

1 NEW YORK STATE SENATE

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3
4 THE STENOGRAPHIC RECORD

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8
9 ALBANY, NEW YORK

10 February 28, 2011

11 3:11 p.m.

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13
14 REGULAR SESSION

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18 SENATOR JOSEPH A. GRIFFO, Acting President

19 FRANCIS W. PATIENCE, Secretary

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

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

4 I ask all present to please rise
5 and join with me as we recite the Pledge of
6 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 to bow their
11 heads for a moment of silent reflection.

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

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

16 The Secretary will read.

17 THE SECRETARY: In Senate,
18 Sunday, February 27, the Senate met pursuant
19 to adjournment. The Journal of Saturday,
20 February 26, was read and approved. On
21 motion, Senate adjourned.

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

25 Presentation of petitions.

1 Messages from the Assembly.
2 Messages from the Governor.
3 Reports of standing committees.
4 Reports of select committees.
5 Communications and reports from
6 state officers.

7 Motions and resolutions.

8 Senator Libous.

9 SENATOR LIBOUS: Thank you,
10 Mr. President.

11 I have several motions here, one on
12 behalf of Senator Maziarz. Mr. President, I
13 move that the following bills be discharged
14 from their respective committees and be
15 recommitted with instructions to strike the
16 enacting clause: Senate Number 190 and
17 Senate Number 227, on behalf of Senator
18 Maziarz.

19 ACTING PRESIDENT GRIFFO: On
20 Senate 190 and Senate 227, so ordered.

21 Senator Libous.

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

24 On behalf of Senator Bonacic,
25 Mr. President, on page 11 I offer up the

1 following amendments to Calendar Number 72,
2 Senate Print 2769, and ask that said bill
3 retain its place on the Third Reading
4 Calendar.

5 ACTING PRESIDENT GRIFFO: The
6 amendments are received and adopted, and the
7 bill will retain its place on the Third
8 Reading Calendar.

9 Senator Libous.

10 SENATOR LIBOUS: Thank you,
11 Mr. President.

12 I have one more, on behalf of
13 Senator Marcellino. On page 11, I offer the
14 following amendments to Calendar Number 70,
15 Senate Print 948, and I ask that said bill
16 retain its place on the Third Reading
17 Calendar.

18 ACTING PRESIDENT GRIFFO: The
19 amendments are received and adopted, and the
20 bill will retain its place on Third Reading
21 Calendar.

22 Senator Libous.

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

25 Mr. President, I believe there's a

1 privileged resolution at the desk by Senator
2 Perkins. May we please have the title read,
3 and I believe you will then call on Senator
4 Perkins and we will ask for its immediate
5 adoption.

6 ACTING PRESIDENT GRIFFO: Thank
7 you, Senator Libous.

8 The Secretary will read.

9 THE SECRETARY: By Senator
10 Perkins, Legislative Resolution Number 629,
11 commemorating Harlem's Historic African Burial
12 Ground, in recognition of Black History Month,
13 February of 2011.

14 ACTING PRESIDENT GRIFFO: Senator
15 Perkins.

16 SENATOR PERKINS: Thank you very
17 much.

18 I want to read: "With February
19 being Black History Month, it is a time to
20 reflect on the struggles and victories of
21 African-Americans throughout our country's
22 history and to recognize their numerous
23 valuable contributions to society.

24 "Last year, in February, downtown
25 at the federal General Services Administration

1 Building, with pomp and fanfare a new
2 visitor's center opened near the 'Negro's
3 Cemetery,' rediscovered in 1991, that was
4 active during the 17th and 18th centuries as
5 the final resting place of tens of thousands
6 of African slaves whose unpaid labor helped to
7 make New York the nation's great commercial
8 capital.

9 "Additionally, yet another 'Negro's
10 Cemetery' existed in East Harlem, El Barrio,
11 below what is now the MTA's 126th Street Bus
12 Depot. This colonial-era burial ground for
13 African-American slaves and free blacks
14 occupies a quarter-acre lot on the original
15 Dutch Reformed Church grounds, on First Avenue
16 between 126th and 127th Streets, and was in
17 operation until as late as 1845.

18 "In New York State, slavery,
19 gradually abolished in 1827, persisted until
20 1830, and laws enacted prior to that date,
21 though encouraging the conversion of Negroes
22 and Indians to the Christian faith, strictly
23 stipulated 'that the baptism of any slave
24 should not be deemed a manumission of such
25 slave,' and even in death blacks were denied

1 human dignity conferred by ceremony, with a
2 law passed in 1722 inspired by fear of
3 conspiracies, decreeing that 'all Negro and
4 Indian slaves dying within the City should be
5 buried by daylight ... that not more than
6 12 slaves should attend any funeral, under
7 penalty of a public whipping ... that no pall,
8 gloves or favors of any sort were to be worn,
9 and any slave who was found to have held a
10 pall or worn gloves or favors was to be
11 whipped. The non-Christian character of the
12 blacks prevented burial in consecrated
13 ground.'

14 "Even late into the 19th century,
15 the remains of whites were disinterred and
16 reburied with a solemn church service at
17 Woodlawn Cemetery, while those of blacks were
18 left in place and desecrated.

19 "Harlem's oldest congregation, the
20 Elmendorf Reformed Church, made up of
21 descendants of enslaved people, under the
22 heroic leadership of The Reverend Dr. Patricia
23 A. Singletary valiantly led the fight to gain
24 Harlem's African Burial Ground's preservation,
25 recognition, and fitting commemoration."

1 I want to thank my colleague
2 Senator Serrano, who actually represents that
3 area, for the leadership that he has helped to
4 provide to rerecognize that burial ground.

5 And I would hope that we would
6 pause for a moment to recognize the history of
7 Harlem's historic African Burial Ground and
8 those who are buried there.

9 Thank you very much, Mr. Chair.
10 And I'd like to ask that my colleagues join me
11 in signing onto the resolution.

12 ACTING PRESIDENT GRIFFO: Senator
13 Serrano, on the resolution.

14 SENATOR SERRANO: Thank you very
15 much.

16 I want to extend my gratitude to
17 Senator Bill Perkins for putting this
18 resolution forth.

19 A year ago, he and I held a public
20 meeting in East Harlem to discuss the cultural
21 and historical significance of this African
22 Burial Ground that indeed is in East Harlem,
23 in my district. And it was a wonderful
24 display, a wonderful educational opportunity
25 for the residents of the district and the

1 area.

2 It just goes to show the important
3 cultural impact that a burial ground such as
4 this has, and the importance of preserving the
5 legacy of this burial ground, not only for the
6 current historical and cultural value, but for
7 future generations to come.

8 So I want to thank Senator Perkins
9 and all of my colleagues in government and all
10 of the local elected officials and the African
11 Burial Ground Task Force in East Harlem, of
12 which I'm a part of, as we continue to ensure
13 that the local agencies there respect and
14 understand the historical and cultural
15 significance of this burial ground and that we
16 preserve its heritage for generations to come.

17 Thank you, Mr. President.

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

20 Is there any other Senator wishing
21 to be heard on the resolution?

22 There being none, the question is
23 on the resolution. All in favor signify by
24 saying aye.

25 (Response of "Aye.")

1 ACTING PRESIDENT GRIFFO:

2 Opposed?

3 (No response.)

4 ACTING PRESIDENT GRIFFO: The
5 resolution is adopted.

6 Senator Libous, with your consent,
7 we will afford the standard practice of
8 allowing all on the resolution. Those who do
9 not intend to be considered as a part of the
10 resolution would let the desk know, please.

11 Senator Libous.

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

14 I believe there's another
15 privileged resolution at the desk, by Senator
16 Stavisky. And would we have its title read
17 and call on Senator Stavisky and then move for
18 its adoption.

19 ACTING PRESIDENT GRIFFO: The
20 Secretary will read.

21 THE SECRETARY: By Senator
22 Stavisky, legislative resolution memorializing
23 Governor Andrew M. Cuomo to proclaim Monday,
24 February 28, 2011, as Family Dysautonomia
25 Awareness Day in the State of New York.

1 ACTING PRESIDENT GRIFFO: Senator
2 Stavisky.

3 SENATOR STAVISKY: Thank you,
4 Mr. President.

5 This resolution memorializes the
6 Governor to proclaim today as Familial
7 Dysautonomia Awareness Day. This is a genetic
8 disease affecting one in 27 people of Eastern
9 European Jewish ancestry. But fortunately,
10 those who are affected would carry the
11 recessive gene for it.

12 It's also known as FD, or Riley-Day
13 Syndrome. And this is a disease that at one
14 time children lived to approximately 5 years
15 of age. But today the life span is much
16 longer, with the research that's being done
17 through the foundation that was set up.

18 It is fortunately a rare disease.
19 But as I said, it affects people of Eastern
20 European Jewish ancestry. And it is a
21 devastating disease that affects families.
22 And to have children born with this genetic
23 disorder is very, very troubling, obviously,
24 for the families that are involved.

25 Today there is still no cure. But

1 there are several hospitals throughout the
2 world -- just two, in fact -- where they are
3 doing research into the cause and the
4 treatment of this disease. So we call upon
5 the Governor to make the public aware. And
6 let us resolve that hopefully when we come
7 back next year we will have some progress
8 made.

9 So thank you, Mr. President. And I
10 invite everybody to join in this resolution.

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

13 Is there any other member wishing
14 to be speak on the resolution?

15 All those in favor of the
16 resolution signify by saying aye.

17 (Response of "Aye.")

18 ACTING PRESIDENT GRIFFO:
19 Opposed?

20 (No response.)

21 ACTING PRESIDENT GRIFFO: The
22 resolution is carried.

23 Senator Libous.

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

1 There is a privileged resolution at
2 the desk by Senators Larkin, Saland, and Ball.
3 Mr. President, could we have it read in its
4 entirety, and then I would ask that you call
5 on Senators Larkin, Saland and Ball, in that
6 order, before we actually vote on the
7 resolution.

8 ACTING PRESIDENT GRIFFO: The
9 Secretary will read.

10 THE SECRETARY: By Senators
11 Larkin, Saland and Ball, legislative
12 resolution mourning the untimely death of City
13 of Poughkeepsie Police Officer John M. Falcone
14 on February 18, 2011.

15 "WHEREAS, It is the sense of this
16 Legislative Body to convey its grateful
17 appreciation and heartfelt regret in
18 recognition of the loss of a courageous police
19 officer who dedicated his purposeful life and
20 career in faithful service to his family,
21 community, and the City of Poughkeepsie Police
22 Department; and

23 "WHEREAS, It is with profound
24 sadness that this Legislative Body records the
25 passing of City of Poughkeepsie Police Officer

1 John M. Falcone, who made the ultimate
2 sacrifice on February 18, 2011, while
3 faithfully and courageously executing his
4 responsibilities in the line of duty, serving
5 with dedication, loyalty and compassion, and
6 who devoted his purposeful life and career to
7 serve and protect; and

8 "WHEREAS, A 44-year-old resident of
9 Marlboro, New York, John M. Falcone was born
10 in Brooklyn, New York, on January 21, 1967, to
11 John and Margaret Falcone; and

12 "WHEREAS, Police Officer John M.
13 Falcone was a 20-year law enforcement veteran
14 and rendered 18 years of outstanding and
15 dedicated service as a police officer for the
16 City of Poughkeepsie Police Department and was
17 recently promoted to detective; and

18 "WHEREAS, On February 18, 2011,
19 Police Officer John M. Falcone was tragically
20 shot and killed after he had heroically
21 rescued a 3-year-old female child from a
22 violent domestic dispute in the City of
23 Poughkeepsie, New York; and

24 "WHEREAS, Exemplifying what it
25 truly means to give of himself in providing

1 vital police services in keeping with the
2 noble mission of the City of Poughkeepsie
3 Police Department, John M. Falcone lived his
4 life with great dignity and genuine grace,
5 always demonstrating a deep and continuing
6 concern for the welfare of others; and

7 "WHEREAS, John M. Falcone is
8 survived by his loving parents, John and
9 Margaret Falcone. He is also survived by his
10 sister, Victoria Fiorisi, and by his two
11 adoring nephews, Giovanni M. and Michael V.
12 Fiorisi; and

13 "WHEREAS, This Legislative Body
14 will remember Police Officer John M. Falcone
15 for his courage and dedication to duty and for
16 his heroism in saving the life of an innocent
17 child, and mourns for a life tragically cut
18 short by a senseless act of violence; and

19 "WHEREAS, Armed with a humanistic
20 spirit, imbued with a sense of compassion, and
21 comforted by a loving family, Police Officer
22 John M. Falcone leaves behind a legacy which
23 will long endure the passing of time and will
24 remain as a comforting memory to all he served
25 and befriended. He will be deeply missed and

1 truly merits the grateful tribute of this
2 Legislative Body; now, therefore, be it

3 "RESOLVED, That this Legislative
4 Body pause in its deliberations to mourn the
5 untimely death of City of Poughkeepsie Police
6 Officer John M. Falcone, noting the
7 significance of his contributions on behalf of
8 the citizens of this noble Empire State, and
9 expressing its deepest condolences to his
10 family; and be it further

11 "RESOLVED, That a copy of this
12 resolution, suitably engrossed, be transmitted
13 to the family of John M. Falcone."

14 ACTING PRESIDENT GRIFFO: I ask
15 the chamber to please remain silent as we
16 undertake this resolution.

17 And I call upon Senator Saland.

18 SENATOR SALAND: Thank you,
19 Mr. President.

20 Mr. President, we all at one time
21 or another have to deal with the issue of
22 death or the passing of an individual member
23 of our family, a friend, and acquaintance.
24 And it certainly is an experience which is
25 painful and which is traumatic.

1 Perhaps as painful as that is, it's
2 even more so painful when that life is taken
3 by an act of extreme violence, and even more
4 so painful when the person whose life is taken
5 is a sworn officer of the law doing his duty
6 in defense of others, attempting to save the
7 life of a child, a child who was brought to
8 the city of Poughkeepsie by her mother, who
9 had just recently been savagely murdered by
10 her father. Poughkeepsie happened to be a
11 destination point, a dropoff point where an
12 exchange was to be made.

13 Officer Falcone, recently Detective
14 Falcone, a very well respected member of the
15 City of Poughkeepsie Police force, a man who
16 was well known in law enforcement circles,
17 universally respected in the community, did
18 what his sworn duty imposed upon him to do.
19 He was in the area, he responded, and he
20 attempted to deal with a situation which is a
21 law enforcement officer's worst nightmare,
22 intervening in a domestic violence dispute.

23 Officer Falcone is a much decorated
24 officer, an experienced officer -- and I
25 should refer to him as "Detective"; I knew him

1 far longer as "Officer." He responded as the
2 professional that he was. He responded and
3 did it apparently by the book. Here's a man
4 who had served for some 18 years, a young man,
5 a man who, as I said, had numerous
6 decorations, commendations. A man who was
7 truly a cop's cop. A man who earned the
8 admiration of those with whom he served, the
9 respect of those with whom he served, and the
10 respect of the greater community.

11 The loss to his family, his
12 parents, his sister -- as was mentioned, his
13 nephews -- is probably unbearable,
14 particularly given the way his life was taken.
15 But his loss was a loss that touches not only
16 each and every one of the people that live in
17 the city of Poughkeepsie -- because he was
18 there on their behalf as the embodiment of
19 public safety -- but his loss is a loss to all
20 of us.

21 His loss, much like the loss of a
22 policeman, a sheriff, a trooper, a highway
23 patrolman anywhere in this country who gives
24 his or her life in the name of public safety,
25 in the name of protecting others, in the name

1 of attempting to resolve a matter not with
2 ultimate or fatal force, but by the skills
3 that he's been blessed with, or given -- when
4 dealing with such confrontations, only to be
5 violently cut down by a far more violent and
6 far more ruthless individual.

7 His loss is to be mourned not
8 merely by his family, but it is to be mourned
9 by all of us. My heart, my prayers go out to
10 his family. And I can safely say that the
11 family of the City of Poughkeepsie mourn his
12 loss and pay their respects to him, to his
13 memory, to those with whom he served, and
14 especially to his family.

15 Thank you, Mr. President.

16 ACTING PRESIDENT GRIFFO: Senator
17 Larkin.

18 SENATOR LARKIN: Thank you,
19 Mr. President.

20 I want to thank my colleague
21 Senator Saland for giving an excellent outline
22 of Officer Falcone's life and his contribution
23 to his community.

24 You know, there's a lot more to
25 this, as Steve said -- and brought it out

1 carefully -- how important this individual was
2 to that community. We're talking about a
3 community that is like a lot of other small
4 cities across this state, striving. But when
5 you get a young man of that age, 44 -- when
6 you reach that age, Joe, you'll really know
7 what it means.

8 This was serious. This man was a
9 detective on run near a train station in
10 Poughkeepsie, and he grabbed this 3-year-old
11 child out of the arms of this intruder, turned
12 the child over to someone in safety, and then
13 became part of the full attack. This
14 individual killed his wife, killed a police
15 officer, and then put the bullet to his own
16 head.

17 As Steve said about the family,
18 just think about the mother and father and
19 sister and the two nephews. I don't know how
20 many of you have ever been in combat, but when
21 you have to write a letter, you don't have the
22 golden opportunity of picking up a phone. But
23 can you imagine, the first thing says
24 "Mrs. Falcone, I regret to inform you that
25 your son, providing a gracious act of humanity

1 to take care of somebody else, was shot and
2 killed at the train station this afternoon."

3 That's a serious, serious thing.
4 We are blessed in having young people such as
5 Mr. Falcone enter the law enforcement field
6 and provide a decent aspect of what law
7 enforcement is all about. It's a sad day in
8 Poughkeepsie, it's a sad day in my district,
9 in Marlboro, where Mr. Falcone was known,
10 loved and respected. And it's a very sad day
11 in Carmel, where his parents reside.

12 Thank you, Mr. President.

13 ACTING PRESIDENT GRIFFO: Senator
14 Ball.

15 SENATOR BALL: Thank you,
16 Mr. President.

17 You couldn't ask for a more
18 beautiful family than this family. And John's
19 sister being married to my cousin, Officer
20 Falcone was an extended member of my family.
21 And I just wanted to say to John and to
22 Margaret and to his sister Vicky, not only on
23 behalf of this State Legislature but on behalf
24 of the Ball family, on behalf of myself, that
25 our heart absolutely goes out to that family,

1 to you and John's memory.

2 You know, I was at that service.
3 And what a beautiful tribute to what was an
4 amazing man and who was an amazing man. There
5 were over 10,000 law enforcement personnel
6 that showed up in John's memory. And he was a
7 warrior of warriors. He was always in the
8 thick of it. And the stories that were told
9 to me over the course of those few days shows
10 that he was a man amongst men.

11 But as we all leave and go live our
12 daily lives, to the Falcone family, just know
13 that on behalf of this Legislature, on behalf
14 of my family, we will always be here. And
15 hopefully we can always work to make that
16 memory of that amazing and loving man fitting,
17 and that our good work can empower his great
18 memory. Because this is not the first life
19 that John saved. He saved the life of another
20 child. Unfortunately, the life saved that day
21 will be the last life ever saved by John.

22 But we have law enforcement
23 personnel throughout the United States of
24 America and New York State that, when they
25 walk out the door, their loved ones don't know

1 if they'll ever return. And it's our
2 responsibility as a Legislature to make sure
3 that those families know that the full weight
4 of this body and New York State government
5 stands solidly behind our men and women in
6 uniform.

7 Thank you.

8 ACTING PRESIDENT GRIFFO: Are
9 there any other Senators who wish to be heard?

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

12 (Response of "Aye.")

13 ACTING PRESIDENT GRIFFO:
14 Opposed?

15 (No response.)

16 ACTING PRESIDENT GRIFFO: The
17 resolution is carried.

18 Senator Libous.

19 SENATOR LIBOUS: Mr. President,
20 could I ask my colleagues to please stand and
21 join me in a moment of silence for Officer
22 Falcone, please.

23 ACTING PRESIDENT GRIFFO: I ask
24 all to join in tribute and reflection of
25 Officer John M. Falcone.

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

3 ACTING PRESIDENT GRIFFO: Senator
4 Libous.

5 SENATOR LIBOUS: Mr. President,
6 also could we open that resolution up to all
7 the members of the chamber, please.

8 ACTING PRESIDENT GRIFFO: The
9 resolution is open to all members of the
10 chamber. If you choose not to be on the
11 resolution, please notify the desk.

12 Senator Libous.

13 SENATOR LIBOUS: Thank you.

14 Mr. President, I believe it's time
15 now for the noncontroversial reading of the
16 calendar, please.

17 ACTING PRESIDENT GRIFFO: The
18 Secretary will read.

19 THE SECRETARY: Calendar Number
20 10, by Senator Maziarz, Senate Print 177A, an
21 act to amend the Environmental Conservation
22 Law.

23 ACTING PRESIDENT GRIFFO: Read
24 the last section.

25 THE SECRETARY: Section 5. This

1 act shall take effect on the 90th day.

2 ACTING PRESIDENT GRIFFO: Call
3 the roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Those recorded in
6 the negative on Calendar Number 10 are
7 Senators Addabbo, Avella, L. Krueger,
8 Montgomery, Serrano, Smith and
9 Stewart-Cousins.

10 Ayes, 50. Nays, 7.

11 ACTING PRESIDENT GRIFFO: The
12 bill is passed.

13 The Secretary will read.

14 THE SECRETARY: Calendar Number
15 13, by Senator Young, Senate Print 794, an act
16 to amend the Environmental Conservation Law.

17 ACTING PRESIDENT GRIFFO: Read
18 the last section.

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

21 ACTING PRESIDENT GRIFFO: Call
22 the roll.

23 (The Secretary called the roll.)

24 THE SECRETARY: Ayes, 57.

25 ACTING PRESIDENT GRIFFO: The

1 bill is passed.

2 THE SECRETARY: Calendar Number
3 14, by Senator Young, Senate Print 801, an act
4 to amend the Environmental Conservation Law.

5 ACTING PRESIDENT GRIFFO: Read
6 the last section.

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

9 ACTING PRESIDENT GRIFFO: Call
10 the roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 56. Nays,
13 1. Senator Serrano recorded in the negative.

14 ACTING PRESIDENT GRIFFO: The
15 bill is passed.

16 THE SECRETARY: Calendar Number
17 16, by Senator Seward, Senate Print 1683, an
18 act to amend the Environmental Conservation
19 Law.

20 ACTING PRESIDENT GRIFFO: Read
21 the last section.

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

24 ACTING PRESIDENT GRIFFO: Call
25 the roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 56. Nays,

3 1. Senator Serrano recorded in the negative.

4 ACTING PRESIDENT GRIFFO: The
5 bill is passed.

6 THE SECRETARY: Calendar Number
7 47, by Senator Little, Senate Print --

8 SENATOR BRESLIN: Lay it aside.

9 ACTING PRESIDENT GRIFFO: The
10 bill is laid aside.

11 THE SECRETARY: Calendar Number
12 79, by Senator Ritchie, Senate Print 2781, an
13 act to legalize, validate, ratify and confirm
14 certain actions taken by the Village of Black
15 River in the County of Jefferson.

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

18 Read the last section.

19 THE SECRETARY: Section 7. This
20 act shall take effect immediately.

21 ACTING PRESIDENT GRIFFO: Call
22 the roll.

23 (The Secretary called the roll.)

24 THE SECRETARY: Ayes, 58.

25 ACTING PRESIDENT GRIFFO: The

1 bill is passed.

2 THE SECRETARY: Senator Libous.

3 SENATOR LIBOUS: Mr. President,
4 before we go to the controversial reading of
5 the calendar, we shall congratulate Senator
6 Ritchie for passing her first bill.

7 (Applause.)

8 ACTING PRESIDENT GRIFFO:

9 Congratulations, Senator Ritchie.

10 Senator Libous, that completes the
11 noncontroversial reading of the calendar.

12 SENATOR LIBOUS: Then,
13 Mr. President, may we go to the controversial
14 reading of the calendar, please.

15 ACTING PRESIDENT GRIFFO: The
16 Secretary will ring the bell.

17 The Secretary will read.

18 THE SECRETARY: Calendar Number
19 47, by Senator Little, Senate Print 554, an
20 act to amend the Parks, Recreation and
21 Historic Preservation Law.

22 SENATOR LIZ KRUEGER:
23 Explanation.

24 ACTING PRESIDENT GRIFFO: An
25 explanation is requested by Senator Krueger.

1 Senator Little.

2 SENATOR LITTLE: Thank you,
3 Mr. President.

4 This bill would allow for a person
5 under 14 years of age to participate in a
6 snowmobile event, special event, which is
7 called a snocross event. And it would have to
8 have the authorization of the commissioner of
9 Parks, Recreation and Historic Preservation,
10 it would have to have a written consent of his
11 or her parent or legal guardian, and would
12 have to be using the rules and regulations of
13 the snocross event.

14 And there are two organizations, an
15 International Series of Champions and an East
16 Coast Snocross Event.

17 ACTING PRESIDENT GRIFFO: Thank
18 you, Senator Little.

19 Senator Krueger.

20 SENATOR LIZ KRUEGER: Thank you,
21 Mr. President. If the sponsor would please
22 yield for some questions.

23 ACTING PRESIDENT GRIFFO: Senator
24 Little, will you yield?

25 SENATOR LITTLE: Yes.

1 ACTING PRESIDENT GRIFFO: Senator
2 Krueger.

3 SENATOR LIZ KRUEGER: Thank you.
4 What is the age that's currently
5 allowed under New York State law for
6 snowmobiling?

7 SENATOR LITTLE: Well, currently
8 you can ride a snowmobile with your parent.
9 But this is for an event, to allow someone
10 under the age of 14 to participate in a
11 snocross event.

12 SENATOR LIZ KRUEGER: Through
13 you --

14 SENATOR LITTLE: And the ages are
15 from 4 to 14.

16 SENATOR LIZ KRUEGER: If through
17 you, Mr. -- I'm sorry.

18 I'm sorry, Betty, I didn't mean to
19 cut you off. I apologize.

20 SENATOR LITTLE: There are class
21 events in some events from ages from 4 to 14.
22 This would allow anyone under the age of 14 to
23 participate, with those caveats: written
24 parental permission, a parent or a legal
25 guardian has to be present.

1 SENATOR LIZ KRUEGER: Thank you.

2 Through you, Mr. President, if the
3 sponsor would continue to yield.

4 ACTING PRESIDENT GRIFFO: Senator
5 Little, will you continue to yield?

6 SENATOR LITTLE: Yes.

7 ACTING PRESIDENT GRIFFO: Senator
8 Krueger.

9 SENATOR LIZ KRUEGER: Thank you.

10 So I understand that current law is
11 you must be 18 years of age to operate a
12 snowmobile by yourself, with the exceptions
13 being, as you mentioned, if you are 14 years
14 of age or older on land owned or leased by
15 your parent or guardian, and a number of other
16 scenarios where you must have a certificate
17 from the commissioner of the Office of Parks,
18 Recreation and Historic Preservation.

19 Do you know how many of these
20 certificates have been provided by the
21 commissioner of the Office of Parks,
22 Recreation and Historic Preservation?

23 SENATOR LITTLE: No, I don't.

24 SENATOR LIZ KRUEGER: Thank you.

25 Through you, if the sponsor would

1 continue to yield, please, Mr. President.

2 ACTING PRESIDENT GRIFFO: Senator
3 Little, do you continue to yield?

4 SENATOR LITTLE: Yes, I do.

5 ACTING PRESIDENT GRIFFO: Senator
6 Krueger.

7 SENATOR LIZ KRUEGER: Thank you.

8 So in your bill it specifically
9 says allowing properly supervised children of
10 any change to participate in a special event
11 which is authorized by the commissioner of the
12 Office of Parks, Recreation and Historic
13 Preservation, as long as the rider can show
14 written consent from a parent or guardian.

15 Can you give me an example of what
16 these special events are? What are we
17 allowing these children under 14 to do?

18 SENATOR LITTLE: Yes, these are
19 called snocross events. They're similar to an
20 ATV event, which children under the age of 14
21 are allowed to participate in these -- they're
22 like races, show classes, activities that they
23 do. They're pretty much a family activity.

24 There are rules and regulations. I
25 have lists of rules and regulations. We're

1 not talking about a 4 to 6 to 10-year-old
2 getting on a full-size snowmobile and being
3 able to operate it in a race. There are
4 limitations on the size of the snowmobile.
5 The junior classes have smaller snowmobiles.
6 They're limited as to how fast they can go.
7 They have throttle restrictions on even the
8 14-year-old classes and under 14.

9 So this is not a free-for-all race
10 where you put a 4-year-old on a snowmobile and
11 say "have fun." This is a supervised, family
12 recreation event where they participate. In
13 some cases, they may just operate the
14 snowmobile from here -- from me to you. And
15 it's how they are able to do it, start and
16 stop and that kind of thing.

17 It's not a major part of a snocross
18 event, but it will allow younger children in
19 to have junior classes within the snocross
20 event.

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

24 ACTING PRESIDENT GRIFFO: Senator
25 Little, do you continue to yield?

1 SENATOR LITTLE: Yes.

2 ACTING PRESIDENT GRIFFO: Senator
3 Krueger.

4 SENATOR LIZ KRUEGER: Thank you.

5 Does the bill that we're discussing
6 today actually explicitly say that these kinds
7 of special events can't be any kind of
8 snowmobile racing event? Does it lay out in
9 the bill the specifications that you just
10 described to us in follow-up to your last
11 question?

12 SENATOR LITTLE: I believe it
13 does. Under D, Section 1(D), it talks about a
14 special event defined by subdivision 16 of
15 Section 21.05 of this title. And the special
16 event must be held in accordance with any
17 relevant statutes, rules or regulations. It
18 has to be authorized by the commissioner of
19 Parks, Recreation and Historic Preservation
20 and provided for in that section. And it has
21 to have, as I said, written consent of his or
22 her parent or legal guardian.

23 And the commissioner adopts the
24 rules and regulations relating to such
25 participants, and in doing so shall review and

1 consider for adoption those rules and
2 regulations that have been published by the
3 international organizations that promote such
4 events, including but not limited to the
5 International Series of Champions and the
6 International Snowmobile Racing Association.
7 And I believe there's also an East Coast
8 Snocross Association that uses those rules.

9 SENATOR LIZ KRUEGER: Thank you.

10 Mr. President, on the bill.

11 ACTING PRESIDENT GRIFFO: Senator
12 Krueger on the bill.

13 SENATOR LIZ KRUEGER: I want to
14 thank the sponsor for her explanation. I have
15 to say this is a bill that would give
16 associations outside the authority of the
17 State of New York's Legislature the ability to
18 make their own rules, change their own rules
19 as to what kind of special activities or
20 special events took place.

21 I am not in opposition to
22 snowmobiling. But in fact, without explicit
23 statutory regulation, snowmobiles nowadays
24 average 600 pounds. They go as fast as
25 60 miles per hour. The Pediatric Association

1 of America argues strongly against children
2 under 16 being allowed to ride snowmobiles
3 because the risk of damage and death is
4 proportionately out of -- is inconsistent with
5 other safety activities that young children
6 are allowed to perform.

7 The Mayo Clinic, a 2006 report,
8 snowmobiles are a significant source of
9 multitrauma for children. Orthopedic injuries
10 predominate, especially in older children, and
11 can lead to long-term disabilities. Helmet
12 use significantly reduces injuries. However,
13 vulnerable younger patients do not frequently
14 wear helmets.

15 It is reported that 18 percent of
16 snowmobile-related injuries were in children
17 younger than age 14 and that 48 percent of all
18 snowmobile-related injuries occurred in people
19 between age 15 and 24 years old.

20 I personally don't believe we
21 should allow anyone under the age of 18 to be
22 driving snowmobiles in a racetrack type of
23 setup. And while I appreciate that the
24 sponsor believes that there would be
25 limitations drawn on what kinds of

1 snowmobiling races took place for younger
2 children, I don't think, as a perspective of
3 child welfare or child safety, that the State
4 of New York should either support or encourage
5 children under the age of 14 to be racing
6 snowmobiles.

7 And I know that snowmobiling can be
8 a fine activity, a family activity. My
9 understanding is that there are snowmobiles
10 where children can be the passengers as
11 opposed to the drivers. I understand that the
12 current law has limitations in it, but the
13 concept that we are going to pass a law that
14 would say as long as the commissioner of
15 Parks, Recreation and Historic Preservation
16 signs something saying okay, that anything
17 goes for children as young as 4 years old -- I
18 personally hope that there aren't any parents
19 who would allow their children on these
20 machines to race at such young ages.

21 But I don't believe that in the
22 State of New York we should pass a law
23 allowing children under 14 to be the drivers
24 and sole passengers on vehicles that can in
25 fact be as large as 600 pounds, go 60 miles an

1 hour and do lifetime damage to themselves if
2 they get into accidents.

3 My understanding also is that
4 snocross racetracks consist of
5 artificially-made tracks consisting of tight
6 turns, banked corners, steep jumps and
7 obstacles. And again, when you visualize
8 this, or if you've watch snocross on TV, which
9 I have occasionally done -- I have not
10 participated in real life -- these are
11 potentially very fast and very dangerous
12 sporting activities.

13 So I would urge my colleagues to
14 vote no on this bill to ensure the safety and
15 the welfare of children under 14 in the State
16 of New York.

17 Thank you, Mr. President.

18 ACTING PRESIDENT GRIFFO: Senator
19 Libous.

20 SENATOR LIBOUS: Thank you,
21 Mr. President. May I speak on the bill?

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

24 SENATOR LIBOUS: I want to
25 applaud Senator Little for bringing this bill

1 to the floor.

2 And certainly while I have great
3 respect for Senator Krueger, I think this once
4 again shows the great upstate/downstate
5 divide, if I may.

6 You know, snowmobiling is an
7 industry in upstate New York. It helps many
8 businesses. We have thousands of individuals
9 in upstate New York who enjoy going to these
10 events, as Senator Little talked about, and
11 they come in from other states around. It
12 brings people into the state --

13 ACTING PRESIDENT GRIFFO: Excuse
14 me, Senator Libous. May we have some order in
15 the chamber, please.

16 Senator Libous.

17 SENATOR LIBOUS: It brings people
18 into the state.

19 These are great events. I've
20 attended these events. I have constituents
21 that participate in these events. I was just
22 sharing with Senator LaValle that I have a
23 very good friend who owns a restaurant, and
24 he's on a snowmobile trail, and they all visit
25 that restaurant on Saturday mornings and

1 afternoons.

2 Recently we were going to have a --
3 when they had the meet, we were going to have
4 an ice sculpturing contest. And I was going
5 to be the judge, by the way. But we had to
6 cancel it because it rained for three days and
7 there was no snow left. And unfortunately
8 we've had three months of snow, and that was
9 the weekend that he had picked.

10 But, you know, safety is something
11 that we do care about as it pertains to
12 snowmobiling. And I think that there are
13 precautions that are taken. I think it's like
14 any sport or event or activity. Certainly if
15 you're moving on a snowmobile at a higher rate
16 of speed, certainly there are training
17 requirements and things just as if you're on a
18 motorcycle or driving an automobile or any
19 object that is moving that you're controlling.

20 But I think that Senator Little's
21 bill is right to the point, it addresses an
22 issue and events that we take great pride in
23 in upstate New York, and they help our upstate
24 economy.

25 So while certainly maybe Senator

1 Little could invite Senator Krueger to one of
2 those events, so that she could see for
3 herself that it is indeed an economic
4 development event for upstate New York where
5 people from all over come in and that it is
6 not as dangerous as maybe one might think.

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

9 Senator Little.

10 SENATOR LITTLE: Thank you. If I
11 may, I would like to speak on the bill for
12 clarification, because I don't want people to
13 go away thinking this is one big free-for-all
14 where you put a 4-year-old on a great big snow
15 machine and let them go.

16 There is a learning component to
17 this, there is a training component to this.
18 The children, when they first start out at a
19 very young age, their machine is smaller, it
20 is limited to -- the highest speed could be
21 12 miles an hour. This is all very
22 restricted. They are required to wear
23 helmets, shoulder pads, all kinds of paddings
24 and equipment.

25 And the parent enjoys having the

1 child participate in this sport with them, and
2 certainly at a very beginning level. So we're
3 not talking about something that is unsafe.
4 And it is not like what you see on television.
5 We're talking about things that we have in our
6 area where families come.

7 And maybe the higher-level races
8 race at a higher speed, but these children at
9 this age do not. But they are allowed to
10 participate, and also to grow into that sport
11 and to be able to participate in it at a
12 higher level as they grow older.

13 It does definitely have an economic
14 development component. Winters are long in
15 the North Country. Tourism season is very
16 slow. So this kind of event brings people
17 into our area, allows people to enjoy the
18 outdoors, enjoy winter experience, and also
19 gives safety, training and education to young
20 children on how to operate a snowmobile.

21 So I would encourage everyone to
22 vote for this. This is allowed in other
23 states. This would increase the participation
24 in our state and make it even more of a family
25 event and, as I said, help these kids grow

1 into this sport.

2 Thank you.

3 ACTING PRESIDENT GRIFFO: Thank
4 you, Senator Little.

5 Is there any other Senator wishing
6 to be heard?

7 Seeing none, debate is closed.

8 The Secretary will ring the bell.

9 Senator Libous.

10 SENATOR LIBOUS: Mr. President, I
11 believe all the Senators are in the chamber.
12 If they are not in their seats, please get to
13 your seats so we can vote, because the Senate
14 rule does say we have to be in our seats. So
15 we do want to obey the Senate rules, don't we?

16 Griffo, you're excused from being
17 in your seat.

18 Thank you, Mr. President.

19 ACTING PRESIDENT GRIFFO: I would
20 ask all Senators to please remain in their
21 seats for the vote.

22 The Secretary will read the last
23 section.

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

1 ACTING PRESIDENT GRIFFO: Call
2 the roll.

3 (The Secretary called the roll.)

4 ACTING PRESIDENT GRIFFO:
5 Announce the results.

6 THE SECRETARY: Those recorded in
7 the negative on Calendar Number 47 are
8 Senators Avella, Diaz, Espaillat, Huntley,
9 L. Krueger, Montgomery, Perkins, Rivera,
10 Serrano, Squadron and Stavisky.

11 Absent from voting: Senator
12 Parker.

13 Absent from voting pursuant to
14 Rule 9: Senators DeFrancisco and C. Kruger.

15 Ayes, 46. Nays, 11.

16 ACTING PRESIDENT GRIFFO: The
17 bill is passed.

18 Senator Libous.

19 SENATOR LIBOUS: Thank you,
20 Mr. President. I have some housekeeping to
21 take care of.

22 In consultation with Senator
23 Sampson, Senator Skelos and Senator Sampson
24 hand up the following committee changes and
25 assignments.

1 Senator Skelos also hands up the
2 following committee changes, and we ask that
3 they all be filed.

4 ACTING PRESIDENT GRIFFO: So
5 ordered.

6 SENATOR LIBOUS: Mr. President,
7 before I call on Senator Ruth Hassell-Thompson
8 for an announcement that she'd like to make, I
9 just want to end the session letting everybody
10 know that Frank W. Buckles passed away on
11 Sunday. Frank was the last survivor of World
12 War I before he passed.

13 Some 5 million Americans served
14 this great country in World War I. And while
15 time tends to go on and life tends to move
16 forward, I guess it's important that we just
17 pause for a second and say thank you in our
18 hearts to not only Frank Buckles but also to
19 every man and woman who served us, all
20 5 million of them, in World War I.

21 So could I ask that everybody
22 please stand for a moment.

23 ACTING PRESIDENT GRIFFO: We ask
24 all to rise in honor of all those who served
25 our nation so valiantly in World War I.

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

3 SENATOR LIBOUS: Thank you,
4 Mr. President.

5 At this time would you call on
6 Senator Ruth Hassell-Thompson, please.

7 ACTING PRESIDENT GRIFFO: Senator
8 Hassell-Thompson.

9 SENATOR HASSELL-THOMPSON: Thank
10 you, Mr. President.

11 Immediately following session, I'm
12 asking for all Democrats to meet in the
13 conference room immediately. Thank you.

14 ACTING PRESIDENT GRIFFO: There
15 will be an immediate meeting of the Democrat
16 Conference in the Democrat Conference Room.

17 SENATOR LIBOUS: Mr. President.

18 ACTING PRESIDENT GRIFFO: Senator
19 Libous.

20 SENATOR LIBOUS: There will also
21 be an immediate Republican Majority Conference
22 in Room 332.

23 ACTING PRESIDENT GRIFFO: There
24 will be an immediate meeting of the Republican
25 Conference in the Majority Conference Room,

1 Room 332.

2 SENATOR LIBOUS: Mr. President,
3 is there any further business at the desk?

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

6 SENATOR LIBOUS: Mr. President, I
7 don't believe we've adjourned yet. I hear a
8 lot of noise in the chamber.

9 ACTING PRESIDENT GRIFFO:
10 Members, would you please come to order.

11 SENATOR LIBOUS: Is there any
12 further business at the desk?

13 ACTING PRESIDENT GRIFFO: There
14 is no further business.

15 SENATOR LIBOUS: Thank you,
16 Mr. President.

17 There being no further business, I
18 adjourn this body until Tuesday, March 1st, at
19 3:00 p.m.

20 ACTING PRESIDENT GRIFFO: On
21 motion, the Senate stands adjourned until
22 Tuesday, March 1st, 3:00 p.m.

23 (Whereupon, at 4:08 p.m., the
24 Senate adjourned.)

25