

1 NEW YORK STATE SENATE

2
3
4 THE STENOGRAPHIC RECORD

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7
8 ALBANY, NEW YORK

9
10 May 23, 2011

11 3:10 p.m.

12
13
14 REGULAR SESSION

15
16
17
18 SENATOR CARL L. MARCELLINO, Acting President

19 FRANCIS W. PATIENCE, Secretary

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

2 ACTING PRESIDENT MARCELLINO:

3 The Senate will come to order.

4 I ask everyone present to please
5 rise and repeat with me the Pledge of
6 Allegiance.

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

10 ACTING PRESIDENT MARCELLINO:

11 The invocation today will be given by Father
12 John Peter Rosson, of St. Mary's Roman
13 Catholic Church, "Our Lady of the Lake," in
14 Cooperstown.

15 REVEREND ROSSON: Good and
16 gracious God, shine Your light on the most
17 gifted areas of our lives. Give
18 understanding of how to utilize our gifts
19 effectively so that we may fulfill our
20 calling and our destinies.

21 With joy and satisfaction, allow
22 us to be helpers of humanity, exuding
23 kindness, love and humility to lift up and
24 improve the lives of others for the
25 betterment of all Your people of New York

1 State, from Buffalo to Brooklyn.

2 Lord, we ask You to release in
3 each of us Your creative spirit. We ask for
4 open minds and open hearts, that we may be
5 clever and inventive in identifying solutions
6 to complex problems in our world and our
7 Excelsior State.

8 We ask for Your wisdom and the
9 perseverance necessary to develop significant
10 life-changing ideas. Release all creativity
11 You have placed within this chamber within
12 each Senator, enabling us to draw others near
13 as we endeavor to live together on this earth
14 in solidarity.

15 We give thanks for the many
16 blessings we receive from You, and especially
17 the gift of companionship, that we do not
18 have to make our journey alone.

19 Bless us as we meet to discuss
20 the business of New York State. We offer
21 this prayer in Your name.

22 Amen.

23 ACTING PRESIDENT MARCELLINO:
24 The reading of the Journal.

25 THE SECRETARY: In Senate,

1 Sunday, May 22nd, the Senate met pursuant to
2 adjournment. The Journal of Saturday, May 21,
3 was read and approved. On motion, Senate
4 adjourned.

5 ACTING PRESIDENT MARCELLINO:
6 Without objection, the Journal stands approved as
7 read.

8 Presentation of petitions.

9 Messages from the Assembly.

10 Messages from the Governor.

11 Reports of standing committees.

12 Reports of select committees.

13 Communications and reports from
14 state officers.

15 Motions and resolutions.

16 Senator Breslin.

17 SENATOR BRESLIN: Thank you,
18 Mr. President.

19 On behalf of Senator Krueger, I move
20 that the following bill be discharged from its
21 respective committee and be recommitted with
22 instructions to strike the enacting clause:
23 Senate Number 5222.

24 ACTING PRESIDENT MARCELLINO: So
25 ordered.

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

3 ACTING PRESIDENT MARCELLINO:
4 Senator Libous.

5 If we can have some order in the
6 house. Could you take conversations to the
7 lounge, please. Thank you.

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

10 On behalf of Senator Young, I wish
11 to call up her bill, Print Number 801, recalled
12 from the Assembly, which is now at the desk.

13 ACTING PRESIDENT MARCELLINO: The
14 Secretary will read.

15 THE SECRETARY: Calendar Number 14,
16 by Senator Young, Senate Print 801, an act to
17 amend the Environmental Conservation Law.

18 SENATOR LIBOUS: Mr. President, I
19 now move to reconsider the vote by which this
20 bill was passed.

21 ACTING PRESIDENT MARCELLINO: Call
22 the roll on reconsideration.

23 (The Secretary called the roll.)

24 THE SECRETARY: Ayes, 56.

25 SENATOR LIBOUS: Mr. President, I

1 now offer the following amendments.

2 ACTING PRESIDENT MARCELLINO: The
3 amendments are approved.

4 SENATOR LIBOUS: Mr. President,
5 amendments are offered on the following Third
6 Reading Calendar bills:

7 Senator Maziarz, on page 19,
8 Calendar Number 132, Senate Print Number 2913;

9 Senator LaValle, on page 21,
10 Calendar Number 188, Senate Print Number 1449A;

11 Senator O'Mara, page 33, Calendar
12 Number 401, Senate Print Number 4744;

13 Senator LaValle, page number 44,
14 Calendar Number 530, Senate Print Number 1857;

15 Senator Gallivan, page number 45,
16 Calendar Number 539, Senate Print Number 4133;

17 Senator Grisanti, page number 48,
18 Calendar Number 586, Senate Print Number 3497;

19 Senator Johnson, page number 50,
20 Calendar Number 606, Senate Print Number 4740A;

21 Senator Bonacic, page number 36,
22 Calendar Number 441, Senate Print Number 4577;

23 Senator DeFrancisco, page number 48,
24 Calendar Number 581, Senate Print Number 2857;

25 And Senator Zeldin, page 53,

1 Calendar Number 639, Senate Print Number 4600.

2 Mr. President, I now move that these
3 bills retain their place on the order of third
4 reading.

5 ACTING PRESIDENT MARCELLINO: The
6 amendments are accepted and approved, and the
7 bills will retain their place on the Third
8 Reading Calendar.

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

11 ACTING PRESIDENT MARCELLINO:
12 You're welcome, Senator Libous.

13 SENATOR LIBOUS: Mr. President, I
14 believe that Senator Valesky has a privileged
15 resolution at the desk. May we read its title
16 and adopt the resolution at this time.

17 ACTING PRESIDENT MARCELLINO: The
18 Secretary will read the title only.

19 THE SECRETARY: Legislative
20 resolution by Senator Valesky, honoring Ardith
21 Bennett upon the occasion of her designation as
22 recipient of the 2011 Senior Citizen of the Year
23 Award.

24 ACTING PRESIDENT MARCELLINO: All
25 in favor of the resolution signify by saying aye.

1 (Response of "Aye.")

2 ACTING PRESIDENT MARCELLINO:

3 Opposed, nay.

4 (No response.)

5 ACTING PRESIDENT MARCELLINO: The
6 resolution is adopted.

7 Senator Libous.

8 SENATOR LIBOUS: Mr. President, at
9 this time can we please take up the reading of
10 the noncontroversial calendar.

11 ACTING PRESIDENT MARCELLINO: The
12 Secretary will read.

13 THE SECRETARY: Calendar Number
14 135, by Senator Golden, Senate Print 3151, an act
15 to amend the Vehicle and Traffic Law.

16 ACTING PRESIDENT MARCELLINO: Read
17 the last section.

18 THE SECRETARY: Section 4. This
19 act shall take effect on the 180th day.

20 ACTING PRESIDENT MARCELLINO: Call
21 the roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT MARCELLINO:
24 Senator Squadron, to explain his vote.

25 SENATOR SQUADRON: Thank you,

1 Mr. President.

2 I want to commend the sponsor for
3 this bill. It's a critically important bill that
4 will literally save lives. I know the sponsor is
5 aware of that. I know the City of New York has
6 been pushing this bill for some time.

7 Just outside my district, but in the
8 Williamsburg Hasidic Jewish community that I
9 represent, a couple of weeks ago a 5-year-old
10 boy, Joel Englander, was fatally struck by a
11 truck on the street where he lives, playing with
12 a group of children. His mother was watching the
13 children.

14 And you can never know for sure how
15 to prevent a tragedy like that after the fact.
16 But the truth is a lot of folks think that these
17 crossover, these convex mirrors would make a
18 difference.

19 And in the name of Joel Englander,
20 his father Wolff, their entire family, his
21 remaining siblings, his mother, I want to thank
22 the sponsor and thank this body for taking up
23 this bill and passing it. It's rare that we have
24 a bill that really will save lives, and this is
25 one.

1 Thank you, Mr. President.

2 ACTING PRESIDENT MARCELLINO: Thank
3 you, Senator. You will be recorded in the
4 affirmative.

5 Announce the results.

6 THE SECRETARY: Those recorded in
7 the negative on Calendar Number 135 are Senators
8 Farley, Griffio, Little, Ranzenhofer, Ritchie,
9 Saland, Seward and Zeldin.

10 Ayes, 48. Nays, 8.

11 ACTING PRESIDENT MARCELLINO: The
12 bill is passed.

13 THE SECRETARY: Calendar Number
14 195, by Senator Espaillat, Senate Print 3114A, an
15 act to amend the Public Housing Law.

16 ACTING PRESIDENT MARCELLINO: Read
17 the last section.

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

20 ACTING PRESIDENT MARCELLINO: Call
21 the roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 56.

24 ACTING PRESIDENT MARCELLINO: The
25 bill is passed.

1 THE SECRETARY: Calendar Number
2 223, by Senator Griffo, Senate Print 1707A --

3 SENATOR BRESLIN: Lay it aside.

4 ACTING PRESIDENT MARCELLINO: Lay
5 the bill aside.

6 THE SECRETARY: Calendar Number
7 267, by Senator Grisanti, Senate Print 3134, an
8 act to amend the Criminal Procedure Law.

9 ACTING PRESIDENT MARCELLINO: Read
10 the last section.

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

13 ACTING PRESIDENT MARCELLINO: Call
14 the roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes, 56. Nays,
17 1. Senator L. Krueger recorded in the negative.

18 In relation to Calendar Number 267,
19 those recorded in the negative are Senators
20 L. Krueger and Perkins.

21 Ayes, 55. Nays, 2.

22 ACTING PRESIDENT MARCELLINO: The
23 bill is passed.

24 If we could again take conversations
25 out of the room.

1 And if the members are going to vote
2 no, please indicate clearly your position on the
3 bill. It's not easy for the Secretary and his
4 helpers to identify, so make sure your hand is up
5 and you're clearly voting the way you wish to.

6 Continue reading, please.

7 THE SECRETARY: Calendar Number
8 304, by Senator Maziarz, Senate Print 241, an act
9 to amend the Penal Law.

10 ACTING PRESIDENT MARCELLINO: Read
11 the last section.

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

14 ACTING PRESIDENT MARCELLINO: Call
15 the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 57.

18 ACTING PRESIDENT MARCELLINO: The
19 bill is passed.

20 THE SECRETARY: Calendar Number
21 305, by Senator Fuschillo, Senate Print 593A, an
22 act to amend the Penal Law.

23 ACTING PRESIDENT MARCELLINO: Read
24 the last section.

25 THE SECRETARY: Section 7. This

1 act shall take effect on the first of November.

2 ACTING PRESIDENT MARCELLINO: Call
3 the roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 57.

6 ACTING PRESIDENT MARCELLINO: The
7 bill is passed.

8 THE SECRETARY: Calendar Number
9 311, by Senator Young, Senate Print 2838, an act
10 to amend the Executive Law.

11 ACTING PRESIDENT MARCELLINO: Read
12 the last section.

13 THE SECRETARY: Section 6. This
14 act shall take effect immediately.

15 ACTING PRESIDENT MARCELLINO: Call
16 the roll.

17 (The Secretary called the roll.)

18 ACTING PRESIDENT MARCELLINO: Call
19 the roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 57.

22 ACTING PRESIDENT MARCELLINO: The
23 bill is passed.

24 THE SECRETARY: Calendar Number
25 412, by Senator Klein, Senate Print 614B, an act

1 to amend the New York State Urban Development
2 Corporation Act.

3 ACTING PRESIDENT MARCELLINO: Read
4 the last section.

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

7 ACTING PRESIDENT MARCELLINO: Call
8 the roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT MARCELLINO:
11 Senator Klein, to explain his vote.

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

14 This legislation would authorize the
15 New York State Urban Development Corporation to
16 offer loans and loan guarantees to help in the
17 distribution of New York farm products to large
18 food service areas.

19 One of the problems we've seen, even
20 though there has been a proliferation of farmers'
21 markets downstate, is that many inner-city
22 neighborhoods still do not have access to fresh
23 produce. When we look at the statistics in
24 New York City that 38 percent of young people are
25 either obese or overweight, clearly the problem

1 needs to be solved where these communities have
2 greater access to farmers' markets.

3 This legislation will help do just
4 that, providing farmers upstate with cheaper
5 means of transporting their fresh produce to
6 downstate consumers.

7 So, Mr. President, I vote yes.

8 ACTING PRESIDENT MARCELLINO:
9 Senator Klein will be recorded in the
10 affirmative.

11 Announce the results.

12 THE SECRETARY: Ayes, 57.

13 ACTING PRESIDENT MARCELLINO: The
14 bill is passed.

15 THE SECRETARY: Calendar Number
16 428, by Senator Ritchie, Senate Print 3825, an
17 act to amend the Criminal Procedure Law.

18 ACTING PRESIDENT MARCELLINO: Read
19 the last section.

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

22 ACTING PRESIDENT MARCELLINO: Call
23 the roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes, 57.

1 ACTING PRESIDENT MARCELLINO: The
2 bill is passed.

3 THE SECRETARY: Calendar Number
4 458, by Senator Seward, Senate Print 1684, an act
5 to amend the Tax Law.

6 ACTING PRESIDENT MARCELLINO: Read
7 the last section.

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

10 ACTING PRESIDENT MARCELLINO: Call
11 the roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes, 57.

14 ACTING PRESIDENT MARCELLINO: The
15 bill is passed.

16 THE SECRETARY: Calendar Number
17 459, by Senator Seward, Senate Print 1687, an act
18 to amend Chapter 333 of the Laws of 2006.

19 ACTING PRESIDENT MARCELLINO: Read
20 the last section.

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

23 ACTING PRESIDENT MARCELLINO: Call
24 the roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 57.

2 ACTING PRESIDENT MARCELLINO: The
3 bill is passed.

4 THE SECRETARY: Calendar Number
5 461, by Senator Libous, Senate Print 2401, an act
6 to amend the Tax Law.

7 ACTING PRESIDENT MARCELLINO: Read
8 the last section.

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

11 ACTING PRESIDENT MARCELLINO: Call
12 the roll.

13 (The Secretary called the roll.)

14 ACTING PRESIDENT MARCELLINO:
15 Senator Rivera to explain his vote.

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

18 I stand today to explain my vote to
19 on this piece of legislation. For the rest of
20 the session that we will have today, most of the
21 bills that we will consider will be about either
22 extending or, in this case, raising sales taxes
23 or other taxes in different localities across the
24 state.

25 And I stand today to say that I will

1 definitely bow to the knowledge of local elected
2 officials on what is necessary in their
3 particular counties and localities. But I rise
4 today to point out the fact that here we are
5 voting on the floor of the New York State Senate
6 about raising sales taxes, which are the most
7 regressive tax that we have, while we have had
8 long conversations on this same floor about the
9 fact we will not extend taxes on the wealthiest
10 New Yorkers -- taxes that they are paying now,
11 taxes that are not burdensome to them.

12 And yet we are sitting here saying
13 that we are going to raise sales taxes in all
14 sorts of counties across the state, thereby
15 putting more pressure on working-class people
16 across the state.

17 So I rise today -- again, I will bow
18 to the knowledge of local elected officials about
19 what is necessary in their counties. But I would
20 ask folks to ask themselves, if we're going to be
21 raising sales taxes, should we not be
22 considering, should we not be speaking about how
23 to extend taxes for wealthier New Yorkers,
24 unburdensome taxes that are currently there, that
25 will actually give us more much more revenue to

1 the state and to localities all across our great
2 state.

3 ACTING PRESIDENT MARCELLINO:
4 Senator Rivera, how do you vote, please?

5 SENATOR RIVERA: I'll be voting in
6 the affirmative. Thank you, Mr. President.

7 ACTING PRESIDENT MARCELLINO:
8 Senator Rivera will be recorded in the
9 affirmative.

10 Announce the results.

11 THE SECRETARY: Ayes, 56. Nays,
12 1. Senator Parker recorded in the negative.

13 ACTING PRESIDENT MARCELLINO: The
14 bill is passed.

15 THE SECRETARY: Calendar Number
16 462, by Senator Seward, Senate Print 2716, an act
17 to amend the Tax Law.

18 ACTING PRESIDENT MARCELLINO: Read
19 the last section.

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

22 ACTING PRESIDENT MARCELLINO: Call
23 the roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes, 57. Nays,

1 1. Senator Parker recorded in the negative.

2 ACTING PRESIDENT MARCELLINO: The
3 bill is passed.

4 THE SECRETARY: Calendar Number
5 463, by Senator Libous, Senate Print 2752, an act
6 to amend the Tax Law.

7 ACTING PRESIDENT MARCELLINO: Read
8 the last section.

9 SENATOR LIBOUS: Lay it aside,
10 please.

11 ACTING PRESIDENT MARCELLINO: Lay
12 the bill aside temporarily.

13 THE SECRETARY: Calendar Number
14 468, by Senator Ranzenhofer, Senate Print 3399,
15 an act to amend the Tax Law.

16 ACTING PRESIDENT MARCELLINO: Read
17 the last section, please.

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

20 ACTING PRESIDENT MARCELLINO: Call
21 the roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 57.

24 ACTING PRESIDENT MARCELLINO: The
25 bill is passed.

1 THE SECRETARY: Calendar Number
2 469, by Senator Farley, Senate Print 3720, an act
3 to amend the Tax Law.

4 ACTING PRESIDENT MARCELLINO: Read
5 the last section, please.

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

8 ACTING PRESIDENT MARCELLINO: Call
9 the roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 56. Nays,
12 1. Senator Parker recorded in the negative.

13 ACTING PRESIDENT MARCELLINO: The
14 bill is passed.

15 THE SECRETARY: Calendar Number
16 470, by Senator Farley, Senate Print 3721, an act
17 to amend Chapter 489 of the Laws of 2004.

18 ACTING PRESIDENT MARCELLINO: Read
19 the last section.

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

22 ACTING PRESIDENT MARCELLINO: Call
23 the roll.

24 (The Secretary called the roll.)

25 ACTING PRESIDENT MARCELLINO:

1 Senator Parker to explain his vote.

2 SENATOR PARKER: Yes, to explain my
3 vote, Mr. President.

4 We are here today voting on a bill
5 that deals with mortgage recording tax. And a
6 mortgage recording tax will raise the fees on
7 what will it cost in that county to actually, you
8 know, do work around mortgages and do sales
9 around homeownership.

10 And as we talk about homeownership
11 and the living conditions of the people of the
12 State of New York, we should not forget that we
13 only have a very short amount of time before the
14 rent regulations in this state expire.

15 And particularly for New York City,
16 it's going to mean literally millions of people
17 who are out of homes, and being out of homes
18 means that people will lose their jobs, people
19 will not be doing well in school, it will have
20 impacts on people's health. That in fact we are
21 talking about a cataclysmic event for not just
22 the City of New York, but the State of New York,
23 if in fact we allow the rent regulations to
24 expire on June 15th.

25 And so I'm calling on Senator Skelos

1 to bring a bill that actually strengthens the
2 rent laws in the State of New York to the floor
3 immediately so we have a vote on it so that we
4 can in fact make sure that homeowners and renters
5 alike can afford to live in their homes in this
6 great state.

7 Thank you, Mr. President. I'll be
8 voting nay.

9 ACTING PRESIDENT MARCELLINO: Thank
10 you, Senator Parker.

11 Senator Parker will be recorded in
12 the negative.

13 Please announce the results.

14 THE SECRETARY: Ayes, 56. Nays,
15 1. Senator Parker recorded in the negative.

16 ACTING PRESIDENT MARCELLINO: The
17 bill passes.

18 THE SECRETARY: Calendar Number
19 471, by Senator Gallivan, Senate Print 3757, an
20 act to amend the Tax Law.

21 ACTING PRESIDENT MARCELLINO: Read
22 the last section, please.

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

25 ACTING PRESIDENT MARCELLINO: Call

1 the roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 56. Nays,

4 1. Senator Parker recorded in the negative.

5 ACTING PRESIDENT MARCELLINO: The
6 bill is passed.

7 THE SECRETARY: Calendar Number
8 473, by Senator Farley, Senate Print 3770, an act
9 to amend the Tax Law.

10 ACTING PRESIDENT MARCELLINO: Read
11 the last section.

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

14 ACTING PRESIDENT MARCELLINO: Call
15 the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 56. Nays,

18 1. Senator Parker recorded in the negative.

19 ACTING PRESIDENT MARCELLINO: The
20 bill is passed.

21 THE SECRETARY: Calendar Number
22 476, by Senator Gallivan, Senate Print 3986, an
23 act to amend the Tax Law.

24 ACTING PRESIDENT MARCELLINO: Read
25 the last section.

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

3 ACTING PRESIDENT MARCELLINO: Call
4 the roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 56. Nays,
7 1. Senator Parker recorded in the negative.

8 ACTING PRESIDENT MARCELLINO: The
9 bill is passed.

10 THE SECRETARY: Calendar Number
11 477, by Senator Little, Senate Print 3996, an act
12 to amend the Tax Law.

13 ACTING PRESIDENT MARCELLINO: Read
14 the last section.

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

17 ACTING PRESIDENT MARCELLINO: Call
18 the roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 56. Nays,
21 1. Senator Parker recorded in the negative.

22 ACTING PRESIDENT MARCELLINO: The
23 bill is passed.

24 THE SECRETARY: Calendar Number
25 478, by Senator O'Mara, Senate Print 3997, an act

1 to amend the Tax Law.

2 ACTING PRESIDENT MARCELLINO: Read
3 the last section.

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

6 ACTING PRESIDENT MARCELLINO: Call
7 the roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 56. Nays,
10 1. Senator Parker recorded in the negative.

11 ACTING PRESIDENT MARCELLINO: The
12 bill is passed.

13 THE SECRETARY: Calendar Number
14 479, by Senator Young, Senate Print 4021, an act
15 to amend the Tax Law.

16 ACTING PRESIDENT MARCELLINO: Read
17 the last section, please.

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

20 ACTING PRESIDENT MARCELLINO: Call
21 the roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 56. Nays,
24 1. Senator Parker recorded in the negative.

25 ACTING PRESIDENT MARCELLINO: The

1 bill is passed.

2 THE SECRETARY: Calendar Number
3 481, by Senator Little, Senate Print 4049, an act
4 to amend the Tax Law.

5 ACTING PRESIDENT MARCELLINO: Read
6 the last section.

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

9 ACTING PRESIDENT MARCELLINO: Call
10 the roll.

11 (The Secretary called the roll.)

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

14 ACTING PRESIDENT MARCELLINO: The
15 bill is passed.

16 THE SECRETARY: Calendar Number
17 483, by Senator Ranzenhofer, Senate Print 4164,
18 an act to amend Chapter 579 of the Laws of 2004.

19 ACTING PRESIDENT MARCELLINO: Read
20 the last section.

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

23 ACTING PRESIDENT MARCELLINO: Call
24 the roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 56. Nays,
2 1. Senator Parker recorded in the negative.

3 ACTING PRESIDENT MARCELLINO: The
4 bill is passed.

5 THE SECRETARY: Calendar Number
6 485, by Senator O'Mara, Senate Print 4187, an act
7 to amend the Tax Law.

8 ACTING PRESIDENT MARCELLINO: Read
9 the last section, please.

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

12 ACTING PRESIDENT MARCELLINO: Call
13 the roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 56. Nays,
16 1. Senator Parker recorded in the negative.

17 ACTING PRESIDENT MARCELLINO: The
18 bill is passed.

19 THE SECRETARY: Calendar Number
20 486, by Senator Little, Senate Print 4188, an act
21 to amend the Tax Law.

22 ACTING PRESIDENT MARCELLINO: Read
23 the last section.

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

1 ACTING PRESIDENT MARCELLINO: Call
2 the roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 56. Nays,
5 1. Senator Parker recorded in the negative.

6 ACTING PRESIDENT MARCELLINO: The
7 bill is passed.

8 THE SECRETARY: Calendar Number
9 489, by Senator O'Mara, Senate Print 4232, an act
10 to amend the Tax Law.

11 ACTING PRESIDENT MARCELLINO: Read
12 the last section.

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

15 ACTING PRESIDENT MARCELLINO: Call
16 the roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 56. Nays,
19 1. Senator Parker recorded in the negative.

20 ACTING PRESIDENT MARCELLINO: The
21 bill is passed.

22 THE SECRETARY: Calendar Number
23 490, by Senator O'Mara, Senate Print 4233, an act
24 to amend Chapter 365 of the Laws of 2005.

25 ACTING PRESIDENT MARCELLINO: Read

1 the last section.

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

4 ACTING PRESIDENT MARCELLINO: Call
5 the roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 56. Nays,
8 1. Senator Parker recorded in the negative.

9 ACTING PRESIDENT MARCELLINO: The
10 bill is passed.

11 THE SECRETARY: Calendar Number
12 492, by Senator O'Mara, Senate Print 4482, an act
13 to amend Chapter 366 of the Laws of 2005.

14 ACTING PRESIDENT MARCELLINO: Read
15 the last section.

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

18 ACTING PRESIDENT MARCELLINO: Call
19 the roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 56. Nays,
22 1. Senator Parker recorded in the negative.

23 ACTING PRESIDENT MARCELLINO: The
24 bill is passed.

25 THE SECRETARY: Calendar Number

1 494, by Senator Maziarz, Senate Print 4495, an
2 act to amend the Tax Law.

3 ACTING PRESIDENT MARCELLINO: Read
4 the last section, please.

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

7 ACTING PRESIDENT MARCELLINO: Call
8 the roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 56. Nays,
11 1. Senator Parker recorded in the negative.

12 ACTING PRESIDENT MARCELLINO: The
13 bill is passed.

14 THE SECRETARY: Calendar Number
15 495, by Senator Seward, Senate Print 4543, an act
16 to amend the Tax Law.

17 ACTING PRESIDENT MARCELLINO: Read
18 the last section, please.

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

21 ACTING PRESIDENT MARCELLINO: Call
22 the roll.

23 (The Secretary called the roll.)

24 THE SECRETARY: Ayes, 56. Nays,
25 1. Senator Parker recorded in the negative.

1 ACTING PRESIDENT MARCELLINO: The
2 bill is passed.

3 THE SECRETARY: Calendar Number
4 496, by the Senate Committee on Rules, Senate
5 Print 4571, an act to amend Tax Law.

6 ACTING PRESIDENT MARCELLINO: Read
7 the last section.

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

10 ACTING PRESIDENT MARCELLINO: Call
11 the roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT MARCELLINO:
14 Senator Squadron to explain his vote.

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

17 We're running through a whole lot of
18 bills here that I know are important to members
19 across the state. Unfortunately, this bill is
20 not sponsored by any member of this body, it's
21 sponsored by the Rules Committee.

22 As we see, I think we have close to
23 30 bills today that are sponsored by members --
24 so far members of one party, but over the course
25 of the day a bipartisan group of bills. I just

1 don't think that we should be having bills
2 sponsored by the Rules Committee, passed by the
3 Rules Committee. If a member of this body needs
4 this bill, it's important to them, then that
5 member should stand up and sponsor it.

6 I'm not going to be able to vote for
7 a bill on behalf of Senator Rules. Senator Rules
8 has not come and asked for my vote. I don't know
9 about Senator Rules' constituents. So I vote no
10 on this, Mr. President.

11 ACTING PRESIDENT MARCELLINO: Thank
12 you, Senator Squadron. You will be recorded in
13 the negative.

14 Senator Liz Krueger to explain her
15 vote.

16 SENATOR KRUEGER: Thank you. I
17 would just like to go on record as ibid,
18 I-B-I-D. I'll be voting no. Thank you.

19 ACTING PRESIDENT MARCELLINO:
20 Senator Liz Krueger will be voting ibid. A
21 negative, will be recorded in the negative.

22 Announce the results.

23 THE SECRETARY: In relation to
24 Calendar Number 496, those recorded in the
25 negative are Senators Dilan, Espaillat,

1 L. Krueger, Parker, Peralta, Rivera and Squadron.

2 Ayes, 53. Nays, 7.

3 ACTING PRESIDENT MARCELLINO: The
4 bill is passed.

5 THE SECRETARY: Calendar Number
6 497, by the Committee on Rules, Senate Print
7 4572, an act to amend the Tax Law.

8 ACTING PRESIDENT MARCELLINO: Read
9 the last section, please.

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

12 ACTING PRESIDENT MARCELLINO: Call
13 the roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: In relation to
16 Calendar Number 497, those recorded in the
17 negative are Senators Adams, Dilan, Espaillat,
18 L. Krueger, Parker, Peralta, Perkins, Rivera, and
19 Squadron.

20 Ayes, 51. Nays, 9.

21 ACTING PRESIDENT MARCELLINO: The
22 bill is passed.

23 THE SECRETARY: Calendar Number
24 501, by Senator Larkin, Senate Print 4627, an act
25 to amend the Tax Law.

1 ACTING PRESIDENT MARCELLINO: Read
2 the last section, please.

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

5 ACTING PRESIDENT MARCELLINO: Call
6 the roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 59. Nays,
9 1. Senator Parker recorded in the negative.

10 ACTING PRESIDENT MARCELLINO: The
11 bill is passed.

12 THE SECRETARY: Calendar Number
13 503, by Senator Saland, Senate Print 4710, an act
14 to amend the Tax Law.

15 ACTING PRESIDENT MARCELLINO: Read
16 the last section.

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

19 ACTING PRESIDENT MARCELLINO: Call
20 the roll.

21 (The Secretary called the roll.)

22 ACTING PRESIDENT MARCELLINO:
23 Senator Parker to explain his vote.

24 SENATOR PARKER: Thank you,
25 Mr. President, to explain my vote.

1 I'm voting no on this bill, as I
2 have on a number of the other bills that came on
3 the calendar today, and, one, want my colleagues
4 to know that this was not personal against their
5 bills, nor am I trying to reject the wisdom of
6 those county executives.

7 But I have sat in this chamber year
8 after year after year and day after day after day
9 in this session and heard people talk about
10 unfunded mandates, talk about they're going to
11 hold the line on taxes and how we're not going to
12 raise taxes. And here we are, about 30 bills
13 raising taxes of individuals in various counties
14 in this state.

15 I think it's inconsistent. I think
16 it's not the right way to go. If we're going
17 to -- either we're going to be honest about
18 having a real debate about how revenue is raised
19 in this state or we're not. And yes, of course
20 counties have the ability to raise them, but they
21 don't have the ability to do it without us.

22 So you can't on one hand ask me to
23 vote no on no additional mandates for your
24 counties and on the other hand ask me to vote yes
25 to tax people and get nothing for it. So you're

1 not providing any other additional service,
2 you're not doing anything for anybody, all you're
3 doing is making sure that you raise the taxes on
4 individuals. And then at the same time giving a
5 tax break to billionaires and millionaires
6 through the state is not the right way to go.

7 We can do better than that,
8 Mr. President. I vote no.

9 ACTING PRESIDENT MARCELLINO: Thank
10 you, Senator Parker. You will be recorded in the
11 negative.

12 Announce the results, please.

13 THE SECRETARY: Ayes, 59. Nays,
14 1. Senator Parker recorded in the negative.

15 ACTING PRESIDENT MARCELLINO: The
16 bill is passed.

17 SENATOR OPPENHEIMER: To explain my
18 vote.

19 ACTING PRESIDENT MARCELLINO: I'm
20 sorry, Senator Oppenheimer, would you like to
21 explain your vote? You want to save it for the
22 next one?

23 (Laughter.)

24 SENATOR OPPENHEIMER: No, actually
25 I was --

1 ACTING PRESIDENT MARCELLINO: The
2 bill is passed, Senator.

3 SENATOR OPPENHEIMER: It's not
4 major. All I'm going to say is that many of
5 these are extenders. For the most part, most of
6 them are extenders. These are sales tax, for the
7 most part, or mortgage tax that have been around
8 for years and years. And every two years we have
9 to come back to the Senate and to the Assembly
10 and ask to have them extended again.

11 It does seem a bit foolish to me
12 that we do this every two years. I don't know
13 why we don't simply in perpetuity just extend
14 them. But it's sort of a way, I guess, to keep
15 control over these taxes.

16 But they're merely, for the most
17 part, extenders of what has been around for
18 years.

19 Thank you.

20 ACTING PRESIDENT MARCELLINO:
21 Senator Oppenheimer was already recorded in the
22 affirmative. The bill has passed.

23 Continue reading, please.

24 THE SECRETARY: Calendar Number
25 559, by Senator Griffo, Senate Print 2322, an act

1 to amend the Penal Law.

2 SENATOR MONTGOMERY: Lay it aside.

3 ACTING PRESIDENT MARCELLINO: Lay
4 the bill aside.

5 THE SECRETARY: Calendar Number
6 627, by Senator DeFrancisco, Senate Print 3110,
7 an act to amend the Real Property Tax Law.

8 ACTING PRESIDENT MARCELLINO: Read
9 the last section, please.

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

12 ACTING PRESIDENT MARCELLINO: Call
13 the roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 60.

16 ACTING PRESIDENT MARCELLINO: The
17 bill is passed.

18 THE SECRETARY: Calendar Number
19 648, by Senator Ritchie, Senate Print 5157, an
20 act in relation to the dissolution of the Oswego
21 City Library.

22 ACTING PRESIDENT MARCELLINO: Read
23 the last section, please.

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

1 ACTING PRESIDENT MARCELLINO: Call
2 the roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 60.

5 ACTING PRESIDENT MARCELLINO: The
6 bill is passed.

7 THE SECRETARY: Calendar Number
8 463, by Senator Libous, Senate Print 2752, an act
9 to amend the Tax Law.

10 ACTING PRESIDENT MARCELLINO: Read
11 the last section, please.

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

14 ACTING PRESIDENT MARCELLINO: Call
15 the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 60.

18 ACTING PRESIDENT MARCELLINO: The
19 bill is passed.

20 THE SECRETARY: Calendar Number
21 475, by Senator Oppenheimer, Senate Print 3796,
22 an act to amend the Tax Law.

23 ACTING PRESIDENT MARCELLINO: Read
24 the last section, please.

25 THE SECRETARY: Section 4. This

1 act shall take effect immediately.

2 ACTING PRESIDENT MARCELLINO: Call
3 the roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 60.

6 ACTING PRESIDENT MARCELLINO: The
7 bill is passed.

8 Senator Libous, that concludes the
9 noncontroversial reading of the calendar.

10 SENATOR LIBOUS: Thank you,
11 Mr. President. Can we now go to the reading of
12 the controversial calendar, please.

13 ACTING PRESIDENT MARCELLINO: The
14 Secretary will read the controversial calendar.

15 Can we ring the bells, please.

16 The Secretary will read.

17 THE SECRETARY: Calendar Number
18 223, by Senator Griffo, Senate Print 1707A, an
19 act to amend Chapter 912 of the Laws of 1920.

20 SENATOR KRUEGER: Explanation,
21 please.

22 ACTING PRESIDENT MARCELLINO:
23 Senator Griffo, an explanation has been requested
24 by Senator Liz Krueger.

25 SENATOR GRIFFO: Thank you,

1 Mr. President. Thank you, Senator Krueger.

2 I'll be very brief in the
3 explanation. What this essentially does is
4 allow, in the State of New York, the mixed
5 martial arts, which is a combination of
6 wrestling, boxing and sparring. It is now in
7 place in 45 other states.

8 It would place within the New York
9 State Athletic Commission the responsibility for
10 regulating the events and the participants to
11 ensure safety and ring inspections and medical
12 examinations.

13 ACTING PRESIDENT MARCELLINO:
14 Senator Liz Krueger.

15 SENATOR KRUEGER: Thank you.
16 Mr. President, if through you the sponsor would
17 please yield.

18 ACTING PRESIDENT MARCELLINO:
19 Senator Griffo, do you yield?

20 SENATOR GRIFFO: I do.

21 ACTING PRESIDENT MARCELLINO: He
22 yields.

23 SENATOR KRUEGER: Thank you.

24 Would mixed martial arts as approved
25 in this bill, 1707A, actually result in fighters

1 in this sport having to -- excuse me, being
2 protected under federal and state laws to avoid
3 exploitive and coercive promoter contracts,
4 ensure that mixed martial arts fighters enjoy
5 outside-the-ring protection from unscrupulous
6 promoters, and basically parallel protections for
7 boxers under federal law?

8 SENATOR GRIFFO: It's my
9 understanding, Senator Krueger, that many of
10 these fighters are covered. They are under
11 contract by the organization, and there are a
12 number of organizations. Much as Kleenex may be
13 a brand name for tissue, the UFC is one brand
14 name for mixed martial arts.

15 And under this, it is my
16 understanding that they are afforded the same
17 outside-the-ring protections, in many cases have
18 better policies that are put in place as a result
19 of their contracts to ensure and to satisfy any
20 health concerns or issues that may be associated
21 with an event.

22 And I'm not aware -- it is similar
23 and mirrors what is done in professional boxing
24 relative to promoters engaging in contracts. So
25 I'm not aware of anything that would be

1 significantly different than already exists
2 within some of the professional sports such as
3 boxing.

4 SENATOR KRUEGER: Mr. President, if
5 through you the sponsor would continue to yield.

6 ACTING PRESIDENT MARCELLINO:
7 Senator Griffo, do you yield?

8 SENATOR GRIFFO: Yes.

9 ACTING PRESIDENT MARCELLINO: The
10 Senator yields.

11 SENATOR KRUEGER: It's my
12 understanding that there is actual federal law,
13 what's called the Ali Act passed in 2000, named
14 after --

15 ACTING PRESIDENT MARCELLINO:
16 Excuse me, Senator.

17 Can we please have some order in the
18 house. Can we take the conversations out of the
19 chamber.

20 Senator Smith, Senator Oppenheimer
21 and the gentleman between you, please. Can we
22 take it outside, please? Thank you.

23 Senator Krueger.

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

1 Again, 11 years ago Congress enacted
2 the Muhammad Ali Boxing Reform Act, which does
3 protect boxers from exploitive, oppressive, and
4 unethical business practices in an industry that
5 lacked a central body to establish standard
6 business practices and an athletes' union to
7 negotiate collective bargaining agreements.

8 My understanding is that this
9 bill -- and then later on in 2003 New York State
10 passed similar legislation applying to the state
11 boxing. My understanding is no parallel
12 protections would be applied if mixed martial
13 arts were to become legal in our state. Are you
14 not concerned about the record of violence and
15 injury to fighters that have been well documented
16 in this sport?

17 SENATOR GRIFFO: Well, I think --
18 Mr. President, through you. Senator Krueger, I
19 think that we're always concerned about the
20 safety of the participants as well as the fans.
21 And I think that's one of the significant aspects
22 of this bill, is that we understand and
23 appreciate and respect the New York State
24 Athletic Commission and want to ensure that they
25 will be regulating each and every aspect of this.

1 And there have been a number of
2 studies that have been done. In fact, I have a
3 Johns Hopkins study from the School of Medicine
4 that we know that in any sport where you engage
5 in contact, there is a potential for an injury
6 rate. And it was stipulated in that report that
7 the injury rate in MMA competitions is compatible
8 with other full-contact sports. And there is a
9 very extensive report that talks about the
10 efforts and things that go with the regulation of
11 the sport to protect against those industries.

12 But the basic conclusion of Johns
13 Hopkins was that this sport is in no way, even
14 though there may be an impression based on the
15 appearance of the matches -- but overall, the
16 report from Johns Hopkins shows that the actual
17 incidence of injury is not higher in this case.

18 SENATOR KRUEGER: Mr. President, on
19 the bill.

20 ACTING PRESIDENT MARCELLINO:
21 Senator Krueger on the bill.

22 SENATOR KRUEGER: I guess we could
23 have dueling readings of reports. My reading of
24 reports does not show a finding that this is not
25 a more dangerous sport than many others. But

1 most of my concern is that we shouldn't be
2 encouraging, by legalization, a sport that
3 actually has as a requirement to do the most
4 damage possible.

5 Research shows that there has been
6 an undercount of the violence from this sport.
7 Various studies have found, measuring the power
8 of the punches applied in mixed martial arts upon
9 a downed opponent, called ground and pound, that
10 the punching power can be 910 kilos of force.
11 Studies have shown that there is an
12 underreporting of damage done to fighters in the
13 sport in the media.

14 Ultimate fighting, being a fairly
15 new phenomenon, does not have as much of a
16 documented record of injury and death as boxing
17 because it's not as popular, it's not as
18 long-term as far as having a history, and not
19 nearly as many people participate in mixed
20 martial arts as in boxing.

21 But a recent article titled "When
22 Broadcasters Fail to Show the True Picture," in
23 Sports Illustrated, reports on how promoters and
24 broadcasters constantly hide the results of
25 vicious knockouts and other newsworthy events in

1 order to sanitize the violence of ultimate
2 fighting.

3 Efforts by promoters to hide the
4 danger of the sport has also been reported on
5 ESPN. Quote, a school of thought that ultimate
6 fighting -- excuse me, the ultimate fighting --
7 it's UFC. I'm not sure what the C stands for;
8 one moment. The organization. That the UFC
9 controls the telecast so fans will lose sight of
10 the true nature of the physical damage being
11 done. Some 13 deaths have been reported prior to
12 the organization of the sport into current
13 franchises. And the establishment of current
14 rules don't allow the reported violence and
15 outcomes of the harm and even the deaths to be
16 confirmed.

17 Organized professional fights
18 occurred in October 2007 when Sam Vázquez died in
19 Houston, Texas, from brain damage suffered in a
20 bout. And Douglas Dedge's death in 1998 in the
21 Ukraine was also reported in the Times.

22 Of course ultimate fighting, if it
23 had a longer history, would show more results of
24 violence and long-term brain damage and death.

25 I think one of the things that

1 disturbs me most in comparing the rules of
2 ultimate fighting with, say, the rules of boxing,
3 which it's frequently compared to, is that in
4 boxing there's a skill set that is measured in
5 order to determine who is the winner and who is
6 the loser of the bout, and sometimes the outcome
7 is in fact a knockout punch or the harm done to
8 either boxer.

9 But in ultimate fighting the
10 measurement of the success of the bout is
11 primarily knockout or submission, the amount of
12 damage done to the opponent, the ground
13 control -- meaning continuing to hit and do harm
14 to the opponent when on the ground -- the
15 takedown and the takedown's defense, and the
16 level of aggressiveness displayed in the fight.

17 I know that we live in a society
18 filled with violence. I know that children watch
19 violence every day on TV. They can see the
20 violence, they are already replicating the
21 violence by performing attempts at mixed martial
22 arts bouts on the streets and in playgrounds. I
23 just don't believe that this state at this time
24 should legalize this sport, which by definition
25 gives a Good Housekeeping seal of approval to the

1 sport as it exists today.

2 I don't think we should pass a law
3 that would allow ultimate fighting to take place
4 in our state without even the standards and
5 protections and rules that are mandated by
6 federal and state law for the sport of boxing.

7 I don't think it is worth the few
8 million dollars in tax revenue. I know we are
9 supposed to stand here and talk about how
10 critical all tax revenue is. But I think you
11 have to balance the psychological and physical
12 impact on our children and ourselves as a society
13 here in New York State by if we were to support
14 and encourage the legalization of a sport that
15 clearly intends to make money off of the
16 perception of extreme violence and the actual
17 practice of extreme violence and extreme harm
18 between the two men in the ring. Perhaps there's
19 women's mixed martial arts, so I shouldn't be
20 sexist. So the two people in the ring. I would
21 have just as much concern about female mixed
22 martial arts as male mixed martial arts.

23 I simply think New York should be
24 proud of the fact that we have not allowed
25 legalization up to this point and continue to

1 prevent this sport from being practiced legally
2 for fundraising, for money-making purposes in the
3 State of New York unless and until we establish
4 very strict guidelines about what activities will
5 be recognized and permitted in the ring and what
6 protections, both in contracts and promotion and
7 on behalf of fighters.

8 Who some people, I know, will stand
9 up and say "They're choosing to go into the ring,
10 they're choosing to participate in the sport.
11 Why should you, Liz Krueger, say they shouldn't
12 have the right to do it?"

13 Well, we as legislators endlessly,
14 day in, day out, make tough decisions about what
15 activities we're going to recognize as legal or
16 illegal or approved. And I don't believe the
17 State of New York at this time should make legal
18 and approve formal mixed martial arts in our
19 towns.

20 Thank you, Mr. President. I'll be
21 voting no.

22 ACTING PRESIDENT MARCELLINO: Any
23 other Senator wish to be heard on the bill?

24 Senator Parker.

25 SENATOR PARKER: Thank you,

1 Mr. President. On the bill.

2 ACTING PRESIDENT MARCELLINO:

3 Senator Parker on the bill.

4 SENATOR PARKER: I'm actually
5 rising to support this bill. As many of you
6 know, I carried this bill last year. And I want
7 to thank Senator Griffo for his leadership in
8 making sure that this bill comes to the floor.

9 I think that there's some
10 misunderstandings about this sport, about how it
11 was developed and where we are today. I think
12 some of the things that you've heard
13 characterized were absolutely correct at the
14 beginning of the sport. What's happened over
15 time is that the sport has evolved and has taken
16 up a lot more safeguards.

17 And so what you might have saw, if
18 any of you watched and you saw like K-1 fighting,
19 you know, those things, what you saw there is not
20 what you see there. And some of the Shooto
21 fights that you may see in Japan, what you see
22 there is not what you see here. There's a lot
23 more safeguards.

24 Part of the numbers that you were
25 hearing Senator Krueger talk about, why they stop

1 at 2007 is that's when the new safeguards were
2 actually put into place to make the sport more in
3 line to what we see now in boxing. And so you
4 don't see the kind of injuries and even the kind
5 of violence that you once saw in the sport.

6 And so I think under the old
7 circumstances I would not be standing here asking
8 my colleagues to vote for this bill. But I think
9 under the new rules I think that we certainly are
10 seeing something that's worth us doing.

11 I want to repeat some of the things
12 I said last year when I spoke on the bill.
13 Because again, if we're going to talk about
14 violence in sports and the effect on our young
15 people in particular, we ought to have some
16 consistency. And if we're going to in fact ban
17 mixed martial arts, then we ought to ban
18 football, we ought to ban hockey, we out to ban
19 baseball. There's a lot more injury -- and we
20 ought to ban boxing. Because there's certainly
21 more injuries, frankly, in all of those sports
22 than what you currently see in mixed martial
23 arts.

24 In fact, the vast majority of mixed
25 martial arts bouts are ended by submission. And

1 because they're ended primarily by submission --
2 it sounds kind of counterintuitive, but because
3 it ends in submission as opposed to knockout, a
4 submission is actually, long term, less injurious
5 to an opponent than a knockout. Which, when you
6 literally knock somebody out, what you're doing
7 is literally rattling their brain such that the
8 person loses consciousness. Right? Which is
9 what you see again in boxing quite often, what
10 you see in hockey a great deal.

11 You have two rules in hockey
12 fights: Drop your equipment, and you can't hit
13 once the person is on the ground. That's it.
14 Other than that, you're all in. Right? That's
15 something very different than what I think we
16 want to promote.

17 What we have seen in baseball over
18 the last couple of weeks, we just had a Yankee
19 outfielder who got a concussion last night. We
20 had another baseball player who has gotten hit
21 with a pitch four times in his last six at bats.
22 Right? Two of them were head shots. Right? And
23 so I don't see us trying to ban baseball.

24 In regards to safety also, the
25 Journal of Sports Science Medicine found that

1 through MMA fighters sustained half as many
2 knockouts as boxers and thus fewer brain
3 injuries. According to the NFL, there were
4 154 concussions in 2010 regular season. And
5 that's 21 percent over the 127 concussions during
6 the same span in 2009. And that's a jump of
7 34 percent from the 115 reported concussions
8 through the eighth week of 2008.

9 So something like -- again, if we're
10 going to talk about injuries and concussions and
11 violence and collisions, you see a lot more in
12 the NFL. And I'm certainly not -- there's no
13 bigger NFL fan in here than I am, and I'm
14 certainly not talking about banning it. But what
15 I'm saying is that mixed martial arts has a lot
16 less injuries than what you see in something like
17 the NFL, which again we watch all of the time.

18 In hockey -- and I know there's a
19 few hockey fans in here, Senator Kennedy --
20 44 percent -- and we love the Sabres, right --
21 44 percent of the roughly 80 reported concussions
22 this season came from legal hits. Legal hits.
23 So we're not even talking about fights. Right?
24 That's a whole separate -- legal hits, 80 percent
25 are coming with legal hits. So we're seeing

1 concussions all of the time.

2 And let me just say I talked about
3 baseball a little bit before. They're not taking
4 it nearly as serious in baseball. But more than
5 a quarter of the 261 catchers -- there's 261
6 catchers in the major leagues, and more than a
7 quarter of them report suffering concussions.
8 Right?

9 So again, injuries are an inherent
10 part of sports, period. And they're less in
11 mixed martial arts than you see in some of the
12 major sports like football, like baseball, like
13 hockey.

14 We're behind every other state. So
15 we talk about national trends, I'm not asking us
16 to do something that no one else has done. Forty
17 states, 40 states -- that's 90 percent of the
18 states in the country -- have already made MMA
19 legal. And when you're making it legal we're not
20 simply just saying permit it, we're also creating
21 safeguards.

22 So if you don't like the safeguards,
23 right, we're the Legislature. We could actually
24 pretend that we have some control over sporting
25 in this state and we could actually add more

1 safeguards. And I'm happy to have that
2 discussion and be engaged. I'm certainly sure
3 that Senator Griffo is happy to be in those
4 discussions about creating safeguards that
5 further protect people participating in MMA in
6 the State of New York.

7 But we can't ignore the economic
8 impact of this sport. Upstate, every time that
9 you do an MMA event in Buffalo, Senator Kennedy,
10 or in Syracuse, Senator DeFrancisco, or in
11 Rochester, Senator Robach, you're talking about
12 \$5.2 million per event. That's a lot of research
13 for places upstate that are struggling.

14 In New York City, \$11.3 million per
15 bout -- sorry, per event. Not per bout, per
16 event. So every time you have an event, New York
17 City would be able to bring in \$11.3 million.
18 This is so profitable right now, Mr. President,
19 that people are holding the events in New Jersey
20 and having the press conferences in Times Square
21 in New York City.

22 So New York residents are already
23 viewing it. It's on cable, it's on television.
24 Right? So we're not really safeguarding the
25 public from it by not allowing it. All we simply

1 are doing is, one, overresponding to what I
2 believe are irrational fears that are not
3 substantiated by the science and, two, throwing
4 away millions of dollars in economic opportunity
5 that certainly could be coming to the State of
6 New York.

7 I'm asking you to vote yes because
8 there's an opportunity for us to both do
9 something that's good economically for the State
10 of New York and at the same time regulate a sport
11 that in fact is safe already but even could be
12 safer with the wisdom and adroit guidance of this
13 body.

14 Thank you.

15 ACTING PRESIDENT MARCELLINO:
16 Senator Grisanti.

17 SENATOR GRISANTI: I want to thank
18 Senator Parker for having those statistics. It's
19 45 states, not 40 that actually have it.

20 I want to thank Senator Griffo for
21 bringing this bill to the floor.

22 One of the things you've got to
23 remember with regards to mixed martial arts is
24 that the respect of the opponents that are in the
25 ring is what actually drives this particular

1 sport. They are trained in either karate, they
2 are trained in wrestling, they are trained in
3 boxing. Which makes them, by fighting their
4 opponent, less likely to create injury. They
5 know where to strike, they know where to hit.
6 They don't want to cause the damage such as
7 boxing may cause, or football or hockey, when
8 you're having a fight.

9 As far as the safety factor goes,
10 the risk of injury, as Senator Parker pointed
11 out, is far, far less than any other sport that
12 is out there. The next fight for MMA actually at
13 the Rogers Centre sold 55,000 tickets in a couple
14 hours, for a total of \$11 million. Toronto is
15 only an hour and a half from Buffalo. That's
16 \$11 million that Buffalo is losing in economic
17 benefit, not to mention benefits -- we've got
18 restaurants, hotels, there's taxes that are
19 brought to New York State. There's fees and
20 permits, there's taxes that we get to collect in
21 this state.

22 So the safety factor I believe has
23 been shown. It is safe. The economic
24 development you can't ignore. The money that's
25 being brought to this state, you cannot ignore

1 that either. I vote in the affirmative for this
2 bill.

3 Thank you, Mr. President.

4 ACTING PRESIDENT MARCELLINO: Are
5 there any other Senators wishing to be heard?

6 Senator Smith.

7 SENATOR SMITH: Thank you very
8 much, Mr. President.

9 I rise just to briefly congratulate
10 my colleague Senator Griffo. This has been a
11 long time coming. You've heard the statistics
12 that Senator Parker enunciated, as well as
13 Senator Grisanti.

14 And I would just hope my colleagues
15 recognize the importance of the sport. I know we
16 have a couple of our champions that are here
17 sitting on the sidelines -- not always sitting on
18 the sidelines. But stand up so they can see what
19 mixed martial arts looks like. And it's good to
20 see you today.

21 So, Mr. President, I will be
22 enthusiastically voting yes for Senator Griffo's
23 bill.

24 ACTING PRESIDENT MARCELLINO: Are
25 there any other Senators wishing to be heard?

1 Seeing none, the debate is closed.

2 The Secretary will ring the bell.

3 SENATOR LIBOUS: Mr. President.

4 ACTING PRESIDENT MARCELLINO:

5 Senator Libous.

6 SENATOR LIBOUS: Are we on the roll
7 call yet?

8 ACTING PRESIDENT MARCELLINO: We
9 haven't called the roll yet.

10 SENATOR LIBOUS: Are we going to be
11 calling the roll momentarily?

12 ACTING PRESIDENT MARCELLINO: We
13 are going to be calling the roll instantaneously.

14 SENATOR LIBOUS: Instantaneously,
15 thank you. At this time, instantaneously, can we
16 call the roll.

17 ACTING PRESIDENT MARCELLINO: Read
18 the last section, please.

19 THE SECRETARY: Section 6. This
20 act shall take effect on the 90th day.

21 ACTING PRESIDENT MARCELLINO: Call
22 the roll.

23 (The Secretary called the roll.)

24 ACTING PRESIDENT MARCELLINO: To
25 explain his vote: Senator Adams.

1 SENATOR ADAMS: Yeah, I'm going to
2 vote for this bill. I think it's long overdue
3 that we bring mixed martial arts here to the
4 state, for several reasons.

5 I think Senator Parker raised a good
6 point on how, in order to ensure safety in
7 sports, we must bring sports out of the shadows
8 and into the professional arena.

9 And I think that clearly the sport
10 has evolved to the level that it's time to bring
11 it to the State of New York, and I'm hoping
12 others will see that as well.

13 So I'll be voting aye,
14 Mr. President.

15 ACTING PRESIDENT MARCELLINO: Thank
16 you, Senator Adams. You will be recorded in the
17 affirmative.

18 Senator DeFrancisco to explain his
19 vote.

20 SENATOR DEFRANCISCO: Yes, I'm
21 going to vote aye on the mixed martial arts
22 bill. I just think the reasoning is
23 inescapable.

24 The public wants this type of
25 activity. The public has this type of activity

1 in 45 states. We in the State of New York are
2 fighting with budget problems, and we're ignoring
3 the ability not only to please people who want to
4 see these activities or see these mixed martial
5 arts events, and we're losing the revenue.

6 So it seems to me that it's a smart
7 thing to do. It's the right thing to do. And
8 lastly, it will be regulated in the State of
9 New York when it begins and when these mixed
10 martial arts events actually start happening.

11 So to me it's a very easy step to
12 vote yes. It's logical, and it's the right thing
13 to do. Thank you, Mr. President.

14 ACTING PRESIDENT MARCELLINO: Thank
15 you, Senator DeFrancisco. You will be recorded
16 in the affirmative.

17 Senator Zeldin to explain his vote.

18 SENATOR ZELDIN: Mr. President, I
19 rise in the affirmative in favor of this bill.

20 First I want to commend Senator
21 Griffo for his leadership. I think that maybe he
22 deserves his own championship belt with the way
23 that he has rallied support to this cause over
24 the weeks and months since I've been in office.

25 Mixed martial arts, it's time for it

1 to come to New York. And I'm proud to be part of
2 its effort today to legalize it here. I can see
3 Madison Square Garden being filled up with
4 contests, creating jobs, generating revenue,
5 whether it's Western New York, upper New York,
6 down in the city and elsewhere.

7 I think of staff members that are
8 probably pretty excited right now as they watch
9 me advocating on behalf of mixed martial arts. I
10 think of people throughout the 3rd Senate
11 District in Long Island, many my age who have
12 become big fans. And now we've made a step in
13 the right direction.

14 Once again, congratulations, Senator
15 Griffo. You've done a lot to bring it to this
16 point.

17 ACTING PRESIDENT MARCELLINO:
18 Senator Zeldin will be recorded in the
19 affirmative.

20 Please announce the results.

21 THE SECRETARY: In relation to
22 Calendar Number 223, those recorded in the
23 negative are Senators Bonacic, Breslin, Diaz,
24 Farley, Fuschillo, Hannon, Huntley, L. Krueger,
25 Lanza, LaValle, Marcellino, Oppenheimer, Perkins,

1 Ranzenhofer, Saland, Savino, Stewart-Cousins, and
2 Young.

3 Ayes, 42. Nays, 18.

4 ACTING PRESIDENT MARCELLINO: The
5 bill is passed.

6 The Secretary will continue to read
7 the controversial calendar.

8 THE SECRETARY: Calendar Number
9 559, by Senator Griffo, Senate Print 2322, an act
10 to amend the Penal Law.

11 ACTING PRESIDENT MARCELLINO: Read
12 the last section.

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

15 SENATOR MONTGOMERY: Explanation.

16 ACTING PRESIDENT MARCELLINO: I'm
17 sorry, Senator Montgomery would like an
18 explanation.

19 Senator Griffo.

20 SENATOR GRIFFO: Thank you,
21 Mr. President.

22 I think that we've seen today in
23 society many challenges that are confronting our
24 figures of authority. And I've had some
25 incidents in my district. We know that we should

1 have respect for authority and in some cases even
2 fear. And when you see that diminished, when you
3 lose respect or even when people don't fear, it
4 causes concern.

5 And we've had incidents where law
6 enforcement officers in the line of duty have
7 been pushed around. And I think that's a very
8 dangerous thing to happen.

9 So essentially what this bill will
10 do, right now essentially if a law enforcement
11 officer is physically accosted without any
12 serious injury, it is strictly a violation. What
13 this bill will do is create the crime of
14 aggravated harassment. So that if you in any way
15 intentionally come in contact with that officer
16 and try to impede the enforcement of the rules
17 and regulations that govern our communities, then
18 you would be subject to this.

19 Because I think the rule of law is
20 very essential to living in a free and democratic
21 society. And when you have individuals who are
22 charged with maintaining the peace being put at
23 risk or physically abused, I think that's
24 unacceptable. And that's a strong message that
25 we should send.

1 ACTING PRESIDENT MARCELLINO:

2 Senator Montgomery.

3 SENATOR MONTGOMERY: Yes,

4 Mr. President, thank you.

5 I'm looking at this bill and the
6 language in the bill. I'm not sure that I
7 understand what Senator Griffo is talking about
8 when he says that he has so many police officers
9 who have been pushed around.

10 ACTING PRESIDENT MARCELLINO: Are
11 you on the bill, Senator Montgomery?

12 SENATOR MONTGOMERY: I'm on the
13 bill.

14 ACTING PRESIDENT MARCELLINO:
15 Senator Montgomery on the bill.

16 SENATOR MONTGOMERY: Okay, on the
17 bill.

18 And I'm reading this language. I
19 know he says, you know, the police officers are
20 in such danger and they get pushed around and
21 they get injured. And indeed, we all -- none of
22 us want any police officer to be injured or
23 certainly killed while on duty.

24 However, this bill that he is
25 proposing here where he calls for a crime of

1 aggravated harassment of a police officer or a
2 peace officer, you're guilty of that crime if you
3 approach a police officer with the intent to
4 harass or annoy or threaten or alarm a police
5 officer.

6 So while he talks about the danger
7 to the police officer, the language clearly is
8 very, very different from physical harm. He is
9 proposing that if you say the wrong thing, if the
10 police feels threatened, feels that you're
11 annoying him or her, you can be charged with an
12 E felony of aggravated harassment of a police
13 officer.

14 Now, Mr. President, some of us have
15 more people in their districts who are more
16 likely to receive this kind of charge than some
17 of the others of us. So the way we look at this
18 bill, I'm assuming, is very different. Senator
19 Griffo's district may be very different from
20 mine.

21 But I attended an event where a
22 thousand people showed up over a weekend because
23 they had all received -- from being subpoenaed,
24 they had received court-ordered -- one of those.
25 They were warrants. These are young people,

1 primarily, primarily young men of color, a
2 thousand of them. And that's only the tip of the
3 iceberg.

4 They came to a church to get their
5 situation addressed so that they would not be
6 automatically put into -- taken to the precinct
7 and arrested because they had a warrant if there
8 was any contact with a police officer.

9 Now, with this, any of those people
10 being charged with this aggravated harassment of
11 a police officer would automatically receive an
12 E felony in addition to whatever desk warrant
13 they had received.

14 So I have a particular objection to
15 this. This is a target to certain people. We
16 all know that there are certain communities in
17 New York City, we have 600,000 stop-and-frisks.
18 Most of them, the person hasn't done anything.
19 However, there are another few hundred thousand
20 cases where police officers stop a young person
21 and that young person gets charged with some
22 charge similar to this aggravated police
23 harassment.

24 We cannot continue to go down this
25 road. We cannot continue to allow police to do

1 the kind of policing that results in the harm of
2 young people in certain communities because they
3 can, because we allow them to, because we pass
4 legislation which allows police to charge people
5 with an E felony because they feel annoyed or
6 they feel threatened or they say they feel
7 threatened.

8 So this is a very, very dangerous
9 legislation for us to be considering. I hope
10 that people will hear how very, very bad this
11 bill is and decide that we cannot allow ourselves
12 to pass such legislation which is so very harmful
13 to young people, particularly young people of
14 color, particularly young men of color in certain
15 neighborhoods in our state.

16 So, Mr. President, I vote no and I
17 encourage my colleagues to join me in objecting
18 and opposing this legislation.

19 ACTING PRESIDENT MARCELLINO:
20 Senator Griffo, do you want to speak? Or do you
21 want to let Senator -- Senator Diaz.

22 SENATOR DIAZ: Mr. President, would
23 Senator Montgomery yield for a question or two?

24 ACTING PRESIDENT MARCELLINO:
25 Senator Montgomery, will you yield?

1 I'm assuming she will.

2 SENATOR MONTGOMERY: I probably
3 can't answer the questions about the motivation
4 of this legislation because it's not my
5 legislation. I'm simply opposing it. I just
6 want to make that clear.

7 ACTING PRESIDENT MARCELLINO: With
8 that caveat, she yields, Senator.

9 SENATOR DIAZ: Let me see if I hear
10 you right. You are telling me -- see, my
11 daughter is a police sergeant in the City of
12 New York. You're telling me that if anyone is
13 stopped by a police officer and that police
14 officer thinks that the person has used foul
15 language against the police officer, would that
16 person be charged with this kind of law?

17 SENATOR MONTGOMERY: I would
18 imagine, based on the language in this bill.

19 It says specifically that when a
20 police officer feels harassed, annoyed,
21 threatened or alarmed. So if that police officer
22 is annoyed that someone cursed him when he
23 stopped that person, that police officer could,
24 based on this legislation, charge that person
25 with an E felony for police harassment.

1 SENATOR DIAZ: Mr. President, would
2 Senator Montgomery yield for another question.

3 ACTING PRESIDENT MARCELLINO:
4 Senator, will you yield?

5 SENATOR MONTGOMERY: Yes,
6 Mr. President.

7 ACTING PRESIDENT MARCELLINO: She
8 will yield, Senator.

9 SENATOR DIAZ: My understanding of
10 this bill was that the person has to physically
11 assault a police officer. You are telling me now
12 that that doesn't have to happen? Only if the
13 police officer feels that, hey, you're annoying
14 me, just because of that the person could be
15 charged with an E felony?

16 SENATOR MONTGOMERY: Yes. Based on
17 the language in this bill.

18 SENATOR DIAZ: One more question,
19 Mr. President, if the Senator would yield.

20 ACTING PRESIDENT MARCELLINO:
21 Senator Montgomery, will you yield for one more
22 question?

23 SENATOR MONTGOMERY: Yes, I will
24 continue to yield.

25 ACTING PRESIDENT MARCELLINO: She

1 will yield, Senator.

2 SENATOR DIAZ: Let me -- let me --
3 let me make myself clear, Senator Montgomery.
4 You are telling this body that a police officer
5 doesn't have to be physically assaulted, just the
6 police officer just has to feel annoyed or just
7 doesn't have to like the person and that person
8 could be charged with an E felony?

9 SENATOR MONTGOMERY: Absolutely.
10 If the police officer feels threatened, feels
11 annoyed, feels harassed, this charge can be
12 levied against that person.

13 SENATOR DIAZ: Mr. President, on
14 the bill.

15 ACTING PRESIDENT MARCELLINO:
16 Senator Diaz on the bill.

17 SENATOR DIAZ: I am a father, a
18 proud father of my older daughter. She is a
19 police officer in the City of New York. She's a
20 police sergeant. And definitely I want her to be
21 protected and to be respected.

22 However, after listening to Senator
23 Montgomery's explanation of this bill and to
24 think, to think that even myself, myself or
25 anybody else could be stopped by a police officer

1 and, just because sometimes we move our hands or
2 we do those -- many kind of gestures, and that
3 police officer might feel disrespected, he or she
4 might feel disrespected or annoyed because my
5 gesture or my tone of voice or whatever, he
6 doesn't like, and because of that I'm going to be
7 charged with an E felony?

8 I thank Senator Montgomery for
9 giving me that explanation. Because I was ready
10 to vote yes for the bill, but after listening to
11 her explanation there is no way I could vote yes
12 for this kind of bill.

13 I always will ask for respect for a
14 police officer. I always, even in my church, I
15 ask my young people and the parishioners that
16 when a police officer stop them, if they are
17 driving, to put their hands on the wheel. And
18 also always be respectful, calling them "yes,
19 sir," "no, sir," "yes, ma'am," "no, ma'am," and
20 do as they're told.

21 But if they might feel that -- the
22 police officer might feel that he or she are
23 being, you know, annoyed -- I don't like your
24 mustache, I don't like your face, I don't like
25 you -- and they're going to charge someone with

1 an E felony, this is something, something for us
2 to think about it.

3 And I cannot support a bill like
4 that. Thank you. I'm voting no.

5 ACTING PRESIDENT MARCELLINO:
6 Senator Griffo.

7 SENATOR GRIFFO: Thank you,
8 Mr. President.

9 Hopefully I can ease some of your
10 concerns, Senator Diaz. Because I think there's
11 still -- I'm going to try to clarify because
12 there's still some confusion here.

13 And what Senator Montgomery might be
14 doing is if you read -- and we discussed earlier
15 the intent, the need to respect law and to abide
16 by law. And then there's the causable action.
17 And quite clearly the bill stipulates that the
18 crime is considered a crime when there is shoving
19 kicking, striking, or physical contact of the
20 officer. Not verbally, but physical contact.

21 Now, the difference between the
22 previous -- you know, the statutes that exist
23 presently talk about assault and aggravated
24 assault upon a police officer only when there is
25 serious injury. So you can undertake those

1 arrests and charges if there was serious injury.
2 If that contact resulted in a serious injury,
3 then you'd have cause to make this type of
4 charge.

5 What I am saying is sometimes it
6 goes beyond that now. We've had experiences in
7 our communities where people have had a
8 disrespect and they have pushed officers. Maybe
9 not really caused significant injury, but still,
10 in my opinion, as that happens, if we condone
11 that behavior, we see an erosion, in my opinion,
12 of what we stand for as a society. And I think
13 it's imperative and important that we continue to
14 have respect for the authority figures who are
15 trying to maintain the peace.

16 So this bill is clear. It only
17 defines the crime as shoving, kicking, striking
18 or physical contact.

19 ACTING PRESIDENT MARCELLINO:

20 Senator Diaz, why do you rise?

21 SENATOR DIAZ: Mr. President, would
22 Senator Griffo yield for a question.

23 ACTING PRESIDENT MARCELLINO:

24 Senator, will you yield?

25 SENATOR GRIFFO: Sure.

1 ACTING PRESIDENT MARCELLINO: He's
2 yielding.

3 SENATOR DIAZ: Senator Griffo, if
4 I'm stopped by a police officer and there is no
5 injury to the police officer but I am charged
6 with an E felony by that officer, then the only
7 two persons there are the police officer and
8 myself. So it is my word against the police
9 officer. There is no indication that there has
10 been a physical assault on my behalf, just the
11 police officer asserts that I assault he or she.
12 So that had to be among the two of us, and then
13 it is my word, without any physical evidence, it
14 is my word against the word of the police
15 officer.

16 SENATOR GRIFFO: Mr. President,
17 through you. Senator Diaz, I believe that in the
18 incidents that I have referred to there have
19 actually been cameras that have captured the
20 incidents. So obviously it is very clear. And I
21 think this would reflect any other situation
22 where you have interaction between an officer and
23 a individual.

24 If there's no one else present, you
25 all then can go before the criminal justice

1 system and that determination can be made
2 accordingly.

3 But I believe in many cases now you
4 are seeing a lot of proof or evidence of what
5 took place on a specific area. So it's not just
6 an individual's word. But you have cameras in
7 many places right now that are capturing this,
8 whether if they're on a car or they're on a
9 building.

10 SENATOR DIAZ: Mr. President, will
11 Senator Griffo yield for another question?

12 SENATOR GRIFFO: Sure.

13 ACTING PRESIDENT MARCELLINO: The
14 Senator yields.

15 SENATOR DIAZ: So in a case where
16 there is no camera -- again, let me see if I can
17 get you right, Senator Griffo. There is no
18 camera. There is nothing to justify, nothing to
19 justify or to verify the charges of the police
20 officer. It's only his or her word against my
21 word. Isn't that right?

22 SENATOR GRIFFO: Mr. President,
23 through you. Senator Diaz, if it was a situation
24 as you describe, it would then go to the
25 credibility of the witnesses and the situation,

1 and that would have to be decided by the criminal
2 justice system, whether it be the judiciary or
3 the attorneys that are present in that situation
4 after that.

5 SENATOR DIAZ: One more question
6 and I'm finished.

7 ACTING PRESIDENT MARCELLINO: One
8 more question, then he's finished.

9 SENATOR GRIFFO: I do.

10 ACTING PRESIDENT MARCELLINO: We
11 have witnesses, Senator.

12 SENATOR DIAZ: Senator Griffo, you
13 know, I represent people in some part of this
14 state called the South Bronx. I don't think that
15 I could have many cases or many indications where
16 the word of one of the residents of the South
17 Bronx of the City of New York are given more
18 consideration than the word of the police
19 officer. Even though, even though they could
20 have been right. But it's always -- always the
21 system in the city is always geared to believe
22 the police officer more than the resident.

23 So you are asking us -- or no, let
24 me rephrase. Are you asking us to have a leap of
25 faith and just support this bill thinking that a

1 judge or someone will believe a black
2 Puerto Rican guy with kinky hair and broken
3 English, would believe that person better than a
4 police officer? Are you asking us to have that
5 leap of faith?

6 SENATOR GRIFFO: Mr. President,
7 through you. Senator Diaz, I would hope that we
8 all have some level -- while it's not perfect,
9 that we do believe in the judicial system of this
10 country. And when you have a situation like
11 that, you still have that opportunity to present
12 to a jury of peers. And there has to be
13 unanimous verdict beyond a reasonable doubt.

14 So I think that, you know, the
15 system is in place and can work. What we're
16 trying to accomplish here is to ensure that we
17 keep stability and preserve order in our society.

18 SENATOR DIAZ: I got to do one more
19 question.

20 (Laughter.)

21 ACTING PRESIDENT MARCELLINO:
22 Senator, we have witnesses now.

23 (Laughter.)

24 SENATOR DIAZ: One more question.

25 ACTING PRESIDENT MARCELLINO: One

1 more question. Will you yield, Senator?

2 SENATOR DIAZ: Senator Griffo, did
3 you --

4 ACTING PRESIDENT MARCELLINO: Wait
5 a second, wait a second.

6 Do you yield, Senator?

7 SENATOR GRIFFO: Yes.

8 ACTING PRESIDENT MARCELLINO: The
9 Senator yields.

10 SENATOR DIAZ: Senator Griffo, did
11 you hear Senator Montgomery say that many cases
12 of stop-and-search and this balance, on those
13 cases, meaning that the majority, a great
14 majority of those stop-and-search cases are among
15 black and Puerto Rican, and many of them might be
16 charged with annoying, annoying a police
17 officer?

18 So if that is so, I don't see why, I
19 don't see why, I don't know why, I don't know, I
20 cannot visualize how could we vote for something
21 like this.

22 Thank you, Mr. President.

23 SENATOR GRIFFO: Mr. President,
24 through you. Senator Diaz, I respect your
25 opinion. But again, I think there's a

1 mischaracterization here of the actual action
2 here.

3 It cannot be just merely an
4 annoyance or a conversation or a verbal
5 altercation. There has to be some physical
6 contact. And there has to be a point where
7 beyond, as I said, the previous -- the statute
8 that exists currently says if that contact occurs
9 and there's an injury, you can press this charge.

10 What I'm saying is why do we want to
11 wait to that level where there's that type of
12 injury. If somebody is pushing a figure of
13 authority who is charged with protecting and
14 preserving the peace of our community, I think we
15 need to assure that we do not condone that, that
16 we find that unacceptable, and that the charges
17 reflect that.

18 Thank you, Mr. President.

19 ACTING PRESIDENT MARCELLINO:
20 Senator Rivera.

21 SENATOR RIVERA: Thank you,
22 Mr. President. Would Senator Griffo yield for a
23 question?

24 ACTING PRESIDENT MARCELLINO:
25 Senator Griffo, do you yield?

1 SENATOR GRIFFO: I do.

2 ACTING PRESIDENT MARCELLINO: He
3 yields, Senator.

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

6 Are there charges that could be
7 brought if there's a situation -- and as you
8 pointed out, the current statute establishes
9 assault and aggravated assault. Are there
10 current statutes on the books that establish a
11 lesser charge, maybe disorderly conduct for
12 physical contact that occurs between someone who
13 is speaking to a police officer and the police
14 officer? Are there lesser charges that exist?

15 SENATOR GRIFFO: There are lesser
16 charges, such as disorderly conduct or
17 potentially even resisting arrest, but there are
18 lesser penalties also. It would be a violation.

19 SENATOR RIVERA: Thank you,
20 Mr. President. On the bill.

21 ACTING PRESIDENT MARCELLINO:
22 Senator Rivera, on the bill.

23 SENATOR RIVERA: I thank you,
24 Senator Griffio, for your answer. But based on
25 it, I'm going to have to oppose this bill.

1 I certainly accept the statement
2 that we want to make sure that police officers
3 all over this state can perform their duties and
4 keep us safe. But I have to absolutely agree
5 with my colleagues, particularly with Senator
6 Montgomery.

7 As we've pointed out, the bill does
8 have language that refers to striking, shoving or
9 kicking. However, it goes on to say "or
10 otherwise subjects such person to physical
11 contact." It seems to me that in certain
12 instances where there might be some words
13 exchanged, that if there is a reaction from the
14 person who the police officer is speaking to, and
15 this bill just defines physical contact, physical
16 contact might be a slight shove.

17 It also does not specify whether the
18 police officer has identified him or herself as
19 such. If there is an undercover police officer
20 that is entering into a battle of words with
21 someone and someone says -- you know, says
22 something and pushes them, all of a sudden it has
23 turned into something else. Now that person who
24 might have not even known that they were speaking
25 to a police officer now finds themselves charged

1 with this particular charge.

2 I would say that I agree with the
3 intent of the legislation that we want to make
4 sure that we maintain respect for the rule of law
5 across the state. But particularly considering
6 the community that I represent, the communities
7 that I represent and the issues that have
8 presented themselves sometimes with law
9 enforcement, I would have to oppose this bill.

10 I think that there's some changes
11 that could be made to make it better or that
12 there are laws that are currently on the books
13 that can address the concerns that the
14 legislations want to address.

15 Thank you, Mr. President. I will be
16 voting in the negative.

17 ACTING PRESIDENT MARCELLINO: Thank
18 you, Senator Rivera.

19 Senator Adams.

20 SENATOR ADAMS: Thank you,
21 Mr. President.

22 I have sort of mixed feelings on
23 this bill, because no one should put their hand
24 on a police officer while he or she is performing
25 their duties. And I understand the spirit of

1 what Senator Griffo is doing. And so you sort
2 of -- I have sort of -- I'm unclear on exactly
3 how we can move forward with obtaining the goal
4 of making sure that while the police officer is
5 performing his duties he's not going to be
6 interfered by a member of the public.

7 But I think Senator Montgomery
8 raised a very important point. When you have
9 600,000 young people in New York City who are
10 stopped, questioned, and frisked -- and many of
11 those cases from those stop, question, and
12 frisks, many of those cases grew to arrests. And
13 the arrests were based on police officers
14 charging the young people with disorderly
15 conduct, resisting arrest, and assault on a
16 police officer. They were actions that were not
17 initiated by the initial stop, they were actions
18 that initiated during the stop.

19 So there's a real concern that a
20 police officer can make a simple stop grow into
21 an arrest and physical contact.

22 And I think we have good laws on the
23 books that protect officers. When a person
24 assaults an officer, that's automatically a
25 felony, assault on a police officer. And even if

1 the injury is minor, it's a felony. And
2 resisting arrest is not a violation, as I think
3 it was reportedly stated. It's not a violation,
4 it's a misdemeanor. A person cannot resist
5 arrest.

6 So with the goal of ensuring that
7 when a police officer is carrying out his
8 function, he's not interfered by a member of the
9 public, I think we have some good laws on the
10 books that would ensure that if someone assaults
11 a police officer or resists arrest by a police
12 officer, he or she will be arrested and there are
13 laws on the books that protect that.

14 To take the principles of harassment
15 and turn it into a felony, that's concerning to
16 me. Because one thing we don't want to do in
17 America, we don't to want to outpace other
18 countries in the largest number of people who are
19 incarcerated. Because incarceration should be
20 reserved for the worst among our society. Not
21 people who had a bad day, not people who are
22 angry.

23 We don't want to get in the business
24 of merely incarcerating people because we stopped
25 them at a traffic stop and they were angry

1 because we stopped them. I've stopped people
2 during my 22-year policing career where I could
3 have easily arrested the person because he was
4 outraged because I was giving him a summons or I
5 told him he couldn't walk down a certain street.

6 But do we want to make a felony for
7 every member of our public? Our correctional
8 facilities should be reserved for the worst among
9 us. They should be preserved for those who
10 commit predatory crime -- rape, robbery,
11 burglary, homicide, kidnapping. Should it be
12 reserved for someone that had a dispute with a
13 police officer or someone that just merely lost
14 his temper?

15 If he does lose his or her temper to
16 the point that they assault a police officer, put
17 the handcuffs on them. If they lose their temper
18 to the point that they resist arrest of the
19 police officer, put the handcuffs on them.

20 But to push a felony -- and we need
21 to really understand, that's a permanent
22 indicator on your record. So for the rest of
23 your life. You know, a felony is like a bad
24 marriage. It never goes away.

25 (Laughter.)

1 ACTING PRESIDENT MARCELLINO: I
2 wouldn't know.

3 (Laughter.)

4 SENATOR ADAMS: So to permanently
5 give an individual a felony so every time he
6 fills out an application to get a job he has to
7 indicate it, "I have a felony" -- if he or she
8 wants to become a schoolteacher, in some
9 jurisdictions he can't become a schoolteacher.
10 He won't be able to become a barber, he won't be
11 able to sell real estate, he won't be able to
12 have anything that requires a license. That's a
13 lot.

14 And so, you know, I think that I'm
15 going to vote no on this bill. I understand the
16 desire of what Senator Griffo is attempting to
17 do. And I would encourage any bill that will
18 prevent people from interfering with the action
19 of a police officer. No one should be permitted
20 to do so.

21 But police officers are taught to
22 have thick skin. Because they know, when they
23 encounter the public, that many times in
24 encounters with the public the public is going to
25 be irate. No one is happy when you're driving

1 down Highway 87 and you're pulled over and you
2 get hit with a speeding ticket. You're not going
3 to say "Thank you, Officer." No one is happy if
4 an officer comes to your home and he or she is
5 telling you "Turn the music down."

6 No one is happy in an officer
7 encounter. In the overwhelming number of
8 encounters a police officer will have with the
9 public, it's going to be very tense
10 environments. And nobody is happy after that.

11 But we don't want to get to the
12 point where we believe, as a state, that
13 incarceration is the answer to all our
14 questions. Let's protect our officers, but at
15 the same time we have to be able to make the
16 right calls that we're not incarcerating too many
17 New Yorkers for just minor infractions or bad
18 days.

19 So I'm going to vote nay on this
20 bill. I understand what the sponsor is
21 attempting to do. I commend him for doing
22 something to ensure the safety of our police
23 officers and peace officers. But I believe that
24 this is going a bit too far. I'm going to vote
25 nay on the bill.

1 ACTING PRESIDENT MARCELLINO:

2 Senator Espaillat.

3 SENATOR ESPAILLAT: Yes, would the
4 sponsor yield for just a couple of brief
5 questions.

6 ACTING PRESIDENT MARCELLINO:

7 Senator Griffo, do you yield?

8 SENATOR GRIFFO: Sure.

9 ACTING PRESIDENT MARCELLINO: He
10 yields.

11 SENATOR ESPAILLAT: Thank you,
12 Senator Griffo.

13 You mentioned that in fact there are
14 some laws in the books already to deal with some
15 instances where there is not a very happy
16 interaction between the general public and police
17 officers. Particularly you mentioned the fact
18 that there is a resisting arrest in the books,
19 and often we see also the obstruction of
20 government administration.

21 But those two charges usually
22 follow, are followed when there is an
23 apprehension for another charge. So if someone
24 commits a crime or is in the process of
25 committing a crime and the police officer sees

1 that person and they try to stop him from doing
2 so, and if they resist arrest or they obstruct
3 the officer from conducting his or her duties,
4 those two charges usually follow another criminal
5 act.

6 But this particular bill doesn't
7 propose that that is the case. In fact, it
8 proposes that this is a stand-alone charge that
9 could come at any time. A felony charge, is that
10 correct?

11 SENATOR GRIFFO: That is correct.
12 Mr. President, through you, that is correct,
13 Senator Espallat.

14 Again, it's predicated on what could
15 be taking place. As you indicated, in many cases
16 there is a crime being committed and an officer
17 engages as a result of that. But there also
18 could be a situation where there may be a fight
19 on the street and the officers go to the fight to
20 just break it up. And in the process of that, if
21 you cannot control the situation and if you
22 cannot maintain order, and if people feel that
23 they could just physically abuse an officer
24 that's in uniform and not pay attention to the
25 commands that are being issued, I think that's a

1 problem.

2 SENATOR ESPAILLAT: I don't think
3 that many of us -- if the Senator will yield.

4 SENATOR GRIFFO: Yes.

5 ACTING PRESIDENT MARCELLINO: The
6 Senator yields.

7 SENATOR ESPAILLAT: I don't think
8 that many of us would object if the language of
9 the bill itself was clear and precise in saying
10 if a police officer is physically assaulted or if
11 an aggravated assault occurred.

12 But in fact the language of the bill
13 says if the police officer is harassed or
14 annoyed. Those two acts fall very far and apart
15 from a physical injury sustained by a police
16 officer or aggravated assault or an assault. In
17 fact, you know, it may be very well be that
18 somebody is being arrested, somebody's spouse is
19 next to them and they're upset and maybe they
20 yell at the officer or perhaps they curse at the
21 officer. And at that point that person could be
22 arrested for this particular E felony. So I
23 think that that's where the problem lies.

24 SENATOR GRIFFO: Mr. President,
25 Senator Espaillat, if I may, again I want to

1 reiterate that potentially there may be some
2 misreading of this in the sense that there's an
3 indication that the intent, when we discussed it,
4 was that we want to preserve law and order. But
5 specifically the causable action here that we are
6 putting on in order to be charged with this
7 specific crime would be shoving, kicking,
8 striking, physical contact.

9 It would not be a verbal kind of
10 rhetoric that may take place or somebody may say
11 something to somebody. So it really has to be
12 the physical contact.

13 And again, the difference is right
14 now, if that physical contact resulted in an
15 injury, that charge exists. And I am saying that
16 why do you want to wait. Let's prevent that
17 injury and let's ensure people respect and pay
18 attention to the rules of law that govern our
19 society, and as a result protect those officers
20 and give them that additional resource in order
21 to continue to preserve the peace.

22 SENATOR ESPAILLAT: Mr. President,
23 just one more --

24 ACTING PRESIDENT MARCELLINO:
25 Senator Griffo, do you yield?

1 SENATOR GRIFFO: Yes.

2 ACTING PRESIDENT MARCELLINO: He
3 yields, Senator.

4 SENATOR ESPAILLAT: In my work in
5 the criminal justice field prior to coming to the
6 State Legislature, I saw many cases of young men
7 and women that were arrested for what would
8 normally be a desk appearance ticket. Those
9 charges were primarily theft of services, jumping
10 the turnstile or things of that nature, that very
11 small nature.

12 However, almost undoubtedly, in
13 every case when they were booked -- handcuffed,
14 fingerprinted and booked -- it was because there
15 were two other charges attached to that
16 infraction. And almost undoubtedly, every time
17 those charges were resisting arrest and
18 obstructing government administration.

19 I am very concerned that if this new
20 law passes those will not be the charges. It
21 will be an E felony charge that will permanently
22 remain on the life of those individuals forever.

23 I think that laws are in the books
24 already to address those other cases. And
25 perhaps if the bill was more precise just to

1 specifically state that it would be physically
2 harming a police officer, I will be able to vote
3 for this. But in this case I will be voting in
4 the negative, Mr. President.

5 ACTING PRESIDENT MARCELLINO:
6 Seeing no other Senator wishing to be heard --
7 Senator Huntley wishes to be heard.

8 SENATOR HUNTLEY: Yes,
9 Mr. President.

10 I am sure that Senator Griffo has
11 good intentions. But I represent a district too
12 where there's a lot of --

13 ACTING PRESIDENT MARCELLINO:
14 Senator Huntley on the bill.

15 SENATOR HUNTLEY: -- stop-and-frisk
16 which turns into major, major court cases for
17 stop-and-frisk. I think we have the largest
18 number in the city.

19 And also in my district, down
20 through the years, I've seen a lot of unfair
21 justice. I think justice should go both ways.
22 I'd have to refer to what Senator Diaz said.
23 When they stop someone, when they stop a young
24 Afro-American man with nappy hair, he is never
25 going to be the one that they're going to listen

1 to. And I'm saying this from experience,
2 watching and seeing, because we have a lot of
3 very unfair justice.

4 Perhaps we can change the bill a
5 bit. But I just feel like we're just creating
6 criminals when we don't have to.

7 Thank you.

8 ACTING PRESIDENT MARCELLINO: And
9 seeing no other Senators wishing to be heard,
10 debate is closed.

11 Ring the bells, please. Would all
12 Senators please return to the chambers so we can
13 get the vote going.

14 Read the last section, please.

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

17 ACTING PRESIDENT MARCELLINO: Call
18 the roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT MARCELLINO:
21 Please, those in the negative, raise your hands
22 high so we can see them. Thank you.

23 Senator Parker, you want to explain
24 your vote?

25 SENATOR PARKER: Thank you,

1 Mr. President. To explain my vote.

2 ACTING PRESIDENT MARCELLINO:

3 Excuse me one second, Senator.

4 Can we have some order, please.

5 Thank you.

6 SENATOR PARKER: Thank you,

7 Mr. President.

8 First let me thank my colleague Joe
9 Griffo, who I think has all the best intentions
10 with this bill. I agree with him that we ought
11 to be doing everything we can, as some of my
12 other colleagues have mentioned, to protect
13 police and peace officers through the state.

14 I'm not clear that this bill does
15 what we need it to do. On one hand, we're
16 actually calling the bill harassment. And when
17 you define harassment, harassment can be actions
18 that don't necessitate a physicality. So
19 following somebody, annoying them, threatening
20 them, all that don't involve physicality, can be
21 defined and in fact are defined as harassment in
22 the law.

23 When you read 120.8 of the Penal
24 Law, it actually defines assault on a peace
25 officer or police officer, fireman, or emergency

1 medical service professional. So we actually
2 already have a law that defines assault.

3 So today you're asking us to vote on
4 a bill that you're calling harassment, but you're
5 defining it in the context of assault that 120.8
6 already exists.

7 So this bill seems duplicative to
8 me. It doesn't really do anything further to
9 protect these men and women who do so much for
10 us. And so this seems like a solution looking
11 for a problem. I vote nay.

12 ACTING PRESIDENT MARCELLINO:
13 Senator Parker will be recorded in the negative.

14 Please announce the results.

15 THE SECRETARY: In relation to
16 Calendar Number 559, those recorded in the
17 negative are Senators Adams, Diaz, Dilan, Duane,
18 Espaillat, Grisanti, Huntley, L. Krueger,
19 Montgomery, Parker, Peralta, Perkins, Rivera,
20 Serrano, Squadron, and Stewart-Cousins.

21 Ayes, 44. Nays, 16.

22 ACTING PRESIDENT MARCELLINO: The
23 bill is passed.

24 Senator Libous.

25 SENATOR LIBOUS: Thank you,

1 Mr. President. Could we quickly return to
2 motions and resolutions.

3 ACTING PRESIDENT MARCELLINO:
4 Motions and resolutions.

5 SENATOR LIBOUS: On behalf of
6 Senator Seward, I wish to call up his bill, Print
7 Number 1683, recalled from the Assembly, which is
8 now at the desk.

9 ACTING PRESIDENT MARCELLINO: The
10 Secretary will read.

11 THE SECRETARY: Calendar Number 16,
12 by Senator Seward, Senate Print 1683, an act to
13 amend the Environmental Conservation Law.

14 SENATOR LIBOUS: Mr. President, I
15 now move to reconsider the vote by which this
16 bill was passed.

17 ACTING PRESIDENT MARCELLINO:
18 Please call the roll on reconsideration.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 60.

21 SENATOR LIBOUS: Mr. President, I
22 offer up the following amendments.

23 ACTING PRESIDENT MARCELLINO: The
24 amendments are accepted.

25 SENATOR LIBOUS: Mr. President, on

1 behalf of Senator Fuschillo, on page 19 I offer
2 the following amendments to Calendar Number 138,
3 Senate Print Number 3451, and ask that said bill
4 retain its place on the Third Reading Calendar.

5 ACTING PRESIDENT MARCELLINO: So
6 ordered.

7 SENATOR LIBOUS: Mr. President, is
8 there any further business at the desk at this
9 time?

10 ACTING PRESIDENT MARCELLINO: There
11 is no further business.

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

14 There being no further business, I
15 move that the Senate stands adjourn until
16 Tuesday, May 24th, at 3:00 p.m.

17 ACTING PRESIDENT MARCELLINO: On
18 motion, the Senate stands adjourned until
19 Tuesday, May 24th, at 3:00 p.m.

20 (Whereupon, at 5:10 p.m., the Senate
21 adjourned.)

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