breslin moves to discharge,  
24 from the Committee on Rules, Assembly Bill Number  
25 10058 and substitute it for the identical Senate

1 Bill 7965, Third Reading Calendar 1798.

2 Senator Carlucci moves to discharge,  
3 from the Committee on Local Government,  
4 Assembly Bill Number 9729 and substitute it for  
5 the identical Senate Bill 7990, Third Reading  
6 Calendar 1799.

7 Senator Sepúlveda moves to  
8 discharge, from the Committee on Education,  
9 Assembly Bill Number 381 and substitute it for  
10 the identical Senate Bill 8749, Third Reading  
11 Calendar 1804.

12 And Senator Ortt moves to discharge,  
13 from the Committee on Rules, Assembly Bill Number  
14 9868 and substitute it for the identical Senate  
15 Bill 8955, Third Reading Calendar 1808.

16 ACTING PRESIDENT GRIFFO: The  
17 substitutions are so ordered.

18 Senator DeFrancisco.

19 SENATOR DeFRANCISCO: Yes, can we  
20 go back to motions and resolutions, please.

21 ACTING PRESIDENT GRIFFO: We will  
22 return to motions and resolutions.

23 Senator DeFrancisco.

24 SENATOR DeFRANCISCO: On page 41, I  
25 offer the following amendments to Calendar 1009,

1 Senate Print 8229, by Senator Lanza, and ask that  
2 said bill retain its place on the Third Reading  
3 Calendar.

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

7 SENATOR DeFRANCISCO:  
8 Mr. President, in addition to the active list of  
9 today we now have a supplemental calendar, 55A,  
10 that is comprised of the bills that just came  
11 from the Senate Rules Committee. I'd request,  
12 off of that calendar, that you'd call up 1783 for  
13 action.

14 ACTING PRESIDENT GRIFFO: The  
15 Senate will operate from Senate Supplemental  
16 Calendar 55A, and the Secretary will read at the  
17 request of the Floor Leader.

18 THE SECRETARY: Calendar Number  
19 1783, by Senator DeFrancisco, Senate Print  
20 2412D --

21 SENATOR KLEIN: Lay it aside.

22 ACTING PRESIDENT GRIFFO: Lay it  
23 aside.

24 SENATOR DeFRANCISCO: Take up the  
25 controversial reading, please.



1                   ACTING PRESIDENT GRIFFO:    The  
2   Secretary will ring the bell.

3                   And the Secretary will read.

4                   THE SECRETARY:    Calendar Number  
5   1783, by Senator DeFrancisco, Senate Print 2412D,  
6   an act to amend the Judiciary Law.

7                   ACTING PRESIDENT GRIFFO:    Senator  
8   Kaminsky.

9                   SENATOR KAMINSKY:    Will the sponsor  
10   yield?

11                  ACTING PRESIDENT GRIFFO:    Senator  
12   DeFrancisco, do you yield?

13                  SENATOR DeFRANCISCO:    Yes, I will.

14                  SENATOR KAMINSKY:    Will the sponsor  
15   please give an explanation and explain why he's  
16   calling this first as part of that explanation.

17                  SENATOR DeFRANCISCO:    An  
18   explanation of what?

19                  ACTING PRESIDENT GRIFFO:    Could you  
20   explain that -- say that again, I'm sorry.

21                  Could I just have some -- a little  
22   more quiet in the house, I know we have a lot of  
23   visitors and staff moving around, so the members  
24   can hear each other?

25                  Senator Kaminsky, could you please

1 repeat.

2                   SENATOR KAMINSKY: Through you,  
3 Mr. President, I request that the sponsor explain  
4 what this bill would do and include, as part of  
5 that explanation, why he called it first among  
6 all the other bills today.

7                   SENATOR DeFRANCISCO: I called it  
8 first among all the bills today because it's the  
9 most important bill on the calendar, that I've  
10 been working on for year after year after year.  
11 And I've had the opportunity to get this bill on  
12 the calendar -- this is the first time. And it's  
13 such an important bill that I think, on a getaway  
14 day, it's important that as many people be here  
15 as possible to make a vote on it.

16                   The bill itself is a bill that is  
17 modeled after the Judicial Conduct Commission.  
18 And basically what it does is it gives the  
19 general public the opportunity to make a  
20 complaint of what they may believe is  
21 prosecutorial misconduct to review by an  
22 independent body to determine whether any  
23 consequences, if proven, should be imposed as a  
24 result of misconduct and, conversely, to  
25 exonerate anybody from any potential allegations

1 of misconduct.

2                   And that's exactly what the Judicial  
3 Conduct Commission does. The Judicial Conduct  
4 Commission was started in the 1970s, and I  
5 remember -- right now there's such an outcry by  
6 prosecutors that the world is going to come to an  
7 end, that they should not be reviewed, that they  
8 are always ethical and forthright, and that this  
9 is going to interfere with the operation of their  
10 business. Exactly what the judges said in the  
11 1970s.

12                   And what's happened with this  
13 independent body is that people can get an  
14 independent review if the judge is guilty of  
15 misconduct. Recently there was a judge that was  
16 removed or recommended to be removed in  
17 Rochester. But by and large, most every one of  
18 these allegations end up in no action. So  
19 they're exonerated many, many more times than any  
20 kind of action is being requested.

21                   So this would provide that same  
22 process. Why is it needed? Well, I'm sure  
23 someone in my office is going to bring me down  
24 specific examples. And those specific  
25 examples -- I'll give you general examples --

1 there's many cases where individuals are  
2 convicted of crimes as heinous as murder and  
3 spent 10, 20 years in jail and are found later --  
4 and they were found later because of DNA  
5 evidence -- that they weren't the guilty party.

6           So then they go to the State of  
7 New York and the Court of Claims, bring a  
8 lawsuit, and the state and our taxpayers have to  
9 pay millions of dollars for that misconduct.  
10 Usually it's withholding exculpatory information,  
11 information that would help the defense. And by  
12 law, they're supposed to provide that.

13           Now, 99 percent of the prosecutors  
14 are good prosecutors and would not do these types  
15 of things. I felt I was a good assistant DA when  
16 I was doing this in Syracuse, New York. But it's  
17 the outliers that there ought to be an ability to  
18 at least make a complaint, have it reviewed, and  
19 determine under the same process as the judicial  
20 conduct bill.

21           SENATOR KAMINSKY: Will the sponsor  
22 continue to yield?

23           ACTING PRESIDENT GRIFFO: Sponsor,  
24 do you yield?

25           SENATOR DeFRANCISCO: Yes.

1                   ACTING PRESIDENT GRIFFO:    The  
2 sponsor yields.

3                   SENATOR KAMINSKY:    Would defendants  
4 be able to bring claims before the tribunal  
5 during a pending case, meaning before it has  
6 concluded?

7                   SENATOR DeFRANCISCO:    You could  
8 bring -- there's no time limit as far as when  
9 somebody can bring a complaint.  However, every  
10 part of the prosecutorial conduct commission's  
11 interactions or workings is confidential,  
12 including all documents that would have to be  
13 reviewed.

14                   So anything that had gone before the  
15 commission would be subject to confidentiality.

16                   SENATOR KAMINSKY:    Will the sponsor  
17 continue to yield?

18                   ACTING PRESIDENT GRIFFO:    The  
19 sponsor yields.

20                   SENATOR DeFRANCISCO:    Yes.

21                   SENATOR KAMINSKY:    Is there any  
22 empirical evidence that there's been an uptick in  
23 prosecutorial misconduct findings by the  
24 appellate courts or any other body that you've  
25 seen in recent years?

1                   SENATOR DeFRANCISCO:   Well, let me  
2 tell you about just the last week and a half,  
3 because two of those instances came up very  
4 recently. One happened to be in federal court in  
5 Manhattan that you probably read about. And in  
6 that situation, there was a murder trial going  
7 on. And the murder trial was going on, and days  
8 before the trial the prosecutor provided  
9 exculpatory material in the form of a confession  
10 to the judge. The judge went apoplectic, saying  
11 "Why are you providing this information now to  
12 us?"

13                   Now, obviously our bill would not  
14 apply to federal prosecutors. But this bill does  
15 not -- secondly, this bill does not apply to the  
16 Attorney General. And the reason it doesn't, the  
17 Assembly wanted it out for me to get a same-as  
18 bill. So I took it out.

19                   But just within the last week and a  
20 half, the DA in Rensselaer County, it was found  
21 out that the prosecutor in that case was -- did  
22 not have the authority to bring the charges. And  
23 I would think that that would be at least  
24 questionable, or at least be arguably misconduct  
25 that you're prosecuting someone going through the

1 whole process when you don't even have  
2 jurisdiction to handle the case.

3 I've got -- I will get -- okay.  
4 Just right in the nick of time. They heard me  
5 over the loudspeaker.

6 By state. In Texas, number of  
7 exonerations, 326. New York, 233. Illinois,  
8 197. We go all the way down to the smaller  
9 states.

10 They happen all the time. If you  
11 came to a news conference that I had maybe two  
12 months ago, you could have met one of the  
13 exonerees who spent over 20 years in jail. And  
14 we've had many of them come to news conferences  
15 over the last three or four years.

16 You can't -- and you know what  
17 happened to the prosecutor in every one of those  
18 cases? Nothing. Nothing. Not even a bad news  
19 article, in most cases. That's wrong.

20 SENATOR KAMINSKY: Will the sponsor  
21 continue to yield?

22 SENATOR DeFRANCISCO: Yes.

23 ACTING PRESIDENT GRIFFO: The  
24 sponsor yields.

25 SENATOR KAMINSKY: The question I

1 asked was is there any empirical evidence -- not  
2 anecdotal evidence -- of an uptick in  
3 prosecutorial misconduct? I understand there are  
4 exonerations; they can come for lots of reasons.  
5 But is there an increase in prosecutorial  
6 misconduct findings in recent years?

7           SENATOR DeFRANCISCO: Yes, there's  
8 been an increase as soon as -- it depends on what  
9 you mean by recently. Ever since the rules for  
10 DNA evidence were broadened, probably 10 years  
11 ago, when evidence was being provided that these  
12 individuals who were in jail were not the  
13 individual that was guilty of the charges, from  
14 that point forward various groups bringing  
15 lawsuits thereafter on behalf of the wrongfully  
16 incarcerated person were able to determine,  
17 through review of evidence, that there were  
18 withholding of evidence by prosecutors.

19           So yes, the uptick has come after  
20 the DNA rules were broadened to provide more DNA  
21 samples upon arrest for certain offenses, yes.

22           And whether there's an uptick or  
23 not, this has been happening without consequence.  
24 And every single person should be subject to  
25 consequences and responsibility for their



1 actions.

2 SENATOR KAMINSKY: Will the sponsor  
3 continue to yield?

4 SENATOR DeFRANCISCO: Yes.

5 ACTING PRESIDENT GRIFFO: The  
6 sponsor yields.

7 SENATOR KAMINSKY: Is the sponsor  
8 aware that the New York State Bar Association's  
9 Task Force on Wrongful Convictions found 53 cases  
10 from 1964 to 2009, and that is .004 of 1 percent  
11 of all convictions?

12 SENATOR DeFRANCISCO: I don't know  
13 that for a fact, but it would not surprise me.

14 The prosecutors also told me that  
15 they are being reviewed and there's plenty of  
16 punishment on the books, there's plenty of  
17 oversight on the books, because they're subject  
18 to going before the grievance committees in each  
19 county.

20 If anybody knows of a case where a  
21 prosecutor actually went before a grievance  
22 committee and anything happened, I'll give you 10  
23 bucks. Okay?

24 I asked the prosecutors that three  
25 years ago: "You say there's a sufficient remedy?"

1 There's sufficient remedy? Give me one case."  
2 And you know what they told me? They said,  
3 "We'll bring you tons of cases." Last year,  
4 nada. This year, nada.

5 In addition, there was a prosecutor  
6 in Senator Ritchie's district, St. Lawrence  
7 County -- I won't even go into all the stuff she  
8 did. She ultimately decided not to run again.  
9 But the fact of the matter is, they said, "I'll  
10 show you how good we are, we're going to bring a  
11 case before the grievance committee against this  
12 prosecutor." That was two years ago. Last year  
13 I asked them, "What's the status of your  
14 grievance?" "Well, we haven't heard anything  
15 yet."

16 I mean, that's what happens.  
17 There's no accountability. I'm not out to get  
18 anybody. And I'm certainly not considered soft  
19 on crime as far as philosophy. I'm just trying  
20 to get a process that's fair to everybody  
21 involved in that process.

22 So anybody can get statistics for  
23 anything they want, and if anybody doesn't  
24 realize that in this chambers, they probably  
25 shouldn't be in this chambers. And especially if

1 you're the individuals who are fighting the bill  
2 to provide evidence that supports you.

3 SENATOR KAMINSKY: Will the sponsor  
4 continue to yield?

5 SENATOR DeFRANCISCO: Yes.

6 ACTING PRESIDENT GRIFFO: The  
7 sponsor yields.

8 SENATOR KAMINSKY: Can the sponsor  
9 just tell us why he believes that they'll be more  
10 open and more reporting to his tribunal than to  
11 the grievance commission?

12 SENATOR DeFRANCISCO: Absolutely.  
13 You know why? You certainly are familiar with  
14 grievance committees in each county. They're  
15 lawyers from that county. You know lawyers from  
16 the county sometimes have criminal cases? Who do  
17 they have to go to when they're plea bargaining?  
18 Do you think for one minute that any lawyer is  
19 going to go provide a grievance against the DA  
20 that he believes he's going to have to go to and  
21 try to get a deal for a client? Because  
22 sometimes miscarriages of justice happen, and  
23 there's plea bargains.

24 Think of -- I don't know who the  
25 hell your DA is, but think of going before your

1 DA and saying that I need a -- I need -- this is  
2 the -- these are the merits, there should be a  
3 reduction in charge, after you're on the  
4 grievance committee and you found that he has  
5 been guilty of something or she has been guilty  
6 of something. That's why.

7                   This is an independent body. Two  
8 Senate majority, one Senate minority pick.  
9 Two -- same with the Assembly. Two for the  
10 Governor, and I think three for the Chief Judge.

11                   SENATOR KAMINSKY: Will the sponsor  
12 continue to yield?

13                   SENATOR DeFRANCISCO: Yes.

14                   ACTING PRESIDENT GRIFFO: The  
15 sponsor yields.

16                   SENATOR KAMINSKY: I mean, the  
17 sponsor I'm sure is aware that the complaints  
18 against prosecutors aren't about the DA, they're  
19 about assistant DAs. And they happen every  
20 single day. They happen in every motion, in  
21 every habeas corpus petition, in every -- I mean,  
22 pros mis is -- this is a routine appellate  
23 argument. I don't understand why it's seen as  
24 the third rail. Why aren't we trying to improve  
25 the grievance process as opposed to creating a

1 whole new political tribunal?

2                   SENATOR DeFRANCISCO:    You have  
3 talked to the prosecutors, and they have taught  
4 you well.

5                   (Laughter.)

6                   SENATOR DeFRANCISCO:    Because they  
7 told me that same thing. They said it works  
8 terrifically. That's exactly why I asked them to  
9 give me examples. They provided none. And they  
10 even provided a perfect example for me why my  
11 view is probably correct, and that is they  
12 brought a grievance against one of their own and  
13 she decided not to run two years later and no  
14 determination on the grievance was ever made.

15                   SENATOR KAMINSKY:    Will the sponsor  
16 continue to yield?

17                   SENATOR DeFRANCISCO:    Yes.

18                   ACTING PRESIDENT GRIFFO:    The  
19 sponsor yields.

20                   SENATOR KAMINSKY:    The sponsor  
21 agrees that before the judicial misconduct panel  
22 was created, there was no means by which to  
23 discipline judges, there was no grievance panel  
24 for them, so this was created as a means to do  
25 that?

1                   SENATOR DeFRANCISCO:    On paper,  
2 correct.  But in practice, there's no other way  
3 to -- that prosecutors can reasonably be  
4 reviewed, because the grievance committee never  
5 does it.  And hasn't done it.

6                   You know, I just want to interject  
7 one thing.  We're not talking about cases where  
8 people are given a traffic ticket and then paying  
9 a fine.  People have stayed in jail for years.  
10 The courts -- the state has paid and the  
11 taxpayers paid millions and millions of dollars  
12 because of prosecutorial misconduct, and they --  
13 there's no consequence for that person.  That's  
14 wrong.

15                  And we're not -- as I said, check  
16 with the records on the Judicial Conduct  
17 Commission.  Ninety-five percent of the judges  
18 are exonerated.  But what it did, what it did,  
19 when judges used to call people names, lawyers  
20 names, or racial epithets against clients when  
21 they were on the bench because they could do any  
22 damn thing they want, they changed.  They knew  
23 somebody is up there looking and watching and  
24 could complain and there could be consequences.

25                  You don't see that stuff as much

1 anymore. It used to be commonplace, because I  
2 was there back then.

3 SENATOR KAMINSKY: Will the sponsor  
4 continue to yield?

5 SENATOR DeFRANCISCO: Yes.

6 ACTING PRESIDENT GRIFFO: The  
7 sponsor yields.

8 SENATOR KAMINSKY: Why is this not  
9 a vehicle that every defendant will use to tie an  
10 office up into knots, even in the middle of  
11 pending cases? Who would not avail themselves of  
12 making such an application?

13 SENATOR DeFRANCISCO: I agree with  
14 you a thousand percent that at the beginning  
15 there's going to be a flood of different  
16 complaints made. There's no doubt. It was the  
17 same thing with the judges.

18 But over time, if you have  
19 independent people and it turns out to result in  
20 no action because there were false claims or just  
21 not proven claims, that in the long run -- and I  
22 don't mean 10 years from now, I mean in the  
23 relatively recent future, that's going to go  
24 down, just like it did with the Judicial Conduct  
25 Commission as well.

1                   And besides, if there is a flood of  
2 complaints originally, I'd rather have a flood of  
3 complaints and 11 people on a board that we  
4 appoint sift through those claims than someone  
5 not have a remedy against somebody who has thrown  
6 somebody in jail and withheld evidence.

7                   SENATOR KAMINSKY:    Will the sponsor  
8 continue to yield?

9                   SENATOR DeFRANCISCO:   As long as  
10 you want.

11                  ACTING PRESIDENT GRIFFO:   The  
12 sponsor yields.

13                  SENATOR KAMINSKY:    Has the sponsor  
14 been in favor or cosponsored or been part of any  
15 effort to push discovery reform so greater access  
16 to evidence is given earlier on in the criminal  
17 justice process?

18                  SENATOR DeFRANCISCO:   Yes, I am.  
19 I've worked with Assemblyman Lentol, I've been  
20 involved that -- no doubt about it I have been.  
21 Sure I have.

22                  But what good is it if the  
23 prosecutor is not going to give you the  
24 information?

25                  SENATOR KAMINSKY:    On the bill.



1                   ACTING PRESIDENT GRIFFO:    Senator  
2 Kaminsky on the bill.

3                   SENATOR KAMINSKY:    I'm very  
4 troubled by this bill, and everyone in here  
5 should be too. We have problems in our criminal  
6 justice system. But when the medicine kills the  
7 patient, we've kind of lost track of where we  
8 are.

9                   So I'm going to tell you what's  
10 going to happen in every prosecutor's office  
11 throughout our state. First of all, we're taking  
12 a process that's supposed to be apolitical and  
13 making it very political. I'll give you an  
14 example. Prosecutors all the time have to make  
15 heart-wrenching decisions about what to do with  
16 car crashes where people die. Sometimes people  
17 drive in an unsafe manner, they'll look at the  
18 radio, they'll be lighting a cigarette, they'll  
19 be doing something else, and they'll run somebody  
20 over, God forbid. Prosecutors have to make  
21 really tough decisions about whether that is  
22 vehicular manslaughter or whether it's not worthy  
23 of a criminal justice case.

24                   What will every family do when a  
25 decision is made that manslaughter shouldn't be

1 charged? They're going to bring a prosecutor in  
2 front of this panel and say this is misconduct, I  
3 want this defendant charged for what they did to  
4 my family.

5           And so when you're a prosecutor now  
6 evaluating what to do, whether to do justice,  
7 which is the only directive, you are now going to  
8 say, Well, I got this panel, I got this panel I  
9 got to go in front of, I know that Senator  
10 So-and-So appointed this person who doesn't  
11 really like -- you know, they want to look good  
12 on this issue. So now we're going to start  
13 charging a couple of vehicular manslaughters to  
14 keep us safe. That's not what we want to do.

15           And what about political corruption,  
16 now that we've had a political panel overseeing  
17 DAs? First of all, welcome to Planet Albany.  
18 How many people have been indicted since, let's  
19 say, 2008, in the last 10 years? And our answer  
20 is to handcuff prosecutors? That's the reform?  
21 So we do pension forfeiture and a prosecutor  
22 tribunal. It's like crazy.

23           And no one, no prosecutor is going  
24 to want to bring a political corruption case when  
25 they know that a Senator or an Assemblyperson or

1 someone from the executive chamber is going to  
2 get hauled in front of a court and then in front  
3 of a panel of somebody they appointed or from  
4 their conference appointed. We're really  
5 politicizing an area.

6           But most importantly, we're going to  
7 tie an office in knots. So let me tell you what  
8 really happens in the real world. In the real  
9 world, you convict somebody, then they appeal.  
10 After that, they could appeal the appellate  
11 court. And after that, they could take a  
12 collateral appeal to federal court through a  
13 habeas corpus petition. There is review upon  
14 review upon review. And everybody claims it.  
15 That's what makes this hard. Everybody says, I  
16 was wrongfully convicted. Everyone says, My  
17 lawyer was inadequate. Everyone says, Evidence  
18 was planted. Everyone says, I have a confession  
19 on this tape here you have to listen to that  
20 their friend made and sent them to prison. It's  
21 really hard sifting through this stuff. And we  
22 do it a lot already. Not we, they do it a lot  
23 already.

24           So what's going to happen when we  
25 have a prosecutor misconduct panel that operates

1 in pending cases? I get arrested -- misconduct.  
2 This person I like got arrested -- misconduct.  
3 You're not going to be able to do an  
4 investigation anymore. And if it is called after  
5 the fact, it will tie an office up in knots  
6 talking about what happened yesterday and  
7 yesterday and yesterday.

8           So how do we get at the injustices  
9 that occur, that Senator DeFrancisco rightly  
10 points out, to undermine confidence in our  
11 criminal justice system? It's called discovery  
12 reform. It's called bail reform. It's called  
13 speedy trial reform. None of which this house  
14 has wanted to do.

15           And how about we tell defendants in  
16 court there's this thing called a grievance  
17 process. You could write to it pro se, just like  
18 you wrote the U.S. Attorney's office or the DA's  
19 office a letter, a letter with a pencil talking  
20 about all these claims that now they have to  
21 answer. Do unto them too. Do unto the grievance  
22 panel.

23           We should be pumping that up. There  
24 is a vehicle, there is an avenue that already  
25 exists to get at bad prosecutors. It should be

1 used much more. And bad prosecutors should be  
2 held accountable, not only by judges -- which  
3 they are all the time. The amount of times a  
4 judges will throw out evidence, will throw a case  
5 on its head, will bounce a case out of court  
6 because they see misconduct. It happens every  
7 day. It's just not reported. There's no  
8 statistic to keep it.

9           But in those cases, we should be  
10 telling defendants if there's misconduct, go to  
11 the grievance panel that already exists. The  
12 judicial panel was created because you couldn't  
13 do that, the judge couldn't go in front of the  
14 grievance committee. So to model this after that  
15 just isn't apt. It doesn't -- it doesn't make  
16 sense.

17           At the end of the day, our  
18 prosecutors are the people who at night are up  
19 working, keeping all of us safe. I can't tell  
20 you the amount of nights where I left the office  
21 at 11, 12 at night, and people were still there  
22 working on wiretap applications, figuring out how  
23 to take down organized crime, figuring out how to  
24 get people who were ripping off the public -- and  
25 we are now going to put one hand tied behind

1 their back, because the medicine kills the  
2 patient.

3           So we could do a lot more to get at  
4 these acts. This is not the answer. And  
5 frankly, for an Albany that's been less than  
6 responsive on political corruption, this I just  
7 think is -- is just unseemly. Right? We're  
8 going to add, on top of the prosecutors who are  
9 supposed to be policing politicians, a political  
10 level of appointees to oversee them. How's that  
11 work?

12           Forget about the fact that in court  
13 this will have all types of separation of powers  
14 issues about a governor appointing people to tell  
15 a prosecutor whether he or she can stay in office  
16 or not, or to review or -- or to send a  
17 recommendation that he or she be removed from  
18 office. Which, by the way, voters are supposed  
19 to do every four years.

20           So this bill is fraught with a lot  
21 of issues. And at the end of the day, we here  
22 have to be having our prosecutors' backs, making  
23 them do more, making them be accountable. But to  
24 weigh down the office completely, I just really  
25 don't think makes sense.

1                   And for those of you -- and I see  
2                   certain Senators standing up who are big fans of  
3                   police departments, who support law enforcement.  
4                   Come on, what's going to happen here, for those  
5                   of us who stand with police officers? Every case  
6                   where someone says misconduct, who's going to get  
7                   called first? Police Officer Smith's going to  
8                   get called in: Is it true that you executed a  
9                   warrant that this prosecutor gave where you  
10                  kicked this person's door down and did X, Y and  
11                  Z?

12                   We're going to create a whole level  
13                   of testimony for police officers. And what does  
14                   that mean? Well, when an officer testifies,  
15                   you've got to give their whole record. All  
16                   right, now we got their whole record in play and  
17                   now we're cross-examining a police officer about  
18                   something they did four years before.

19                   So it's not good for law  
20                   enforcement, it's not good for prosecutors. At  
21                   the end of the day, it doesn't -- it doesn't  
22                   get -- it doesn't get at what we're trying to do.  
23                   I'm all for real criminal justice reform, and I  
24                   really believe we could do that. I think the  
25                   time is ripe for that. But the time to put a

1 concrete boot on a prosecutor is not now. We  
2 need them more than ever, working on terrorism  
3 cases, working on political corruption cases, and  
4 doing what's right in our society.

5 So I'd urge my colleagues to really,  
6 really think about this. I know there are mixed  
7 feelings across the aisle on this. But at the  
8 end of the day I really believe we can do better.

9 I would just say to the sponsor I  
10 certainly -- I certainly get where the sponsor is  
11 coming from. But I also just want to finish by  
12 saying one thing. I think there's been a lot of  
13 feelings about federal prosecutors, who some in  
14 this building may think have gone out of their  
15 lane to make cases that they believe should not  
16 have been made. This has got nothing to do with  
17 that. This doesn't come to federal prosecutors,  
18 it's got nothing to do with the Southern District  
19 of New York, it's got nothing to do with anyone  
20 who may have been prosecuted here or anywhere  
21 else. This is about something different.

22 We should all be careful before we  
23 put this into law and add a real change to our  
24 criminal justice system that could have very  
25 deleterious effects.



1 Thank you.

2 ACTING PRESIDENT GRIFFO: Senator  
3 Sanders.

4 SENATOR SANDERS: Nineteen thousand  
5 six hundred and ten years. In my hand, I hold  
6 the National Registry of exonerations. The  
7 amount of years that people spent in jail and  
8 were exonerated -- that we know about --  
9 19,610 years.

10 In New York State, 249 people. I  
11 could read the names. The majority of these,  
12 black and Latino. I see some from my own  
13 borough.

14 Justice delayed is justice denied.

15 It is important that we have  
16 safeguards in any system. Now, some may say that  
17 there are enough safeguards, but it's also a fact  
18 that poverty ensures conviction, just about. If  
19 you don't have the money to ensure that you have  
20 an adequate defense, then 10 to one you are going  
21 up.

22 Let's imagine that the sponsor is  
23 not perfect. Imagine that. Let's imagine that  
24 the bill is not perfect. Imagine that. My  
25 friends, we need to think more about the years

1 that people can't get back.

2           How can I look in the face of a  
3 mother and tell her I was more worried about how  
4 I would look politically, that the bill didn't  
5 come from my party so I couldn't really do  
6 anything about it? How am I going to look in the  
7 face of a child wondering about their father or  
8 daughter, mother, and say that politically it  
9 wasn't the right season, that I personally should  
10 have set that down and we couldn't do anything?

11           Nah, you got the wrong man here.  
12 These names mean something to me. These are  
13 citizens of this country as worthy as anybody  
14 else -- 19,000 years that they're not going -- no  
15 amount of money is going to give you that back.  
16 They would trade that money in a heartbeat.

17           Do we need to do something about  
18 this? Absolutely. Is this the thing to do? We  
19 can argue that. I wish someone gave me the  
20 perfect bill that I was looking for. I don't  
21 think that, you know, that perfection exists,  
22 ever since the apple was bitten.

23           But with that being said, we have to  
24 do something. Somebody has to stand up for these  
25 folk and say, You know what, right is right. And

1 it's not right Republican or right Democrat, it's  
2 not right of any of those things. There's  
3 certain things that are just right, and if we can  
4 stand for those things, we'll get above this.

5 Yes, as a reformer I want there to  
6 be strong prosecutors and I think that there is a  
7 role for them. And we should not shackle them,  
8 handcuff them or any of those things. We should  
9 not. We should make sure that the system is as  
10 fair as we possibly can make it.

11 And we should do everything in our  
12 power to make sure that that part of society --  
13 that the prosecutor plays an incredibly important  
14 part. We have to make sure that they are safe,  
15 that their very important mission is protected.

16 But let us not say that we're not  
17 going to do these things because we will --  
18 somewhere, somebody would say that we look bad.  
19 Let us not say that we're going to allow somebody  
20 to -- even as we speak, there are innocent people  
21 in jail, and somebody should speak for them. And  
22 if there's a process where prosecutors -- you  
23 know, after a while we know the bad apples in the  
24 system. After a while we know that there's a  
25 problem. And until the system itself polices

1     itself, until people stand up and say, You know  
2     what, I will have no part of this, we know that  
3     that guy is messed up, then we need to do  
4     something on this issue.

5                     And I'm glad that the sponsor, in  
6     his swan song, has brought an important issue to  
7     the fore. Whatever comes from this, he has done  
8     a service to the people of New York State and  
9     should be proud of that.

10                    So under those conditions, I'm going  
11    to listen to the rest of this debate. But if the  
12    only thing that we can say is how we'll look bad  
13    or it came from that party or that party, then  
14    I'm going to go with this unless I hear a more  
15    pressing reason of why we shouldn't look for how  
16    are we going to attack this issue.

17                    Thank you very much, Mr. Speaker --  
18    Mr. President.

19                    ACTING PRESIDENT GRIFFO:    Thank  
20    you, Senator Sanders.

21                    Senator Bailey.

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

24                    So this is a very important issue, a  
25    very important bill, and I appreciate the

1 dialogue being what it is regardless of outcome.

2           Senator DeFrancisco, in your debate  
3 you mentioned a phrase tongue-in-cheek, almost:  
4 The world is not going to come to an end. And I  
5 agree with you. If we do this, the world won't  
6 come to an end. The world didn't come to an end  
7 in New York City when stop-and-frisk was taken  
8 away, when they said, If you stop stop-and-frisk,  
9 the old bad New York is going to come back.  
10 Crime is at a record low.

11           I want us to make sure that we're  
12 looking clearly through the lens of objectivity  
13 and not a partisan lens. Every prosecutor is not  
14 going to be Andrew Lanza or Todd Kaminsky.  
15 Ninety-nine percent of them are. But I want my  
16 folks on both sides of the aisle to understand  
17 that perfection does not exist. There are bad  
18 prosecutors, bad attorneys, bad police officers,  
19 bad elected officials. We have to have a  
20 mechanism to figure out what's right and what's  
21 fair.

22           And partisanship aside, if we're  
23 talking about fairness, it comes back to  
24 discovery. It comes back to bail and it comes  
25 back to speedy trial. And I hope that if we have

1 this attitude today that we're going to do  
2 something which is a step in the right direction  
3 on these matters, that we have time in this  
4 session to do something about discovery reform.

5           It passed the Assembly. 4360A,  
6 Assemblyman Lentol, who Senator DeFrancisco had  
7 indicated properly that he's been working with,  
8 that passed the Assembly. We have a chance to do  
9 something on that in this house this year. Why  
10 wait? If this is on the calendar, if this is on  
11 the Rules agenda, if this is on the floor, there  
12 is no reason why that bill should not come to the  
13 floor as well.

14           Because we're trying to cure the  
15 root issue. You pull a leaf off a plant, the  
16 leaf is going to grow back. If we have a  
17 problem, you've got to pull it out by the root.  
18 And the root is figuring out what's right and  
19 what's fair. I don't want a defense attorney to  
20 have an advantage, I don't want a prosecutor to  
21 have an advantage. I want fairness.

22           And I've said this often in  
23 discussions with district attorneys and folks on  
24 the Republican side of the aisle about why  
25 supporting discovery reform is a public safety

1 issue. I have a wife and two small children;  
2 nobody wants public safety more than I do. But  
3 as an attorney duly admitted to the bar of the  
4 State of New York, I want fairness for everyone.  
5 And I want, if you've been unfairly accused of a  
6 crime, that you have an ability to redress these  
7 complaints.

8           The Assembly also passed grand jury  
9 reform, also something that we can do this year.

10           So if we're in this attitude about  
11 making change, about making sure we're doing  
12 what's right, let's not limit ourselves. We  
13 talked about exculpatory evidence, and I'm glad  
14 that that was mentioned. We have no definition  
15 of what exculpatory is. Sometimes a prosecutor  
16 can define their own version of exculpatory  
17 evidence, which is the reason why we need  
18 discovery reform.

19           And Senator Lanza can attest to  
20 this, we've peacefully disagreed in the Codes  
21 Committee the entire year about the idea of  
22 discretion and about how we take judges'  
23 discretion away when it's time for certain  
24 crimes, but it's okay for them to have discretion  
25 when it comes to bail reform and discovery

1 reform. Discretion cannot be discretionary, let  
2 us be very clear on that.

3 ACTING PRESIDENT GRIFFO: Senator  
4 Bailey, I'd like to keep it to the bill before  
5 the house, please.

6 SENATOR BAILEY: All right, thank  
7 you, Mr. President.

8 ACTING PRESIDENT GRIFFO: On  
9 germaneness. Thank you.

10 SENATOR BAILEY: Yes,  
11 Mr. President. I believe that my comments were  
12 and are germane, because they do relate to  
13 criminal justice as a whole, which the  
14 prosecutors in the State of New York do uphold.  
15 But I will respect what you're saying and go back  
16 on the bill-in-chief.

17 It is important to recognize  
18 misconduct. Statistics show it, as Senator  
19 Sanders indicated, but stats don't always tell  
20 the truth. The number of cases that we have  
21 about the misconduct -- or the reported cases do  
22 not accurately tell the whole story about what  
23 happens in communities like mine, about stories  
24 that I've heard, about phone calls that I've  
25 personally received.



1           So, Mr. President, much like my  
2   colleague Senator Sanders, I want to hear what  
3   else other folks have to say. But I understand  
4   that there is a season for this type of  
5   legislation, and I hope that we have that  
6   attitude towards similar legislation in the  
7   remaining time that we have to do what's right.

8           Thank you, Mr. President.

9           ACTING PRESIDENT GRIFFO: Thank  
10 you, Senator Bailey.

11           Senator Lanza.

12           SENATOR LANZA: Thank you,  
13 Mr. President. On the bill.

14           ACTING PRESIDENT GRIFFO: Senator  
15 Lanza on the bill.

16           SENATOR LANZA: First,  
17 Mr. President, I'd like to associate myself with  
18 every word of Senator Sanders' remarks, which  
19 were, as always, incredibly thoughtful.

20           So too I would like to thank  
21 Senator Bailey for the compliment, which I pray I  
22 can live up to.

23           In some respects, this is a very sad  
24 day. As a former prosecutor, I never dreamt that  
25 I would ever stand in support of legislation like

1 this, because I never wished to believe that  
2 legislation like this would be necessary.

3           You see, I was a prosecutor in the  
4 Manhattan District Attorney's office. I worked  
5 for Robert Morgenthau, who I continue to believe  
6 is the gold standard for prosecutors. But I've  
7 become increasingly troubled, over the years  
8 since then, that they just don't make them like  
9 Robert Morgenthau anymore.

10           And I listened to my colleague  
11 Senator Kaminsky, who I have tremendous respect  
12 for, also a former prosecutor. And as Senator  
13 Bailey said, if everyone treated the work the way  
14 I'm sure Senator Kaminsky did, as I know him, we  
15 would not even need to discuss this legislation.

16           And I think Senator Kaminsky's  
17 mistake is that he believes that everyone does it  
18 the right way. And the truth of the matter is  
19 99 percent of the prosecutors in this state do.

20           Senator Kaminsky gave us a number of  
21 improper prosecutions that have occurred; I  
22 forget what that number was. But my point is  
23 this. One miscarriage of justice is too much,  
24 too many, when we're dealing with people's life  
25 and liberty.

1           And no one ought to be above the  
2 law, especially, quite frankly, our prosecutors.  
3 Because nowhere is the old power of the king and  
4 the queen and the pharaoh and the dictator still  
5 in existence when it comes to prosecutor's  
6 offices. Nowhere is the power of the state more  
7 likely to be abused than in the office of  
8 prosecutors. And why? Because they have the  
9 power over your freedom. They can take  
10 everything you have away from you. And we have  
11 the best system on earth, no doubt. But every so  
12 often someone comes along and abuses the system.

13           My colleagues in this chamber, you  
14 know that I threw every ounce of my fiber into  
15 the Raise the Age debate last year. I did so  
16 because I believe to my core that we have an  
17 opportunity with young people that we might not  
18 have later on. And I listened to the debate, and  
19 I heard time and time again from my colleagues  
20 across the aisle that our system is corrupt, that  
21 it is inherently abusive, that there are people,  
22 especially people of color, who are not treated  
23 fairly in our system, and that there are human  
24 beings in jail who don't belong in jail.

25           And that only happens, by the way,

1 through prosecutorial misconduct. It's the only  
2 way an innocent person ultimately ends up in  
3 jail. Prosecutorial misconduct.

4 Now, again, there are very few cases  
5 like that, but one is too many. And I listened  
6 to Senator Kaminsky, and if the things that he  
7 said about this bill were true in terms of what  
8 it would do to prosecutors, I would be disturbed  
9 and I could not support it.

10 All we're saying here is that when  
11 you assume the awesome power as a prosecutor in  
12 this state, that you need to apply the laws of  
13 the land fairly and without discrimination and  
14 without prejudice. And by the way, if you do  
15 your job properly the way you ought to and the  
16 way the majority of prosecutors do, you have  
17 nothing to be worried about and nothing to be  
18 concerned about. This will do nothing to prevent  
19 you from doing justice.

20 But as Senator DeFrancisco said, it  
21 will send a message to those who might otherwise  
22 be tempted to do the political thing or the  
23 prejudicial thing or the discriminatory thing,  
24 and perhaps this legislation will prevent that  
25 from happening.

1                   And so to Senator DeFrancisco, I  
2 thank you. Again, for me, it is sad that I am  
3 standing here talking about the need for this  
4 legislation, but I think in today's day and age,  
5 with the craziness that surrounds us, with the  
6 hyperpoliticization, that the day has come.

7                   Mr. President, I'm in support of  
8 this legislation.

9                   ACTING PRESIDENT GRIFFO:    Senator  
10 Bonacic.

11                  SENATOR BONACIC:    This discussion  
12 has been excellent on this issue. Senator  
13 Kaminsky, I think you spoke eloquently of what  
14 would happen with district attorneys and  
15 defendants coming forward, as a former  
16 prosecutor.

17                  Senator DeFrancisco, Senator Lanza,  
18 I thank you for the courage that this bill is on  
19 the floor. I thank you for your passion, Senator  
20 Sanders.

21                  When did you ever think that law and  
22 order with the Republican Conference -- which we  
23 embrace -- that you would see a bill like this on  
24 the floor? We have a reputation to embrace law  
25 enforcement, to embrace DAs. That's who we've

1 been for so long. But times are changing. Times  
2 are changing.

3           And how many times have I heard the  
4 treatment to an African-American in the justice  
5 system? That there's two tiers of justice, one  
6 for the poor man and one for the rich man. Many  
7 times.

8           And as Senator Lanza said, we have a  
9 few bad apples in the DA's office. They're all  
10 my friends, by the way, in the four counties that  
11 I represent.

12           But when I say the winds are  
13 changing, politics, political ambition has taken  
14 over. In all aspects, in all areas of  
15 professionalism. But in every area of  
16 professionalism -- doctors, lawyers, accountants,  
17 police officers -- you've got to be accountable,  
18 if you've done something wrong, to -- I'll just  
19 call it an integrity board that watches over  
20 these areas. But not prosecutors.

21           So there's a loophole in the system.  
22 And what disturbs me is if there is an  
23 indictment, a political indictment -- it won't be  
24 called that, it will be called something else,  
25 but it is a political indictment. Whether it's

1 the color of someone's skin, whether it's your  
2 political philosophy, whether I have blind  
3 ambition as a prosecutor to become a governor, to  
4 become a U.S. attorney general, to become a  
5 judge -- I want a good track record, I want  
6 publicity, and I'm going to pick high-profile  
7 cases.

8           Now, DAs, in my judgment, never used  
9 to act that way. But we're seeing it more and  
10 more. We're seeing people go to jail and then  
11 exonerated because of DNA. And they never get  
12 their life back, I agree with you. The taxpayers  
13 will pay that person for that loss, but they will  
14 never truly compensate them for the loss. And  
15 that DA who might have done that? No  
16 repercussions. No accountability.

17           It's often been said that a  
18 prosecutor can indict a ham sandwich if they  
19 want, and I believe that to be true. I believe  
20 that to be true to this day. So it pains me to  
21 have to do this, because I know the few bad  
22 apples and the wind of political animals or  
23 political professionals, especially in the  
24 prosecutor's area, we're seeing more and more  
25 cases of injustice.

1           So I'm going to support this bill.  
2     It's bittersweet for me. But I think the time  
3     has come that everybody has to be accountable,  
4     even our good friend prosecutors. Because the  
5     damage they may do to 2 percent of the people,  
6     and they make good decisions for the 98 percent  
7     of the people, it's too harmful. The damage is  
8     too brutal. The whole justice system comes under  
9     question because of the 2 percent bad discretion  
10    by prosecutors doing things for the wrong reason.  
11    And they have to be accountable.

12           And I will end my remarks by saying  
13    a good, decent prosecutor -- and most of them  
14    throughout the state are -- will never have to  
15    worry about this legislation because they know  
16    they're always doing the right thing, like  
17    legislators do when they stand here and always  
18    under scrutiny. If you're always doing the right  
19    thing, you never have to watch your back.

20           I vote yes. Thank you,  
21    Mr. President.

22           ACTING PRESIDENT GRIFFO:    Senator  
23    Boyle.

24           SENATOR BOYLE:    Mr. President, on  
25    the bill.



1                   I'd first like to thank Senator  
2 DeFrancisco for his championing of this  
3 legislation. I think it's long overdue.

4                   As my colleagues have said, I  
5 believe the vast, vast, vast majority of  
6 prosecutors are good, honest, hardworking people  
7 in the State of New York. But there are some bad  
8 apples.

9                   I talk about Suffolk County, where  
10 I'm from. Recently an assistant district  
11 attorney was fired in the middle of a murder  
12 trial. They found out he was withholding  
13 evidence. Come to find out he had five other  
14 murder trials which the cases were dismissed.  
15 I'm not talking about speeding tickets. Murder  
16 trials. Five murder cases dismissed because of  
17 the misconduct of this assistant district  
18 attorney.

19                   This assistant district attorney was  
20 fired by our district attorney at the time, who  
21 by the way is now under federal criminal  
22 prosecution himself.

23                   What I see also and worries me a lot  
24 was, as was said, the political aspect of this.  
25 I see some prosecutors -- some prosecutors -- who

1 are looking for the headline. They find  
2 somebody, a low-level person in a town who's  
3 doing the wrong thing, taking bribes, an outside  
4 company, a businessman giving bribes. Instead of  
5 saying you guys are doing the wrong thing, we're  
6 going to prosecute you, you're going to jail, and  
7 throw away the key. No, they say, We've got to  
8 get a headline, that's not going to get us on the  
9 front of the newspaper, so we're going to go  
10 after the politician who is the boss. And they  
11 twist themselves into pretzels to go after these  
12 elected officials, because that's going to be on  
13 the cover of the newspaper, spending millions of  
14 dollars and years of disruption in the town and  
15 in the county.

16 As far as the discovery reform,  
17 Senator Kaminsky, thank you for your comments. I  
18 know you're passionate about this issue. You  
19 mentioned discovery reform as a way of modifying  
20 this or helping the situation. Well, that's  
21 funny because earlier this year I was visited by  
22 district attorneys who are against discovery  
23 reform. That may not be the answer that we're  
24 going to get across the finish line.

25 We all agree we need to do the right

1 thing and fix the system. It does have flaws.  
2 The vast majority are good prosecutors. We've  
3 got to root out the evil ones. And I would quote  
4 Martin Luther King: An injustice anywhere is a  
5 threat to justice everywhere.

6 I strongly support this bill and  
7 vote aye.

8 ACTING PRESIDENT GRIFFO: Is there  
9 any other Senator that wishes to be heard?

10 Senator Hoylman.

11 SENATOR HOYLMAN: Thank you,  
12 Mr. President.

13 Would the sponsor yield for a couple  
14 of questions?

15 ACTING PRESIDENT GRIFFO: Senator  
16 DeFrancisco, do you yield?

17 SENATOR DeFRANCISCO: Yes.

18 ACTING PRESIDENT GRIFFO: The  
19 Senator yields.

20 SENATOR HOYLMAN: Through you,  
21 Mr. President. What are the specific conditions  
22 for a complainant before this commission?

23 SENATOR DeFRANCISCO: Well, it sets  
24 it forth in the bill that if you -- it's  
25 basically an allegation that the prosecutor is

1 not following the law and guilty of misconduct.  
2 And then the commission then reviews it, or a  
3 panel of three appointed by the commission  
4 reviews the allegation. If there's no proof of  
5 that, then the case is not proven and it's over.

6 SENATOR HOYLMAN: Would the sponsor  
7 continue to yield?

8 ACTING PRESIDENT GRIFFO: The  
9 sponsor yields.

10 SENATOR DeFRANCISCO: Yes.

11 SENATOR HOYLMAN: Through you,  
12 Mr. President, is there any burden of proof for  
13 complainants?

14 SENATOR DeFRANCISCO: By the  
15 preponderance of the evidence. It's the same  
16 burden of proof with judges.

17 SENATOR HOYLMAN: I didn't see that  
18 in the bill.

19 But would the sponsor continue to  
20 yield?

21 ACTING PRESIDENT GRIFFO: The  
22 sponsor yields.

23 SENATOR HOYLMAN: Is there any  
24 requirement that allegations be sworn under oath  
25 by complainants?

1                   SENATOR DeFRANCISCO:    The  
2   commission is going to set forth the rules, but  
3   that is what's done in the Judicial Conduct  
4   Commission.  And that's the same format.

5                   SENATOR HOYLMAN:    Will the sponsor  
6   continue to yield?

7                   ACTING PRESIDENT GRIFFO:    The  
8   sponsor yields.

9                   SENATOR HOYLMAN:    For the record,  
10  there is no requirement that allegations be sworn  
11  under oath.

12                   Who would have standing to file a  
13  complaint?

14                   SENATOR DeFRANCISCO:    Well, the  
15  people that have standing are those that are  
16  alleged to have been the victims of the  
17  misconduct.

18                   SENATOR HOYLMAN:    Will the sponsor  
19  continue to yield?

20                   ACTING PRESIDENT GRIFFO:    The  
21  sponsor yields.

22                   SENATOR HOYLMAN:    The way I read  
23  it, anyone would have standing.  Can you point to  
24  where in the bill that suggests otherwise?

25                   SENATOR DeFRANCISCO:    No.  But as I

1 keep repeating, this is the same law that set  
2 into motion -- the same wording of the law that  
3 set in motion the Judicial Conduct Commission.  
4 And the same rules that they have adopted, I  
5 would most likely believe -- I believe would be  
6 the rules adopted by this commission as well,  
7 since they have worked.

8           SENATOR HOYLMAN: Will the sponsor  
9 continue to yield?

10           ACTING PRESIDENT GRIFFO: The  
11 sponsor yields.

12           SENATOR HOYLMAN: So as the law is  
13 currently written, not speculating as to what may  
14 be issued in regulations moving forward, if an  
15 investigation was undertaken by a district  
16 attorney, a third party with no connection to the  
17 investigation -- a member of the public or the  
18 press or a political ally -- could file a  
19 complaint, is that correct, as the bill is  
20 currently written?

21           SENATOR DeFRANCISCO: It doesn't  
22 limit anyone from filing a complaint. It is  
23 written broadly, like the Judicial Conduct  
24 Commission, so that they could go through -- what  
25 happens in the Judicial Conduct Commission is

1 basically whatever the complaints are, they'll  
2 review a slew of complaints, many of them don't  
3 have any basis, and they deny them.

4           The point is to provide this  
5 vehicle. This is not a criminal case where your  
6 liberty is at -- where your liberty is at stake  
7 by what is going to happen. That's what the  
8 prosecution case is before a judge. This is a  
9 place for a complaint, just like a grievance  
10 complaint, but an independent body that -- rather  
11 than the grievance committee reviewing the DA.

12           SENATOR HOYLMAN: Will the sponsor  
13 continue to yield?

14           ACTING PRESIDENT GRIFFO: The  
15 sponsor yields.

16           SENATOR HOYLMAN: So let's say a  
17 district attorney has launched an investigation  
18 of one of our colleagues. One of our other  
19 colleagues gets wind of the fact that this is  
20 underway, a corruption investigation. Could, in  
21 theory, our colleague or his or her political  
22 ally then file a complaint and initiate an  
23 investigation of the investigators?

24           SENATOR DeFRANCISCO: If there is a  
25 basis for it. This isn't just a complaint

1 because the charge has been brought. The  
2 prosecutorial conduct commission is going to  
3 review that complaint because somebody doesn't  
4 think it should have been brought.

5 These are cases where there's  
6 misconduct in the course of the prosecutor's  
7 duty. Ninety percent of these things deal with  
8 failing to provide exculpatory material.

9 So anybody can say anything about  
10 anybody, as we all know as elected officials.  
11 But that's the point of the group that's going to  
12 review these allegations. There has to be a  
13 basis for them, a basis of misconduct. It would  
14 be almost impossible to prove a case that the  
15 prosecution should have been brought, because the  
16 prosecutor has broad discretion under the law.  
17 But if in reviewing that case and in pursuing the  
18 case he violates the rules that he's supposed to  
19 abide by, those are the cases that will be the  
20 ones that are the focus of this commission.

21 SENATOR HOYLMAN: Will the sponsor  
22 continue to yield?

23 ACTING PRESIDENT GRIFFO: The  
24 sponsor yields.

25 SENATOR HOYLMAN: Through you,



1 Mr. President. If the complainant charges  
2 baseless and unfounded charges, what are the  
3 consequences for the complainant?

4 SENATOR DeFRANCISCO: Well, the  
5 complainant -- there are no consequences --

6 SENATOR HOYLMAN: There are no --

7 SENATOR DeFRANCISCO: There are no  
8 consequences under this bill. If it's a sworn  
9 statement and they lied in the sworn statement,  
10 there's a criminal charge that could be brought  
11 against them.

12 But this is a vehicle for the  
13 general public to have a prosecutor's conduct  
14 reviewed.

15 SENATOR HOYLMAN: On the bill,  
16 Mr. President.

17 ACTING PRESIDENT GRIFFO: Senator  
18 Hoylman on the bill.

19 SENATOR HOYLMAN: We just heard,  
20 Mr. President, that if a complainant brings  
21 charges, he or she does not have to have any  
22 direct connection to the investigation or case  
23 being pursued by the district attorney. He or  
24 she doesn't have to have any standing. He or she  
25 can, let's be real, be simply a political crony,

1 a supporter of, let's just say a State Senator  
2 who's being investigated by a district attorney.  
3 And we have provided a vehicle to totally up-end  
4 that investigation through this legislation.

5 I understand and feel very deeply  
6 for the concerns expressed by my colleagues about  
7 the need for criminal justice reform,  
8 particularly as it impacts our minority  
9 communities, including mine. But I believe this  
10 bill is providing a very suspicious cover for bad  
11 actions and bad actors in our State Legislature.

12 We are politicizing the  
13 investigatory process. We are appointing a  
14 board, a commission made up entirely, nearly, of  
15 appointees by the Governor, Senate Majority  
16 Leader, Senate Minority Leader, the Speaker, the  
17 Assembly Minority Leader. And we are suggesting  
18 that this legislation will find a fair and  
19 depoliticized outcome when it comes to  
20 investigating the actions of other elected  
21 officials, our district attorneys.

22 I don't think so. I'm fearful that  
23 this will be viewed by the public as  
24 decommissioning Moreland part II.

25 And I think that we need to take a

1 more considered approach toward rectifying the  
2 abuses, some of which of course do exist on  
3 behalf of district attorneys, but certainly not  
4 through a highly politicized nature that in fact  
5 results in providing cover for those of us who  
6 sit in this chamber.

7 Thank you, Mr. President.

8 ACTING PRESIDENT GRIFFO: Thank  
9 you, Senator Hoylman.

10 Is there any other Senator that  
11 wishes to be heard or speak?

12 Senator Kaminsky, you want to speak  
13 now or explain your vote? You're eligible to  
14 speak. This is your second time; this would be  
15 the last opportunity.

16 Senator Kaminsky.

17 SENATOR KAMINSKY: Thank you. I'll  
18 be very brief.

19 ACTING PRESIDENT GRIFFO: On the  
20 bill?

21 SENATOR KAMINSKY: On the bill.

22 ACTING PRESIDENT GRIFFO: Senator  
23 Kaminsky on the bill.

24 SENATOR KAMINSKY: This is directed  
25 at all my colleagues, but especially across the

1 aisle. You can vote for this for any reason you  
2 want, but please don't vote for it for the view  
3 that if you're a good prosecutor you have nothing  
4 to worry about. You have a lot to worry about.  
5 This will be a drain on your time, your  
6 resources, your reputation, and the office's  
7 ability to do justice without fear or favor,  
8 because there will be a tribunal you will be  
9 hauled in front of on every single case.

10 Thank you.

11 ACTING PRESIDENT GRIFFO: Is there  
12 any other Senator that wishes to be heard?

13 Seeing none, I will allow Senator  
14 DeFrancisco, as the sponsor of the bill, to close  
15 debate.

16 Senator DeFrancisco.

17 SENATOR DeFRANCISCO: Thank you.  
18 And I appreciate the debate.

19 And it's nice to see a bipartisan  
20 debate in this chambers based upon a piece of  
21 legislation that I think was worked -- I know was  
22 worked on for a long period of time and I think  
23 is well thought out.

24 First, just a couple of responses,  
25 and that's all I want to do.

1           There's been talk about discovery  
2 reform. I believe that that should happen. But  
3 if you're a prosecutor who's already, under the  
4 existing rules, not providing exculpatory  
5 material, you can write the best rule in the  
6 world in a discovery reform; that same  
7 prosecutor, if he or she is inclined to, is going  
8 to violate that rule as well. So even with  
9 discovery reform we need a bill like this.

10           Secondly, this -- the concept that  
11 this is some kind of cynical attempt to try to  
12 protect political people by filing complaints in  
13 this commission is -- well, I remember what the  
14 prayer was yesterday. I'll think good thoughts,  
15 I'll say good things, I won't say what I really  
16 want to say -- I think is just not a right  
17 analysis of this bill.

18           Because all you can do is bring a  
19 complaint that there was misconduct, some breach  
20 of duty. Not by a charge being brought. That's  
21 not a breach of duty. You're talking about while  
22 he's conducting his duties that there's a breach  
23 of conduct.

24           And it reminds me, two years ago  
25 when this bill was -- maybe three years ago. I

1 can't even remember anymore. But I know I  
2 started working on this bill before the Moreland  
3 Commission, before MC. It's like BC, MC. The  
4 fact of the matter is I wasn't even thinking  
5 about political cases when I drafted this -- the  
6 first iteration of this bill. I was thinking  
7 about the people that most are talking about here  
8 that had evidence withheld against -- that they  
9 should have gotten and spent many, many years in  
10 jail.

11           And this is sort of a complaint.  
12 And two or three years ago my prosecutor told the  
13 newspaper that this was simply an effort on my  
14 behalf to be -- to strike back at the Moreland  
15 Commission. Which irritated me to no end, about  
16 as much as I'm irritated today by being accused  
17 of that same motive, it's so far -- it's just not  
18 correct.

19           So I understand people have  
20 differences of opinion here. Prosecutors should  
21 prosecute. They should be supported by everyone.  
22 But when a bad prosecutor does something that  
23 results in somebody losing their liberty, there's  
24 got to be a remedy. There is not a remedy now.  
25 This is the remedy.

1           It's not the perfect bill. I don't  
2 know how to do that. All I know is -- and I'm  
3 not smart enough to come up with some perfect  
4 bill. So what I did, I looked at a bill that's  
5 been a law that we've worked with since the  
6 1970s, the Judicial Conduct Commission. And all  
7 of the horrible things that we're talking about  
8 today that could happen have not happened. Good  
9 things have happened since the Judicial Conduct  
10 Commission.

11           So I would urge all of you to please  
12 support this bill. It's an important bill. And  
13 I appreciate the debate. And I thank the leader  
14 for allowing us to put this bill on the floor  
15 today for an open debate and giving everybody the  
16 opportunity to vote on it.

17           Thank you, Mr. President.

18           ACTING PRESIDENT GRIFFO: Thank  
19 you, Senator DeFrancisco.

20           Debate is closed; the Secretary will  
21 ring the bell.

22           The Secretary will read the last  
23 section.

24           We have a number of people that have  
25 requested explanation of votes. I'm going to ask

1 that you all comply with the Senate rules and  
2 please stay within a two-minute explanation.

3 Read the last section.

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

6 ACTING PRESIDENT GRIFFO: Call the  
7 roll.

8 (The Secretary called the roll.)

9 ACTING PRESIDENT GRIFFO: Senator  
10 Flanagan to explain his vote.

11 SENATOR FLANAGAN: Thank you,  
12 Mr. President.

13 This has been fantastic. And every  
14 now and then I think this applies to all of us:  
15 It makes me proud to be a public servant, to sit  
16 in this room and actually deliberate and have  
17 really substantive conversations on important  
18 issues of public policy.

19 So I often think that that is lost  
20 sometimes when the public hears about what goes  
21 on in Albany -- or not. They should look at a  
22 tape like this and realize we actually do a lot  
23 of very good things.

24 I want to join the remarks of  
25 Senator DeFrancisco on a couple of different



1 levels, not the least of which is the comparison  
2 to the Commission on Judicial Conduct. We're not  
3 breaking new ground here. We're basically adding  
4 a new layer to what is a system that's been in  
5 place for a very long time that has worked well.  
6 And Senator DeFrancisco is correct, the world did  
7 not come to an end when that came into being  
8 many years ago.

9           And on top of that, you know, I was  
10 listening to the debate. We talk about lots and  
11 lots of good prosecutors. We talk about good  
12 elected officials. We talk about good people and  
13 bad people. For me, philosophically, when we  
14 come into this chamber we're not really making  
15 laws for the good people. When you look at the  
16 environment, we're not making a law for someone  
17 who goes and does the beach cleanup. We make a  
18 law for the guy who does the illegal dumping,  
19 when there's a rogue doctor who's giving out  
20 prescriptions. We're not making it for the candy  
21 striper or the volunteer who's there in the  
22 hospital.

23           So I think consistently we have a  
24 method of operation here where frankly we have to  
25 make laws to protect the good people from the bad

1 people. And if that is going to apply to  
2 prosecutors -- and I think it should -- then so  
3 be it.

4           Lastly, using the vernacular,  
5 sometimes he's Johnnie D, sometimes he's DeFran.  
6 Today I want to make it really clear. Today he's  
7 Senator John DeFrancisco. And I'm going to tell  
8 you something, and I'm going to tell you with  
9 great clarity. He and I have had many, many  
10 conversations on this bill, for years. I know  
11 where his head was at in the beginning, I know  
12 where it was in the process, I know where it is  
13 now. It has nothing to do with anything other  
14 than Senator DeFrancisco, a man with a wealth of  
15 experience, trying to do the right thing by the  
16 public. I am so blessed and happy to call him my  
17 colleague.

18           And I'm going to -- if I could vote  
19 yes twice, I would do it in a second.

20           Mr. President, thank you. I vote in  
21 the affirmative.

22           ACTING PRESIDENT GRIFFO:    Senator  
23 Flanagan in the affirmative.

24           Senator Bonacic to explain his vote.

25           SENATOR BONACIC:    Real brief.

1                   Senator Kaminsky, I think you're  
2 right. I think there will be more harassment,  
3 more aggravation for DAs if this becomes law.  
4 But I do believe it will be short term. I do  
5 believe that a lot of this stuff, with the  
6 passage of time, these false claims will go away.  
7 And just maybe having this commission in place,  
8 maybe a bad-actor prosecutor will not do a bad  
9 indictment. And we would have accomplished a lot  
10 if that happens.

11                   I vote yes. Thank you,  
12 Mr. President.

13                   ACTING PRESIDENT GRIFFO: Senator  
14 Bonacic to be recorded in the affirmative.

15                   Senator Krueger to explain her vote.

16                   SENATOR KRUEGER: Thank you,  
17 Mr. President.

18                   So it's true, it was a bipartisan  
19 debate. It was probably one of the better  
20 debates I've seen on the floor of this house in  
21 the 16 years I've been here.

22                   It's a critically important issue we  
23 take on. It's probably not a perfect bill. But  
24 you know what? As many of my colleagues said, we  
25 can do this bill today and we can do chapter

1 amendment changes to make it even better in the  
2 future.

3           There are so many people who have  
4 nowhere to turn at this point in time that I feel  
5 very proud that I am voting yes on this bill  
6 today.

7           Thank you, Mr. President.

8           ACTING PRESIDENT GRIFFO:    Senator  
9 Krueger in the affirmative.

10           Senator Sanders to explain his vote.

11           SENATOR SANDERS:    Thank you,  
12 Mr. President.

13           I came here to give the position of  
14 the people in my district, and with -- I just  
15 want to read some of the names of the people so  
16 that they will have a voice as I vote.

17           Amine Baba-Ali.   Kareem Bellamy.  
18 Ricardo Benitez.   Lazaro Burt.   Carlos Cardenas.  
19 Napoleon Cardenas.   Lambert Charles.   Ronald  
20 Dudley.   Fancy Figueroa.   Teobaldo Guce.   Gerald  
21 Harris.   Lee Long.   I'm trying to do this fast.  
22 Angelo Martinez.   Terrence Mason.   Todd McCord.  
23 Julio Negrón.   Lamar Palmer.   Racky Ramchair.  
24 Derrick Redd.   Arthur Stewart.   Clinton Turner.  
25 I could go on.

1           These are some of the people who  
2 have been wrongfully convicted from Queens. And  
3 today, at least, they had their voices mentioned.

4           This is not a perfect bill. I look  
5 forward to working on it in the future to ensure  
6 that if it does anything negative to prosecutors,  
7 that we can find a way to remedy that.

8           But those people deserve their  
9 voices heard too, and I vote yes on behalf of  
10 them.

11           ACTING PRESIDENT GRIFFO:    Senator  
12 Sanders in the affirmative.

13           Senator Savino to explain her vote.

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

16           You know, I've been in the Senate  
17 now 14 years, and I've been on the Judiciary  
18 Committee I think every year that I've been here.  
19 And I can remember debating in the Judiciary  
20 Committee with various members over the years  
21 about this bill. We even debated it this morning  
22 discussing it amongst ourselves.

23           And I actually thought I knew what I  
24 was going to do. I'd always voted against it  
25 because of the very compelling arguments that

1 Senator Kaminsky has made about it, and some of  
2 the other members who have served as DAs. And I  
3 still think his arguments are very compelling,  
4 and there are issues we have to make sure we  
5 correct.

6 But after listening to this  
7 bipartisan debate that Senator Flanagan  
8 referenced, and listening to some of you who have  
9 been practicing prosecutors, those of you who are  
10 practitioners of the law, I find myself for the  
11 first time changing my vote.

12 I thought I knew what I was going to  
13 do when I walked in the room. I was going to  
14 vote no. But now, after listening to the  
15 passion -- people -- and reminding us what we're  
16 really supposed to be doing here, which is about  
17 providing fairness to our constituents  
18 everywhere -- and this may not be the perfect  
19 bill. I think Senator Kaminsky is right, I think  
20 we have to take a crack at it next year, maybe  
21 improve it. But I think we have to strike a blow  
22 for fairness for people who don't feel that they  
23 have a fair shake in our court system.

24 I vote in the affirmative,  
25 Mr. President.

1                   ACTING PRESIDENT GRIFFO:    Senator  
2 Savino to be recorded in the affirmative.

3                   Senator Bailey to explain his vote.

4                   SENATOR BAILEY:    Thank you,  
5 Mr. President.  I'll be very brief.

6                   The journey of a thousand miles  
7 begins with yet a single step, and this is that  
8 step.  It is not perfect.  I don't want to, you  
9 know, continue to say everything that's been  
10 said, but this was an enlightening debate, and we  
11 should have more of them.

12                  The greatest thing about democracy  
13 can be dissent because we need to hear things  
14 that are outside of our echo chamber and we need  
15 to talk about issues that we're not comfortable  
16 with.  This is not a comfortable conversation.  
17 We weren't sent to Albany to be comfortable.  We  
18 were sent to Albany to impact the lives of  
19 300,000 representatives-plus in our district  
20 every single day.  That's what I come to work  
21 for.

22                  And yes, I look forward to a more  
23 robust discussion of this and many other  
24 substantive issues in criminal justice.  Senator  
25 DeFrancisco said, once again, discovery reform,

1 we should do it.

2 This single step today is something  
3 that I'm proud to stand with my colleagues in  
4 voting aye for, Mr. President. And I thank you  
5 for your time, and I thank all of my colleagues  
6 for their discourse on this matter.

7 I vote aye, Mr. President.

8 ACTING PRESIDENT GRIFFO: Senator  
9 Bailey to be recorded in the affirmative.

10 Announce the results.

11 THE SECRETARY: In relation to  
12 Calendar Number 1783, those recorded in the  
13 negative are Senators Addabbo, Gallivan, Griffio,  
14 Hoylman, Kaminsky, Marchione, O'Mara,  
15 Ranzenhofer, Ritchie, Seward, Tedisco and Young.

16 Absent from voting: Senators Dilan  
17 and Felder.

18 Ayes, 45. Nays, 12.

19 ACTING PRESIDENT GRIFFO: The bill  
20 is passed.

21 (Applause.)

22 ACTING PRESIDENT GRIFFO: Senator  
23 DeFrancisco.

24 SENATOR DeFRANCISCO: Can we now  
25 take up the noncontroversial reading of the



1 active calendar, please.

2 ACTING PRESIDENT GRIFFO: We will  
3 begin the noncontroversial reading of today's  
4 original active-list calendar.

5 Calendar 128, the Secretary will  
6 read.

7 THE SECRETARY: Calendar Number  
8 128, by Senator Avella, Senate Print 1409, an act  
9 to amend the Family Court Act.

10 ACTING PRESIDENT GRIFFO: Read the  
11 last section.

12 THE SECRETARY: Section 2. This  
13 act shall take effect on the 30th day.

14 ACTING PRESIDENT GRIFFO: Call the  
15 roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 59.

18 ACTING PRESIDENT GRIFFO: The bill  
19 is passed.

20 THE SECRETARY: Calendar Number  
21 660, by Senator Hoylman, Senate Print 7780, an  
22 act relating to granting.

23 ACTING PRESIDENT GRIFFO: There is  
24 a home-rule message present at the desk.

25 The Secretary will read the last

1 section.

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

4 ACTING PRESIDENT GRIFFO: Call the  
5 roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 59.

8 ACTING PRESIDENT GRIFFO: The bill  
9 is passed.

10 THE SECRETARY: Calendar Number  
11 1105, by Senator Ranzenhofer, Senate Print 6686,  
12 an act to amend the State Finance Law.

13 ACTING PRESIDENT GRIFFO: Read the  
14 last section.

15 THE SECRETARY: Section 2. This  
16 act shall take effect on the 180th day.

17 ACTING PRESIDENT GRIFFO: Call the  
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 59.

21 ACTING PRESIDENT GRIFFO: The bill  
22 is passed.

23 THE SECRETARY: Calendar Number  
24 1159, by Senator Gallivan, Senate Print 4252B, an  
25 act to authorize.

1                   ACTING PRESIDENT GRIFFO:    Read the  
2 last section.

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

5                   ACTING PRESIDENT GRIFFO:    Call the  
6 roll.

7                   (The Secretary called the roll.)

8                   THE SECRETARY:    Ayes, 59.

9                   ACTING PRESIDENT GRIFFO:    The bill  
10 is passed.

11                   THE SECRETARY:    Calendar Number  
12 1167, by Senator Phillips, Senate Print 8248, an  
13 act to amend the Retirement and Social Security  
14 Law.

15                   ACTING PRESIDENT GRIFFO:    There is  
16 a home-rule message present at the desk.

17                   The Secretary will read the last  
18 section.

19                   THE SECRETARY:    Section 4.  This  
20 act shall take effect immediately.

21                   ACTING PRESIDENT GRIFFO:    Call the  
22 roll.

23                   (The Secretary called the roll.)

24                   THE SECRETARY:    Ayes, 59.

25                   ACTING PRESIDENT GRIFFO:    The bill

1 is passed.

2 THE SECRETARY: Calendar Number  
3 1168, by Senator Phillips, Senate Print 8293, an  
4 act to amend the Retirement and Social Security  
5 Law.

6 ACTING PRESIDENT GRIFFO: There is  
7 a home-rule message present at the desk.

8 The Secretary will read the last  
9 section.

10 THE SECRETARY: Section 4. This  
11 act shall take effect immediately.

12 ACTING PRESIDENT GRIFFO: Call the  
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 59.

16 ACTING PRESIDENT GRIFFO: The bill  
17 is passed.

18 THE SECRETARY: Calendar Number  
19 1325, substituted earlier by Member of the  
20 Assembly Carroll, Assembly Print 10365, an act to  
21 amend Chapter 363 of the Laws of 2010.

22 ACTING PRESIDENT GRIFFO: Read the  
23 last section.

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

1                   ACTING PRESIDENT GRIFFO:    Call the  
2 roll.

3                   (The Secretary called the roll.)

4                   THE SECRETARY:    Ayes, 59.

5                   ACTING PRESIDENT GRIFFO:    The bill  
6 is passed.

7                   THE SECRETARY:    Calendar Number  
8 1349, by Senator Lanza, Senate Print 8230, an act  
9 to amend the Executive Law.

10                  ACTING PRESIDENT GRIFFO:    Read the  
11 last section.

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

14                  ACTING PRESIDENT GRIFFO:    Call the  
15 roll.

16                  (The Secretary called the roll.)

17                  THE SECRETARY:    Ayes, 59.

18                  ACTING PRESIDENT GRIFFO:    The bill  
19 passes.

20                  THE SECRETARY:    Calendar Number  
21 1359, by Senator Young, Senate Print 446, an act  
22 to amend the Mental Hygiene Law.

23                  ACTING PRESIDENT GRIFFO:    Read the  
24 last section.

25                  THE SECRETARY:    Section 17. This

1 act shall take effect on the 30th day.

2 ACTING PRESIDENT GRIFFO: Call the  
3 roll.

4 (The Secretary called the roll.)

5 ACTING PRESIDENT GRIFFO: Senator  
6 Krueger to explain her vote.

7 SENATOR KRUEGER: So we just had a  
8 robust debate on a different bill involving the  
9 court system and what can happen.

10 In this bill, we expand the  
11 definition of who can be involuntarily  
12 hospitalized. The law is already clear. If  
13 you're going to be at risk of doing harm to  
14 yourself or others, you can be involuntarily,  
15 against your will, put into a hospital.

16 I feel that the expansion of the law  
17 is too broad in this bill and opens us up to the  
18 risk of people, based on behaving in ways that  
19 don't make us comfortable, translating into their  
20 being involuntarily hospitalized.

21 So I do think when we're going to  
22 take away someone's freedom and liberty, whether  
23 it's to put them in a prison or in a hospital, we  
24 need to make sure our standards are extremely  
25 high for that. And so I must vote no,

1 Mr. President.

2 Thank you.

3 ACTING PRESIDENT GRIFFO: Senator  
4 Krueger to be recorded in the negative.

5 Announce the results.

6 THE SECRETARY: In relation to  
7 Calendar 1359, those recorded in the negative are  
8 Senators Alcantara, Bailey, Benjamin, Brooks,  
9 Comrie, Hoylman, Kaminsky, Krueger, Mayer,  
10 Montgomery, Parker, Persaud, Rivera and Sanders.  
11 Also Senator Kavanagh.

12 Ayes, 44. Nays, 15.

13 ACTING PRESIDENT GRIFFO: The bill  
14 passes.

15 THE SECRETARY: Calendar Number  
16 1371, substituted earlier by Member of the  
17 Assembly Peoples-Stokes, Assembly Print 8156, an  
18 act to amend the State Finance Law.

19 ACTING PRESIDENT GRIFFO: Read the  
20 last section.

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

23 ACTING PRESIDENT GRIFFO: Call the  
24 roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 59.

2 ACTING PRESIDENT GRIFFO: The bill  
3 is passed.

4 THE SECRETARY: Calendar Number  
5 1448, by Senator Felder, Senate Print 2106C, an  
6 act to amend the Education Law.

7 ACTING PRESIDENT GRIFFO: Read the  
8 last section.

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

11 ACTING PRESIDENT GRIFFO: Call the  
12 roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes, 59.

15 ACTING PRESIDENT GRIFFO: The bill  
16 passes.

17 THE SECRETARY: Calendar Number  
18 1474, by Senator Akshar, Senate Print 8431, an  
19 act to amend the Correction Law.

20 ACTING PRESIDENT GRIFFO: Read the  
21 last section.

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

24 ACTING PRESIDENT GRIFFO: Call the  
25 roll.



1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 59.

3 ACTING PRESIDENT GRIFFO: The bill  
4 passes.

5 THE SECRETARY: Calendar Number  
6 1718, by Senator Krueger, Senate Print 6379, an  
7 act to amend the Education Law.

8 ACTING PRESIDENT GRIFFO: Read the  
9 last section.

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

12 ACTING PRESIDENT GRIFFO: Call the  
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 59.

16 ACTING PRESIDENT GRIFFO: The bill  
17 is passed.

18 Senator DeFrancisco, that completes  
19 the noncontroversial reading of the active list  
20 originally before the house.

21 SENATOR DeFRANCISCO: Can we go  
22 back to motions and resolutions, please.

23 ACTING PRESIDENT GRIFFO: We will  
24 return to motions and resolutions.

25 SENATOR DeFRANCISCO: I wish to

1 call up Senator LaValle's bill, Print 6278,  
2 recalled from the Assembly, which is now at the  
3 desk.

4 ACTING PRESIDENT GRIFFO: The  
5 Secretary will read.

6 THE SECRETARY: Calendar Number  
7 1185, by Senator LaValle, Senate Print 6278, an  
8 act to amend Chapter 699 of the Laws of 1947.

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

11 ACTING PRESIDENT GRIFFO: Call the  
12 roll on reconsideration.

13 THE SECRETARY: Ayes, 59.

14 SENATOR DeFRANCISCO: I offer the  
15 following amendments.

16 ACTING PRESIDENT GRIFFO: The  
17 amendments are received.

18 SENATOR DeFRANCISCO: Now can we  
19 take up the noncontroversial reading of the  
20 balance of Supplemental Calendar 55A, please.

21 ACTING PRESIDENT GRIFFO: The  
22 Secretary will begin reading Senate Supplemental  
23 Calendar 55A, with Calendar Number 1781.

24 THE SECRETARY: Calendar Number  
25 1781, substituted earlier by Member of the

1 Assembly Buchwald, Assembly Print 7819A, an act  
2 to amend the State Finance Law.

3 ACTING PRESIDENT GRIFFO: Read the  
4 last section.

5 THE SECRETARY: Section 2. This  
6 act shall take effect on the 60th day.

7 ACTING PRESIDENT GRIFFO: Call the  
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 59.

11 ACTING PRESIDENT GRIFFO: The bill  
12 is passed.

13 THE SECRETARY: Calendar Number  
14 1782, by Senator Golden, Senate Print 1862A, an  
15 act to amend the Civil Service Law.

16 ACTING PRESIDENT GRIFFO: Read the  
17 last section.

18 THE SECRETARY: Section 4. This  
19 act shall take effect immediately.

20 ACTING PRESIDENT GRIFFO: Call the  
21 roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 59.

24 ACTING PRESIDENT GRIFFO: The bill  
25 passes.

1 THE SECRETARY: Calendar Number  
2 1784, by Senator Griffo, Senate Print 2538A, an  
3 act to amend the Vehicle and Traffic Law.

4 ACTING PRESIDENT GRIFFO: Read the  
5 last section.

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

8 ACTING PRESIDENT GRIFFO: Call the  
9 roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 59.

12 ACTING PRESIDENT GRIFFO: The bill  
13 passes.

14 THE SECRETARY: Calendar Number  
15 1785, by Senator DeFrancisco, Senate Print 3502,  
16 an act to amend the State Law.

17 ACTING PRESIDENT GRIFFO: Read the  
18 last section.

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

21 ACTING PRESIDENT GRIFFO: Call the  
22 roll.

23 (The Secretary called the roll.)

24 ACTING PRESIDENT GRIFFO: Senator  
25 Krueger to explain her vote.

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

3                   I will vote for this bill, but for  
4   the record, there are much more attractive  
5   amphibians in New York State.  There's quite a  
6   few newts I looked up that are far more  
7   interesting, some of them spotty, some of them  
8   sticky.

9                   So I didn't think we needed another  
10   debate today on amphibians.  And I will vote yes,  
11   but I think we could have been a little more  
12   creative.

13                   Thank you, Mr. President.

14                   ACTING PRESIDENT GRIFFO:   Perhaps  
15   if you kissed a frog, they may become a prince or  
16   princess.

17                   Senator Krueger in the affirmative.

18                   Senator Sanders to explain his vote.

19                   SENATOR SANDERS:    I think it is  
20   only fitting that the sponsor is giving this to  
21   us.  I think that if anyone can convince us that  
22   this worthy animal -- no, amphibian, amphibian  
23   should represent the greatness of New York, it is  
24   the sponsor.

25                   So in that spirit, I agree with him

1 and I vote yes.

2 ACTING PRESIDENT GRIFFO: Senator  
3 Sanders to be recorded in the affirmative.

4 Senator DeFrancisco, without a frog  
5 in his throat.

6 SENATOR DeFRANCISCO: Well, just to  
7 remind everyone, there was a fourth-grade class  
8 in my district that was studying amphibians and  
9 found out that there was no state amphibian.

10 And as an exercise in government --  
11 and that's the only reason I'm doing this -- they  
12 lobbied me, they wrote me, they come to Albany,  
13 they came to -- and here now they can see that  
14 government does work.

15 Thank you.

16 ACTING PRESIDENT GRIFFO: Senator  
17 DeFrancisco in the affirmative.

18 Announce the results.

19 THE SECRETARY: In relation to  
20 Calendar 1785, those recorded in the negative are  
21 Senators Gianaris, Hoylman and Kennedy.

22 Ayes, 56. Nays, 3.

23 ACTING PRESIDENT GRIFFO: The bill  
24 passes.

25 THE SECRETARY: Calendar Number

1 1786, by Senator Lanza, Senate Print 3541, an act  
2 to amend the Public Health Law.

3 ACTING PRESIDENT GRIFFO: Read the  
4 last section.

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

7 ACTING PRESIDENT GRIFFO: Call the  
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 59.

11 ACTING PRESIDENT GRIFFO: The bill  
12 passes.

13 THE SECRETARY: Calendar Number  
14 1787, substituted earlier by Member of the  
15 Assembly Simotas, Assembly Print 2451, an act to  
16 amend the Public Service Law.

17 ACTING PRESIDENT GRIFFO: Read the  
18 last section.

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

21 ACTING PRESIDENT GRIFFO: Call the  
22 roll.

23 (The Secretary called the roll.)

24 THE SECRETARY: Ayes, 59.

25 ACTING PRESIDENT GRIFFO: The bill

1 passes.

2 THE SECRETARY: Calendar Number  
3 1788, substituted earlier by Member of the  
4 Assembly Peoples-Stokes, Assembly Print 2788B, an  
5 act to amend the Tax Law.

6 ACTING PRESIDENT GRIFFO: Read the  
7 last section.

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

10 ACTING PRESIDENT GRIFFO: Call the  
11 roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes, 59.

14 ACTING PRESIDENT GRIFFO: The bill  
15 passes.

16 THE SECRETARY: Calendar Number  
17 1789, by Senator DeFrancisco, Senate Print 5631B,  
18 an act to amend the Vehicle and Traffic Law.

19 ACTING PRESIDENT GRIFFO: Read the  
20 last section.

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

23 ACTING PRESIDENT GRIFFO: Call the  
24 roll.

25 (The Secretary called the roll.)



1 THE SECRETARY: Ayes, 59.

2 ACTING PRESIDENT GRIFFO: The bill  
3 is passed.

4 THE SECRETARY: Calendar Number  
5 1790, substituted earlier by Member of the  
6 Assembly Abbate, Assembly Print 6991, an act to  
7 amend Chapter 154 of the Laws of 1921.

8 ACTING PRESIDENT GRIFFO: Read the  
9 last section.

10 THE SECRETARY: Section 2. This  
11 act shall take effect upon the enactment into law  
12 by the State of New Jersey.

13 ACTING PRESIDENT GRIFFO: Call the  
14 roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes, 59.

17 ACTING PRESIDENT GRIFFO: The bill  
18 passes.

19 THE SECRETARY: Calendar Number  
20 1791, by Senator O'Mara, Senate Print 6475A, an  
21 act to direct.

22 ACTING PRESIDENT GRIFFO: Read the  
23 last section.

24 THE SECRETARY: Section 6. This  
25 act shall take effect immediately.

1                   ACTING PRESIDENT GRIFFO:    Call the  
2 roll.

3                   (The Secretary called the roll.)

4                   THE SECRETARY:    Ayes, 59.

5                   ACTING PRESIDENT GRIFFO:    The bill  
6 passes.

7                   THE SECRETARY:    Calendar Number  
8 1792, by Senator Ranzenhofer, Senate Print 6622A,  
9 an act to amend the General Municipal Law.

10                  ACTING PRESIDENT GRIFFO:    Read the  
11 last section.

12                  THE SECRETARY:    Section 4. This  
13 act shall take effect immediately.

14                  ACTING PRESIDENT GRIFFO:    Call the  
15 roll.

16                  (The Secretary called the roll.)

17                  THE SECRETARY:    Ayes, 58. Nays, 1.  
18 Senator Krueger recorded in the negative.

19                  ACTING PRESIDENT GRIFFO:    The bill  
20 is passed.

21                  THE SECRETARY:    Calendar Number  
22 1793, by Senator Amedore, Senate Print 6666, an  
23 act to amend the Workers' Compensation Law.

24                  ACTING PRESIDENT GRIFFO:    Read the  
25 last section.

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

3           ACTING PRESIDENT GRIFFO:   Call the  
4 roll.

5           (The Secretary called the roll.)

6           THE SECRETARY:    Ayes, 59.

7           ACTING PRESIDENT GRIFFO:   The bill  
8 is passed.

9           THE SECRETARY:    Calendar Number  
10 1794, by Senator Persaud, Senate Print 7018, an  
11 act to amend the Public Service Law.

12          ACTING PRESIDENT GRIFFO:   Read the  
13 last section.

14          THE SECRETARY:    Section 2.  This  
15 act shall take effect on the 120th day.

16          ACTING PRESIDENT GRIFFO:   Call the  
17 roll.

18          (The Secretary called the roll.)

19          THE SECRETARY:    Ayes, 59.

20          ACTING PRESIDENT GRIFFO:   The bill  
21 passes.

22          THE SECRETARY:    Calendar Number  
23 1795, by Senator Ranzenhofer, Senate Print 7397A,  
24 an act to amend the Tax Law.

25          ACTING PRESIDENT GRIFFO:   Read the

1 last section.

2 THE SECRETARY: Section 2. This  
3 act shall take effect April 1, 2019.

4 ACTING PRESIDENT GRIFFO: Call the  
5 roll.

6 (The Secretary called the roll.)

7 ACTING PRESIDENT GRIFFO: Announce  
8 the results.

9 THE SECRETARY: In relation to  
10 Calendar 1795, those recorded in the negative are  
11 Senators Addabbo, Bailey, Brooks, Hoylman,  
12 Kavanagh, Krueger, Mayer and Sanders.

13 Ayes, 51. Nays, 8.

14 ACTING PRESIDENT GRIFFO: The bill  
15 passes.

16 THE SECRETARY: Calendar Number  
17 1796, by Senator O'Mara, Senate Print 7561A, an  
18 act to amend the Tax Law.

19 ACTING PRESIDENT GRIFFO: Read the  
20 last section.

21 THE SECRETARY: Section 4. This  
22 act shall take effect immediately.

23 ACTING PRESIDENT GRIFFO: Call the  
24 roll.

25 (The Secretary called the roll.)

1                   ACTING PRESIDENT GRIFFO:    Announce  
2 the results.

3                   THE SECRETARY:    In relation to  
4 Calendar 1796, those recorded in the negative are  
5 Senators Hoylman, Kavanaugh, Krueger and Rivera.

6                   Ayes, 55.   Nays, 4.

7                   ACTING PRESIDENT GRIFFO:    The bill  
8 is passed.

9                   THE SECRETARY:    Calendar Number  
10 1797 --

11                   ACTING PRESIDENT GRIFFO:    It's  
12 getting a little noisy in the chamber.

13                   The Secretary will continue.

14                   THE SECRETARY:    Calendar Number  
15 1797, by Senator Ranzenhofer, Senate Print 7815,  
16 an act to amend the Tax Law.

17                   ACTING PRESIDENT GRIFFO:    Read the  
18 last section.

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

21                   ACTING PRESIDENT GRIFFO:    Call the  
22 roll.

23                   (The Secretary called the roll.)

24                   THE SECRETARY:    Ayes, 59.

25                   ACTING PRESIDENT GRIFFO:    The bill

1 is passed.

2 THE SECRETARY: Calendar Number  
3 1798, substituted earlier by Member of the  
4 Assembly Fahy, Assembly Print 10058, an act to  
5 amend Chapter 454 of the Laws of 2010.

6 ACTING PRESIDENT GRIFFO: There is  
7 a home-rule message present at the desk.

8 The Secretary will read the last  
9 section.

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

12 ACTING PRESIDENT GRIFFO: Call the  
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 59.

16 ACTING PRESIDENT GRIFFO: The bill  
17 is passed.

18 THE SECRETARY: Calendar Number  
19 1799, substituted earlier by Member of the  
20 Assembly Jaffee, Assembly Print 9729, an act to  
21 amend the Real Property Tax Law.

22 ACTING PRESIDENT GRIFFO: Read the  
23 last section.

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

1                   ACTING PRESIDENT GRIFFO:    Call the  
2 roll.

3                   (The Secretary called the roll.)

4                   THE SECRETARY:    Ayes, 59.

5                   ACTING PRESIDENT GRIFFO:    The bill  
6 passes.

7                   THE SECRETARY:    Calendar Number  
8 1800, by Senator Kaminsky, Senate Print 8127, an  
9 act authorizing.

10                  ACTING PRESIDENT GRIFFO:    Read the  
11 last section.

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

14                  ACTING PRESIDENT GRIFFO:    Call the  
15 roll.

16                  (The Secretary called the roll.)

17                  THE SECRETARY:    Ayes, 58. Nays, 1.  
18 Senator Bonacic recorded in the negative.

19                  ACTING PRESIDENT GRIFFO:    The bill  
20 passes.

21                  THE SECRETARY:    Calendar Number  
22 1801, by Senator Addabbo, Senate Print 8193, an  
23 act to amend the Environmental Conservation Law.

24                  ACTING PRESIDENT GRIFFO:    Read the  
25 last section.

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

3 ACTING PRESIDENT GRIFFO: Call the  
4 roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 56. Nays, 3.  
7 Senators Griffo, Lanza and Ranzenhofer recorded  
8 in the negative.

9 ACTING PRESIDENT GRIFFO: The bill  
10 is passed.

11 THE SECRETARY: Calendar Number  
12 1802, by Senator Murphy, Senate Print 8560A, an  
13 act to amend the Alcoholic Beverage Control Law.

14 ACTING PRESIDENT GRIFFO: Read the  
15 last section.

16 THE SECRETARY: Section 27. This  
17 act shall take effect on the 90th day.

18 ACTING PRESIDENT GRIFFO: Call the  
19 roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 59.

22 ACTING PRESIDENT GRIFFO: The bill  
23 passes.

24 THE SECRETARY: Calendar Number  
25 1803, by Senator LaValle, Senate Print 8639C, an



1 act to amend the Education Law.

2 ACTING PRESIDENT GRIFFO: Read the  
3 last section.

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

6 ACTING PRESIDENT GRIFFO: Call the  
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 59.

10 ACTING PRESIDENT GRIFFO: The bill  
11 passes.

12 THE SECRETARY: Calendar Number  
13 1804, substituted earlier by Member of the  
14 Assembly Nolan, Assembly Print 381, an act to  
15 amend the Education Law.

16 ACTING PRESIDENT GRIFFO: Read the  
17 last section.

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

20 ACTING PRESIDENT GRIFFO: Call the  
21 roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 59.

24 ACTING PRESIDENT GRIFFO: The bill  
25 passes.

1                   THE SECRETARY:    Calendar Number  
2 1805, by Senator Ortt, Senate Print 8769, an act  
3 to amend the Mental Hygiene Law.

4                   ACTING PRESIDENT GRIFFO:   Read the  
5 last section.

6                   THE SECRETARY:    Section 2.  This  
7 act shall take effect on the 180th day.

8                   ACTING PRESIDENT GRIFFO:   Call the  
9 roll.

10                   (The Secretary called the roll.)

11                   THE SECRETARY:    Ayes, 59.

12                   ACTING PRESIDENT GRIFFO:   The bill  
13 passes.

14                   THE SECRETARY:    Calendar Number  
15 1806, by Senator Felder --

16                   SENATOR DeFRANCISCO:   Lay the bill  
17 aside for the day, please.

18                   ACTING PRESIDENT GRIFFO:   Lay the  
19 bill aside for the day.

20                   THE SECRETARY:    Calendar Number  
21 1807, by Senator Seward, Senate Print 8830, an  
22 act to amend the Agriculture and Markets Law.

23                   ACTING PRESIDENT GRIFFO:   Read the  
24 last section.

25                   THE SECRETARY:    Section 4.  This

1 act shall take effect immediately.

2 ACTING PRESIDENT GRIFFO: Call the  
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 59.

6 ACTING PRESIDENT GRIFFO: The bill  
7 passes.

8 THE SECRETARY: Calendar Number  
9 1808, substituted earlier by Member of the  
10 Assembly Santabarbara, Assembly Print 9868A, an  
11 act to amend the Public Health Law.

12 ACTING PRESIDENT GRIFFO: Read the  
13 last section.

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

16 ACTING PRESIDENT GRIFFO: Call the  
17 roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 59.

20 ACTING PRESIDENT GRIFFO: The bill  
21 is passed.

22 Senator DeFrancisco, that completes  
23 the noncontroversial reading of Senate  
24 Supplemental Calendar 55A.

25 SENATOR DeFRANCISCO: I would just

1 like to take a moment to recognize the birthday  
2 of one of our very senior members, Senator John  
3 Bonacic.

4 (Applause.)

5 ACTING PRESIDENT GRIFFO: Happy  
6 birthday, Senator Bonacic.

7 The odds are good that you'll  
8 continue for a long time. Congratulations.

9 SENATOR DeFRANCISCO: There is a  
10 supplemental active list with one bill on it,  
11 Calendar 1446, by Senator Felder. And I'd like  
12 to lay that bill aside for the day.

13 ACTING PRESIDENT GRIFFO: That bill  
14 will be laid aside for the day.

15 SENATOR DeFRANCISCO: And could we  
16 return to motions and resolutions.

17 ACTING PRESIDENT GRIFFO: We will  
18 return to motions and resolutions.

19 SENATOR DeFRANCISCO: I'd like to  
20 call up Senator LaValle's bill, Print 6278,  
21 recalled from the Assembly, which is now at the  
22 desk. Or did we do this?

23 ACTING PRESIDENT GRIFFO: We did  
24 it.

25 SENATOR DeFRANCISCO: We did it.

1 It was under my papers. So I guess I should say  
2 never mind.

3 Is there any further business at the  
4 desk?

5 ACTING PRESIDENT GRIFFO: There is  
6 no further business at the desk.

7 SENATOR DeFRANCISCO: In that case  
8 I move to adjourn until Monday, June 18th, at  
9 1:00 p.m. -- 1:00 p.m. -- intervening days being  
10 legislative days.

11 ACTING PRESIDENT GRIFFO: On  
12 motion, the Senate will stand adjourned until  
13 Monday, June 18th, at 1:00 p.m., intervening days  
14 being legislative days.

15 The Senate is adjourned.

16 (Whereupon, at 2:09 p.m., the Senate  
17 adjourned.)

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