NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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11:09 a.m.

REGULAR SESSION

SENATOR JOSEPH A. GRIFFO, Acting President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT GRIFFO: The Senate will come to order.

I ask all present to please rise and join with me as we recite the Pledge of Allegiance to our Flag.

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

ACTING PRESIDENT GRIFFO: As we await the presence of clergy, we will ask that everyone bow their heads for a moment of silent reflection.

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

ACTING PRESIDENT GRIFFO: The reading of the Journal.

THE SECRETARY: In Senate, Wednesday, February 29th, the Senate met pursuant to adjournment. The Journal of Tuesday, February 28th, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Libous.

SENATOR LIBOUS: Mr. President, at this time may we adopt the Resolution Calendar, with the exception of Resolutions 3270, 3305, 3367, 3368, 3384 and 3457.

ACTING PRESIDENT GRIFFO: All those in favor of adopting the Resolution Calendar, with the exception of those resolutions designated as Senator Libous has specified, please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The Resolution Calendar is adopted.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I believe there's a resolution at the desk by Senator Skelos, Number 3384. Could we please have it read in its entirety and call on Senator Skelos before its adoption.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 3384, by Senators Skelos, Espaillat, and Golden, honoring the Archbishop of New York, Timothy M. Dolan, upon the occasion of his elevation to the dignity of Cardinal by the Vatican on February 18, 2012.

"WHEREAS, It is the custom of this Legislative Body to applaud the just recognition of men of the cloth who distinguish themselves and the ministry through their unremitting commitment and long-standing preeminence of service; and

"WHEREAS, Attendant to such concern, this Legislative Body is proud to honor and recognize Timothy Cardinal Dolan upon the occasion of his elevation to the dignity of Cardinal by the Vatican on Saturday, February 18, 2012, becoming the eighth cardinal-archbishop of New York; and

"WHEREAS, Timothy Michael Dolan was named Archbishop of New York by Pope Benedict XVI on February 23, 2009. He was installed as Archbishop of New York on April 15, 2009; and

"WHEREAS, This distinguished man of God had served as Archbishop of Milwaukee since he was named by Pope John Paul II on June 25, 2002. He was installed as Milwaukee's 10th Archbishop on August 28, 2002, at the Cathedral of St. John the Evangelist; and

"WHEREAS, Cardinal Dolan was born in Missouri on February 6, 1950, the first of five children, to Shirley Radcliffe Dolan and the late Robert Dolan; and

"WHEREAS, In 1964, he began his high school seminary education at St. Louis Preparatory Seminary South in Shrewsbury, Missouri. His seminary foundation continued at Cardinal Glennon College, where he earned a bachelor of arts degree in philosophy; and

"WHEREAS, He then completed his priestly formation at the Pontifical North American College in Rome, Italy, where he earned a License in Sacred Theology at the Pontifical University of St. Thomas; and

"WHEREAS, Cardinal Dolan was ordained to the priesthood on June 19, 1976. He then served as associate pastor at Immacolata Parish in Richmond Heights, Missouri, until 1979, when he began studies for a doctorate in American Church history at the Catholic University, which he earned in 1985; and

"WHEREAS, Before completing the doctorate, he spent a year researching the late Archbishop Edwin O'Hara, a founder of the Catholic Biblical Association. Archbishop O'Hara's life and ministry was the subject of the Archbishop's doctoral dissertation; and

"WHEREAS, Upon his return to St. Louis, Cardinal Dolan served in parish ministry from 1983-1987, during which time he was also liaison for the late Archbishop John L. May in the restructuring of the college and theology programs of the archdiocesan seminary system; and

"WHEREAS, In 1987, Cardinal Dolan was appointed to a five-year term as Secretary to the Apostolic Nunciature in Washington, D.C.; and

"WHEREAS, When he returned to St. Louis in 1992, he was appointed vice rector of Kenrick-Glennon Seminary, serving also as

director of spiritual formation and professor of church history. In addition, he was an adjunct professor of theology at St. Louis University; and

"WHEREAS, In 1994, Cardinal Dolan was appointed rector of the Pontifical North American College in Rome, where he served until June of 2001. While in Rome, he also served as a visiting professor of church history at the Pontifical Gregorian University and as a faculty member in the Department of Ecumenical Theology at the Pontifical University of St. Thomas Aquinas; and

"WHEREAS, The work of the Cardinal in the area of seminary education has influenced the life and ministry of a great number of priests of the new millennium; and

"WHEREAS, On June 19, 2001, the 25th anniversary of his ordination to the priesthood, then Fr. Dolan was named the Auxiliary Bishop of St. Louis by Pope John Paul II. The new Bishop Timothy M. Dolan chose for his Episcopal motto the profession of faith of St. Peter: Ad Quem Ibimus, 'Lord, to whom shall we go?'; and

"WHEREAS, Cardinal Dolan served as chairman of Catholic Relief Services from January of 2009 until November of 2010. Currently, he is a member of the board of trustees of The Catholic University of America, as well as the Pontifical Council for Promoting New Evangelization and the Pontifical Council for Social Communications; and

"WHEREAS, On June 29, 2009, Cardinal Dolan received the pallium, a symbol of his office as an archbishop, from His Holiness, Pope Benedict XVI, at St. Peter's Basilica; and

"WHEREAS, On November 16, 2010, Timothy Cardinal Dolan was elected president of the United States Conference of Catholic Bishops, succeeding Cardinal Francis George of Chicago; and

"WHEREAS, It is the sense of this Legislative Body that when a person of such noble aims and accomplishments is brought to our attention, it is appropriate to publicly and jubilantly proclaim and commend that individual for the edification of others; now, therefore, be it

"RESOLVED, That this Legislative

Body pause in its deliberations to congratulate and commend Timothy Cardinal Dolan upon the occasion of his elevation to the dignity of Cardinal on February 18, 2012, noting his unremitting and compassionate faith and his exemplary service to God, man, and his community, and extending to him the heartfelt best wishes of this Legislative Body for a future of continued purposeful success and well-being; and be it further

"RESOLVED, That a copy of this Resolution, suitably engrossed, be transmitted to Timothy Cardinal Dolan."

ACTING PRESIDENT GRIFFO: I'm going to ask members if they would please take conversations and staff outside. We're getting a little noisy here. And I would like to call upon Senator Skelos.

Senator Skelos.

SENATOR SKELOS: Thank you very much, Mr. President.

I believe the resolution -- and certainly I'm sponsoring it, Senator Espaillat and Senator Golden. And we would open up the resolution to all members of the Senate if they

wish to sponsor it. If they care not to, they should notify the desk.

The resolution reads of the cardinal's many accomplishments throughout his career. But also there's another side of the cardinal that many of us who have had the opportunity to meet with him -- there's a genuine nice guy part of him.

And I go back to when I was sworn in as leader. And the then archbishop, the cardinal, was standing in the corner with my father. And I'm going through the ceremony of the selection of the leader, and I'm looking over. My father is just chatting away with him.

And I said afterwards, "Dad, your son is being sworn in as the majority leader and you're spending most of your time discussing things with the archbishop." I said, "What were you doing?" He said, "Well, we were discussing religion. And we were trying to resolve the small differences that exist between the Catholic Church and the Greek Orthodox Church."

And I said, "Well, have you succeeded? Because I know this has been going on for generation upon generation, century upon

century." And he said, "But we're getting close."

(Laughter.)

SENATOR SKELOS: But again, the cardinal was most gracious the way he spent the time with my family, my father. And he's just a very, very special person.

And all of us in the metropolitan area, no matter what our religion is, we are all blessed to have him as a leader. He is a person that absorbs you, that loves you, that listens to you. And he will be a great spiritual leader, not just for the Catholic Church but all churches and of all faiths within the metropolitan area.

So I'm very delighted to sponsor this resolution. And again, as I said, if anybody wishes not to cosponsor it, they should notify the desk.

Thank you.

ACTING PRESIDENT GRIFFO: As Senator Skelos has specified, the resolution is open for cosponsorship. If you choose not to, please notify the desk.

Senator Golden.

SENATOR GOLDEN: Thank you,

Mr. President.

I thank our leader Senator Skelos for putting and accepting this resolution for the floor today. I think it's very, very important that a man of the prestige of the Prince of the City, this cardinal, that has been named to the City of New York.

I've got to tell you, we were at his services on Saturday and he was remarkable. He took his hat off and he actually went through what the -- where to place that hat, on -- this is part of the great Statue of Liberty, I can put it right on top of the Statue of Liberty because it's for the people of this great city and this great state.

You can put this on top of the Yankee Stadium, you can put this over at the Knicks, you can put this on the Empire State Building -- oh, I meant the World Trade Building, because the Empire State Building had denied putting up his color, the color red -- not that he requested it. Somebody else had requested that the Empire State building had been placed in red.

But I want to thank the governor of

the State of New York, the governor of New Jersey, and Pat Foye, because they decorated the World Trade Center in red in honor of that cardinal.

And that cardinal will work, as in that church that day out of the presence of all walks of lives, all different faiths, all different colors and religions that came together and he will work with over his leadership here in this great city. Obviously it being a Saturday, he could not work with the Jewish community but was on his way to meet with the Jewish community on that Monday.

I think Mr. Dolan, our new cardinal, Cardinal Dolan, is going to be a great addition to our city as the cardinal and has been a great archbishop over the past couple of years.

And I believe we're looking forward to working with him and helping those that need the most help, those that fall between the cracks, those that are in Catholic charities, those that need help with their children, those seniors that need help and the different families that need help across the spectrum, whether it be

in the hospital system, the healthcare system, our nursing homes, our assisted living facilities, our adoption facilities. We're looking forward to working with this Prince of the City.

And I thank you, Senator Skelos, for putting this on today, and I thank our conference for putting it on as well.

ACTING PRESIDENT GRIFFO: Thank you, Senator Golden.

Senator Espaillat.

SENATOR ESPAILLAT: Thank you, Mr. President.

I read the papers when Cardinal Dolan came back from his ascension to be cardinal from Italy, and the paper said that he wants to be a saint. But what he really wanted was for all of us to aspire to do better spiritually and for all of us to be saints. That's a tall order, Mr. President, right here at the Senate.

But, you know, we could certainly look towards his guidance. And he has been one that -- a spiritual leader that has embraced the Catholic congregations across the archdiocese.

And I have met with him several

times. Every year he holds a special mass for Our Lady of Altagracia, which is the patron saint, the protector saint of the Dominican Republic, where thousands of followers go to St. Patrick's Cathedral for this service. And he does this with each and every one of the communities across the City of New York, across the archdiocese.

And he's certainly a great spiritual leader for our city, our state, and the country. And I look forward to having conversations with him as we move forward.

And I thank the leader for this resolution, and all the sponsors as well.

Thank you.

ACTING PRESIDENT GRIFFO: Thank you, Senator Espaillat.

Senator Bonacic.

SENATOR BONACIC: Thank you.

I just want to share a little story with you. We are fortunate to have a cardinal that is there for all the people. But there was a priest that served in the eastern part of Orange County, in Senator Larkin's district, a priest by the name of Father Valastro. Just

about four days ago Father Valastro was very ill, he was on his deathbed. And Cardinal Dolan came to Orange County to spend some time with that priest before he passed away.

And today at 11 o'clock, in the city of Middletown in Orange County, they're having a mass for that priest, of which he is there doing the mass.

Now, I say that to you to show the depth and the character of the man as well as the cardinal. We expect great things from him, he will give us great things, and I hope someday he becomes the pope.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Bonacic.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, thank you. As Senator Skelos requested, the resolution is open for everyone. If someone wishes not to be on it, check in with the desk.

ACTING PRESIDENT GRIFFO: So noted.

SENATOR LIBOUS: And at this time, Mr. President, there's a resolution, I believe by Senator Rivera, at the desk. Could we read it in its entirety, and I believe Senator Rivera would like to make some comments before it's adopted.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 3305, by Senator Rivera, mourning the death of Police Officer Anthony V. Digiovanna.

"WHEREAS, A great state is only as great as those individuals who perform exemplary service on behalf of their community, whether through unique achievement in professional or other endeavors, or simply through a lifetime of good citizenship; and

"WHEREAS, It is the sense of this Legislative Body to mourn the death of Police

Officer Anthony V. Digiovanna; and

"WHEREAS, Police Officer Anthony V. Digiovanna was sworn into the New York City Police Department on February 28, 1994, and began his career as a full-time officer with the 48th Precinct in the Bronx. During that time, he familiarized himself with the streets of the Bronx by walking every block of his precinct, learning about the community he was representing and protecting; and

"WHEREAS, In 1997, Police Officer Anthony V. Digiovanna, along with his partner, John Muskus, was assigned to monitor the condition of prostitution in the West Farms area of the Bronx. Together, they made approximately 400 arrests, bringing such a noted improvement to the quality of life to the West Farm community that they were recognized and awarded plaques of honor; and

"WHEREAS, During the years from July of 2000 until September of 2004, Police Officer Anthony V. Digiovanna was assigned to the Community Policing Unit. Through his faithful work ethic and dedication, he further bonded with his community, consistently attending community

events while addressing the important concerns of the residents of the Bronx community; and

"WHEREAS, On September 11, 2001, Police Officer Anthony V. Digiovanna volunteered to be one of the first responders to the World Trade Center site, spending the first 20 hours of the attack at Ground Zero, and then spending the next four months participating in recovery efforts. Unfortunately, like many others who served at Ground Zero, Police Officer Digiovanna was diagnosed with respiratory difficulties and a rare form of cancer in 2002; and

"WHEREAS, Police Officer Anthony V. Digiovanna fought for his life, underwent aggressive chemotherapy and a stem cell transplant, and was very happy when he was able to return to the 48th Precinct of the Bronx and continue to serve the people of his city; and

"WHEREAS, His superiors recognized Officer Digiovanna's strong bond with the community and realized he would be a natural for the position of community affairs officer; and

"WHEREAS, Subsequently, Police Officer Anthony V. Digiovanna was assigned to the esteemed position of community affairs officer

for the 48th Precinct in September 2004; and

"WHEREAS, Police Officer Anthony V. Digiovanna referred to the Bronx community and its leaders as his 'second family.' It was fitting that whenever his community needed help, he was there to assist them. Whether on or off duty, he could be reached any time, responding promptly and efficiently and ready to execute the duties of his position; and

"WHEREAS, Police Officer Anthony V. Digiovanna was seen as a liaison and communicator between the Police Department and the people of the Bronx. He was honored with awards, special recognition, and citations for his hard work and dedication to the Bronx; and

"WHEREAS, It is the practice of this Legislative Body that those who enhanced the quality of life in their community and demonstrated a long and sustained commitment to the maintenance of high standards in their profession certainly have earned the recognition and applause of all the citizens of this great Empire State; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to mourn the

death of Police Officer Anthony V. Digiovanna;
and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to the family of Police Officer Anthony V. Digiovanna."

ACTING PRESIDENT GRIFFO: Senator Rivera.

SENATOR RIVERA: Thank you, Mr. President.

It is a tradition of our body to take a second and recognize when we have folks that are New Yorkers that have done great service for our state and for our communities. And so it is now that I take the time to pause for a second and talk a little bit about our friend Tony. And when I say "our friend," I mean our friend in the Bronx.

I've only been serving for over a year. And that part of the Bronx, the East Tremont and West Farms part of the Bronx, is not one that I'm very familiar with. And my staff was somewhat familiar with it. And in reaching out to the local community, we reached out to the local precincts. And one of the people who

responded was Tony.

When he responded to us, he was nothing but a help. Every time that we needed something from that precinct, he called us. Every time that there were some issues in that precinct, he called us. And he was always an immense help to us.

I remember -- and one thing is that I did not know about some of the challenges that Tony had faced when I met him. I didn't know that he had faced cancer, I didn't know that he had won against cancer, and I didn't know that he had come back to work after that. All that I knew was this happy guy who was always being helpful to my staff.

And one time in particular, last year I did a health initiative in which I -- I've lost like 27 pounds since then, but I remember the first community weigh-in that we had in which I had just weighed in at 299 pounds. And Tony was actually there as a member of the community affairs team for the 48th Precinct, and he was serving hot dogs. And he actually came up to me, and he said, "You know, if you want to lose weight, you should have a hot dog, because every

food group is represented in one of these."

(Laughter.)

SENATOR RIVERA: And that was the kind of guy that he was.

I take this time to not only recognize his great work and his great partnership with my office and with the rest of the community, but also to recognize his family, who is here. Through all this bad weather they came up because they wanted to make sure that they were here when we recognized Tony's life and Tony's work.

His wife Joanna is up there, joined by his four daughters -- and I want to make sure I get the names right -- Jessica, Melissa, Rebecca, and Sabrina. If you could all stand for a moment, I would thank you.

This is his family.

(Applause.)

SENATOR RIVERA: These are the folks he leaves behind. He leaves behind four young daughters, one of which is going to be a doctor -- yes, you are -- one of which is going to be a lawyer. The other one is going to be a photographer, and I think the other one is going

to be a Senator, because she was just sitting in this chair just a little bit earlier.

(Laughter.)

SENATOR RIVERA: But I thank them for coming, but I wanted to make sure that I just said to them thank you for lending us Tony for as much as you did in the community.

And I know that he's watching down right now, and he's going to make sure that the doctor, the attorney, the photographer, and the Senator all get to be productive members of society and great help to the community just like he was.

I want to thank my colleagues for giving me this second to just thank them for their service. The rest of the family is also here.

I would also like to mention his partner, Melanie Kujawinski, and a fellow community affairs officer, Richard Marina, who also miss him.

We miss him every day. And we know that he's here watching us, and I know that his four daughters will continue to make him proud.

Thank you so much, Mr. President

ACTING PRESIDENT GRIFFO: Thank you, Senator Rivera.

Senator Hassell-Thompson.

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

As someone who also represents the Bronx, I would like to add my celebration of the life of Tony here in the chambers. And I want to thank my colleague Senator Rivera for bringing this resolution.

Too seldom, unless you make the front page of the paper, do you get the recognition that you so amply deserve. But in this officer I just -- you know, I don't usually read texts while I'm in session, but I was glad I did, because my staff said, "We only have a tiny part of the 48th, but he's in our district. You've got to say something." And so -- but I had already been given the privilege of doing so.

And so I, along with Senator Rivera and this body, while we mourn with you, we celebrate with you a tremendous individual and know that the community at large is there for you and supports you.

And thank you, Senator Rivera.

ACTING PRESIDENT GRIFFO: Thank you, Senator Hassell-Thompson.

We'd like to again acknowledge the Digiovanna family. We want to extend our appreciation for Anthony's service to his city and our state. We also want to express our condolences to you on your loss.

And I would ask all members to now please rise in a moment of silent tribute.

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

ACTING PRESIDENT GRIFFO: The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Gallivan.

SENATOR GALLIVAN: Senator Rivera would like to open this resolution for cosponsorship. Can we please place everyone on

as a cosponsor. If someone does not wish to be a cosponsor, they should notify the desk.

ACTING PRESIDENT GRIFFO: At the invitation of Senator Rivera, the resolution is open for cosponsorship. If you choose not to, please notify the desk.

Senator Gallivan.

SENATOR GALLIVAN: Mr. President, I believe there's a resolution by Senator Marcellino, Number 3457, at the desk. I ask that the title be read and ask for its immediate adoption.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 3457, by Senator Marcellino, celebrating the life and accomplishments of famed veteran foreign war correspondent Marie Catherine Colvin.

ACTING PRESIDENT GRIFFO: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

Mr. President, in the movie A Few Good Men, Jack Nicholson at the time issued a

phrase that's been oft-quoted. That phrase was "The truth? You can't handle the truth."

Well, apparently the government of Syria couldn't handle the truth that famed reporter Marie Colvin was reporting from the city of Homs, which the Syrian government has been mercilessly attacking and killing and slaughtering innocent civilians simply because they disagree with the dictator Assad's position and tyrannical leadership of that nation.

In order to suppress the truth from being reported, the Assad government singled out the location where Marie and other journalists were reporting from and had that site purposely targeted and attacked. The end result was killing Marie Colvin, who was a resident of the town of Oyster Bay, that I represent.

Graduated from Oyster Bay High School, went to Yale University, and for 25 years an award-winning journalist for the British Sunday Times. She lost an eye through a shrapnel wound in Sri Lanka in 2001.

This lady believed in the truth and the reporting of the truth. A free nation like ours depends on a free press, a press that is

fearless, a press that will go out and report the truth under all circumstances, under all conditions.

Marie had that courage and Marie was dedicated to reporting the truth. Unfortunately, the Syrian government was successful in silencing her. On the 22nd of February, she was killed in that attack.

We should never forget her service. We commend her family, who still reside in the town of Oyster Bay. We commend Marie's life as a model to journalists and people who are studying journalism who want to go into that field, that reporting the truth can sometimes be a risky business. Some people don't like the truth. Some people, as the man said, can't handle the truth.

We as a free nation must always defend the truth and those who report it. The Assad government is despicable. What they are doing to their own people is a disgrace and should be condemned by the world community. The loss of Marie Colvin is a loss to journalism, it's a loss to the truth, and it's a loss to the profession of journalism throughout the world.

On behalf of the family, I wish to offer our condolences and we wish to offer the respect of this body for Marie's service to humanity and her dedication and her courage in the face of obvious danger. She didn't flinch; she did her job. Others of her profession at the same time were also killed and should also be remembered. And we should never forget that, and we should keep her in our prayers and keep her family in our prayers.

Mr. President, I urge that this resolution be opened to all members of the body, as we do usually with the other resolution beforehand, and be opened for cosponsorship on behalf of Marie and her family.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Marcellino.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The

resolution is adopted.

And the resolution is open for cosponsorship, at the request of Senator Marcellino. If you choose not to, please notify the desk.

Senator Libous.

SENATOR LIBOUS: Mr. President, at this time I believe there's a resolution at the desk by Senator Golden, Number 3367. Could you please have it read in its entirety and call on Senator Golden before its adoption, please.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative resolution mourning the death of Major League Baseball Hall of Famer Gary Edmund Carter.

"WHEREAS, It is the custom of this Legislative Body to pay tribute to the memory of those exemplary athletes from the State of New York who attained unprecedented success and achievement through their personal courage, integrity, and dedicated effort; and

"WHEREAS, Attendant to such concern, and in full accord with its long-standing traditions, this Legislative Body

mourns the death of Major League Baseball Hall of Famer Gary Edmund Carter; and

"WHEREAS, Gary Carter, the slugging catcher, known as 'Kid' for the sheer joy he took in playing baseball, died on Thursday, February 16, 2012, at the age of 57; and

"WHEREAS, Born on April 8, 1954, in Culver City, California, Gary Carter was both an infielder and a star quarterback at Sunny Hills High School in Fullerton, California. He planned to play football at UCLA, but pursued baseball instead when he was selected by the Montreal Expos in the third round of the 1972 draft; and

"WHEREAS, The Expos switched Gary Carter to play catcher, and he made his debut for them in September 1974. Playing his first 11 seasons in Montreal, he became the face of the franchise, but was later traded to the New York Mets in December 1984; and

"WHEREAS, Gary Carter's big opening day in 1985 was the prelude to a season in which he hit a career-high 32 home runs. This major accomplishment set the stage and helped to propel the Mets for their dramatic 1986 World Series

championship year; and

"WHEREAS, In his five seasons with the Mets, the right-handed-hitting Gary Carter added considerable power to a lineup that featured the left-handed-hitting Keith Hernandez and Darryl Strawberry; and

"WHEREAS, Gary Carter played with intensity and flair, hitting 324 home runs and punctuating many of the ones he hit at Shea Stadium with arm-flailing curtain calls emblematic of the Mets' swagger in the mid- and late 1980s. In his 19 seasons in the major leagues, all but two of them with the Expos or the Mets, he was an 11-time All-Star and was twice named the most valuable player in the All-Star Game; and

"WHEREAS, In addition to his 324 home runs, Gary Carter drove in 1,225 runs and had a career batting average of .262. His 298 home runs while in games as a catcher ranked him No. 7 on the career list; and

"WHEREAS, Elected to the MLB Hall of Fame in 2003, Gary Carter won three consecutive Gold Glove awards, from 1980-82, with the Expos. He caught in 2,056 games, placing him

No. 4 among major league catchers; and

"WHEREAS, After his playing days, Gary Carter was a roving minor-league instructor for the Mets, a broadcaster for the Florida Marlins, a manager in the Mets minor-league system and with the independent Long Island Ducks. He was most recently the coach at Palm Beach Atlantic University; and

"WHEREAS, Gary Carter is survived by his wife, Sandy; two daughters, Christy and Kimmy; son, Douglas James; and three grandchildren; and

"WHEREAS, Armed with a humanistic spirit and imbued with a sense of compassion, Gary Carter leaves behind a legacy which will long endure the passage of time and will remain as a comforting memory to his teammates and the numerous fans who watched him play America's favorite pastime; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to mourn the death of Major League Baseball Hall of Famer Gary Edmund Carter; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to

the family of Gary Carter."

ACTING PRESIDENT GRIFFO: Senator Golden.

SENATOR GOLDEN: Thank you, Mr. President.

I introduce this New York State resolution remembering the New York Mets legendary Gary 'the Kid' Carter, who died of brain cancer on February 16th. Many of us watched his memorial service, attended by many heroes and legends of major league baseball.

Today the New York State Senate has an opportunity to pay tribute to Number 8, Gary Carter. New York lost one of the heroes from 1986, a legendary "Boy of Summer," with the passing of Gary Carter. He was a hero to the children that watched and grew up with him and to those that remember him today: A Hall of Famer, a World Series champion, a humanitarian.

The good life that was Gary Carter's ended at the very early age of 57. Gary Carter may have lost his battle with cancer, but today we pause to honor him and guarantee that his legacy will inspire people for future generations.

And I thank the Empire State Building on this one, because they did light up for this good individual, this hero, last week, in orange, blue and white in honor of Gary Carter.

And I want to join all of my fellow Met fans and all the fans of baseball in mourning his great loss. And I want to open up this resolution, obviously, to all of my colleagues.

And I understand from my good colleague that he played ball for --

SENATOR YOUNG: The Jamestown Jammers.

SENATOR GOLDEN: -- the Jamestown Jammers here in New York. He was an inspiring individual for Cathy and for many of the young people that grew up with him.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Golden.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

And the sponsor has opened it up to cosponsorship. If you choose not to, please notify the desk.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I believe there's a resolution at the desk by Senator Kennedy, Number 3368. Again, could we have its title read and then call on Senator Kennedy.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 3368, by Senator Kennedy, honoring L. Nathan Hare for his distinguished and dedicated service to the citizens of Western New York.

ACTING PRESIDENT GRIFFO: Senator Kennedy.

SENATOR KENNEDY: Thank you, Mr. President.

Today being March 1st, we have

enjoyed the previous month remembering and honoring great African-American leaders who have made our nation and our state strong, great leaders whose names fill our history books and whose stories we teach our children.

As Black History Month comes to a close, I wanted to take this opportunity to honor and share the story of a man who has worked tirelessly to strengthen neighborhoods and improve the quality of life in Western New York and across the state, L. Nathan Hare. His work and his leadership are rewriting the modern history of Buffalo and Western New York.

Nathan Hare runs the Community Action Organization of Erie County, which is one of the oldest antipoverty organizations in the entire nation. As just the third executive director of the agency since 1965, Nathan is leading CAO as it enters a new era where the challenges remain great and the commitment to our community remains unwavering.

As many of you know, the City of Buffalo struggles with poverty. As one of the poorest cities in the country, far too many citizens have fallen below the poverty line. We

are working hard to help these families climb out of poverty, and no one is working harder than Nathan Hare.

For more than 30 years he has dedicated his career to breaking the cycle of poverty, extending his hand to countless men and women in need of help. He has placed a special focus on youth employment, education, foster care, and juvenile justice. His aim has been empowering young people to succeed academically and professionally and to achieve greatness for the community.

To meet these goals, he has helped maintain and expand a comprehensive youth development program, himself creating an initiative called NURTURE, an acronym for Neighborhood United for Restoration, Upliftment, Recreation and Education.

By reviving the Neighborhood Services Department and establishing the Family Development Department, he has demonstrated his dedication to building stronger neighborhoods and stronger families in Western New York, which are essential to improving the quality of life and supporting the fabric of our community.

The Community Action Organization, through Nathan Hare's leadership, has always encouraged active citizen participation to spark positive change and to advance educational, economic, and social initiatives that will help our community thrive.

Nathan Hare's work and leadership have inspired young people to achieve greatness. He has helped families grow stronger and escape poverty. He has helped give low-income and working-poor families a voice. And he has led the way in uniting elected officials and community leaders under the goal of building a safer, more vibrant community.

When the modern history of Western New York and New York State is written, I'm sure the valiant and determined efforts of Nathan Hare will be described in detail.

I thank Nathan for his commitment to our community, and I look forward to continuing to work with him to build a stronger and more prosperous Buffalo and Western New York.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank

you, Senator Kennedy.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, thank you.

At this time there's a resolution at the desk I believe by Senator Adams, Number 3270. Could we have the title read and call on Senator Adams before its adoption.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 3270, by Senator Adams, mourning the death of famed singer and actress Whitney Houston.

ACTING PRESIDENT GRIFFO: Senator Adams.

SENATOR ADAMS: Thank you,

Mr. President. And I thank you, Senator Libous.

I just would like to read a few names to you. Marilyn Monroe. Bruce Lee. Anna Nicole Smith. Michael Jackson, the King of Pop. Elvis Presley, the King of Rock. Heath Ledger. And even Sigmund Freud. All died of abuse of drugs.

According to the CDC, in 2004 unintentional drug death was the second leading cause of accidental death, second only to automobile accidents. The death of Ms. Houston or any celebrity should be a teaching moment.

No one personifies this more than First Lady Betty Ford, who turned the pain of drug use into purpose by opening a clinic where others can learn from the abuse of drugs.

When we honor the book of an individual, we don't focus on the paragraph that reads their disease and weaknesses. We look at the many chapters of contribution and greatness. In the case of Ms. Houston, we look at the countless number of people who were inspired by her music.

We also look at the New York portion of the book. I was surprised to learn

that many people were not aware what she did during the Gulf War when she sang an inspiring "Star-Spangled Banner" that touched the hearts of many Americans. And unlike many who take their proceeds, she took her proceeds and turned it over to the family members of the Gulf War veterans.

But it goes beyond that, because there's a New York chapter. I remember when I was a police officer down on September 11th and how many of us felt the pain of seeing our center of trade crumble right before our eyes and we inhaled some of the ash and the smoke that came with that disaster.

And one of the most inspiring moments for me and my younger brother, who was a sergeant at the time in the Police Department, was when Ms. Houston rereleased "The Star-Spangled Banner" and took the money from that song and gave it to the victims and their families as well as members of the Fire Department and the Police Department.

And so when we talk about the life of Ms. Houston, there are many sentences, many chapters, and many points in the book that I'm

pretty sure that she would like to rewrite. But as I look over my life, there are chapters and sentences that I would like to rewrite. There by the grace of God go I, and there by the grace of God go all of us.

One thing is important. We need to use the death of Ms. Houston and those other great individuals that I mentioned and public notoriety to use it as a moment to reinforce our commitment to deal with the issues of overuse and abuse of prescription drugs and target those medical professionals who are countlessly writing prescriptions that they know they should not write.

And so I want to thank my colleagues for our commitment to doing so by the legislation we passed several weeks ago. But that is only the beginning. As long as people have easy access to prescription drugs, as long as prescription drugs are one paper or prescription away from going into the hands of people who could abuse it, it tells us that we must renew our commitment.

And so just as Whitney sang the song that she will always love you, we too will

always love Whitney Houston and her contribution to our country and the greatness of this country. She may have been a New York girl, but her heart was in New York City.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Adams.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, may we please have the reading of the noncontroversial calendar.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 121, by Senator Golden, Senate Print 4270C --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it

aside.

THE SECRETARY: Calendar Number 142, by Senator Klein, Senate Print 3889A, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 180th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Klein to explain his vote.

SENATOR KLEIN: Thank you, Mr. President.

This is an issue that's very important, I think, to the safety and well-being of all of our young people across the State of New York.

Back in 2010 myself, then Governor Paterson, and the State Liquor Authority worked out an agreement with wholesalers, beer wholesalers around the State of New York where we effectively prohibited the sale of caffeinated alcoholic beverages, which are otherwise known as

"blackout in a can" in New York State.

These are products which contain, in a 23-ounce can, the equivalent of a six-pack of beer as far as alcohol content and the equivalent of four cups of coffee as far as the caffeine that's contained in these drinks.

Needless to say, the FDA subsequently had ruled that these products are extremely dangerous, they shouldn't be sold to minors or adults. But the problem is that agreement back in 2010 was merely an agreement, a gentlemen's agreement, to not sell these products here in New York State.

Unfortunately, we're still seeing that these products still are falling into the hands of minors. Earlier in the year, my office conducted a sting operation where we were able to purchase the caffeinated version of Four Loko on Craigslist. And we're still seeing bodegas and grocery stores around the State of New York that are selling these products.

So I think the time has come to sort of codify and pass a law that really takes the agreement that we worked out in 2010 one step further, because I think we have to be very clear

that these drinks are too dangerous for a minor to consume and could have devastating effects on their well-being.

So, Mr. President, I vote yes on this important legislation.

ACTING PRESIDENT GRIFFO: Senator Klein to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 174, by Senator Gallivan, Senate Print 3240, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number

184, by Senator Gianaris, Senate Print 6129, an act to amend the Penal Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 185, by Senator LaValle, Senate Print 2933, an act to amend Chapter 112 of the Laws of 2007.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as Chapter 112 of the Laws of 2007.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT GRIFFO: The bill

is passed.

THE SECRETARY: Calendar Number 193, by Senator Grisanti, Senate Print 6084, an act to amend the Parks, Recreation and Historic Preservation Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

SENATOR LIBOUS: Thank you, Mr. President.

At this time could we have the controversial reading of the calendar.

ACTING PRESIDENT GRIFFO: The Secretary will ring the bell.

SENATOR BRESLIN: Explanation.

ACTING PRESIDENT GRIFFO: The

Secretary will read.

THE SECRETARY: Calendar Number 121, by Senator Golden, Senate Print 4270C, an act to amend the Civil Service Law.

SENATOR KRUEGER: Explanation.

SENATOR BRESLIN: Explanation.

ACTING PRESIDENT GRIFFO: An explanation has been requested by Senator Krueger and Senator Breslin.

Senator Golden.

SENATOR GOLDEN: Thank you, Mr. President.

This bill mandates the Division of Civil Service to contract out for an ongoing dependent eligibility audit for new hires, those employees with family status changes and those employees that add dependents during the open enrollment.

The last time that NYSHIP conducted an eligibility audit, this bill would save $25 million, and that was in 2009.

There is a letter of opposition that was put out there by PEF, but this is under the old bill. We changed the bill to make this bill comply with some changes that were

necessary.

It states here in the fourth paragraph, in the opposition: "In addition, this bill specifically requires the Department of Civil Service to hire the same vendor that conducted the first dependent eligibility audit, which was marred with problems throughout."

So this has been corrected in this bill. We take that out, and we open it up, the process, for a request for proposal for an individual to do that audit.

So PEF does not oppose this bill, it neither opposes nor supports.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR KRUEGER: Thank you. If the sponsor would please yield.

ACTING PRESIDENT GRIFFO: Senator Golden, will you yield to questions from Senator Krueger?

SENATOR GOLDEN: Yes.

ACTING PRESIDENT GRIFFO: Senator Golden yields.

SENATOR KRUEGER: Thank you.

Well, actually the sponsor gave me

some answers to some questions before I even asked them. I actually didn't know there was anyone opposing it but me. So it's interesting that PEF was, but is not. But I still have some questions.

Can the state office simply choose to do this without the Legislature passing a statute?

ACTING PRESIDENT GRIFFO: Senator Golden.

SENATOR GOLDEN: I don't believe so, Mr. President. I believe the legislation was necessary because there's legislation that we passed before. And I believe this legislation would allow the state to do what NYSHIP should do, and that's conduct this audit and get that $25 million savings.

SENATOR KRUEGER: Through you, Mr. President, if the sponsor could clarify for me. Yes, there was previous legislation that resulted in NYSHIP doing the audit in 2009. But where in state law are they prevented from choosing to do audits without additional action by this house?

SENATOR GOLDEN: That the

requirement of the legislation was for an audit. I did not read the legislation to say there was a continuous number of audits, and therefore new legislation would be needed.

ACTING PRESIDENT GRIFFO: This chamber getting a little noisy. May I ask for some calm and quiet, please, so we can hear the members.

SENATOR KRUEGER: Thank you, Mr. President. Through you.

ACTING PRESIDENT GRIFFO: Senator Krueger, are you asking Senator Golden to continue to yield?

SENATOR KRUEGER: I am, if that's all right. Thank you.

ACTING PRESIDENT GRIFFO: Senator Golden, do you continue to yield?

SENATOR GOLDEN: Yes, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Krueger, you may proceed.

SENATOR KRUEGER: Thank you.

To clarify, yes, we passed a bill at one time. But is there anything in state law that prevents NYSHIP from deciding to do another

audit or not?

SENATOR GOLDEN: I cannot answer that question, Mr. President.

I believe the legislation is necessary for NYSHIP. They requested, so we need to do the legislation. It would not have been requested if they did not need it.

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

SENATOR GOLDEN: Yes, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Golden yields.

SENATOR KRUEGER: Thank you.

So I think I partly understood in your explanation that there were changes made from the A print to the C print. Could you just clarify for me what changed between the A print of your bill and this print of your bill?

SENATOR GOLDEN: Well, what this would have done, it would have allowed the -- the first piece of legislation would have allowed the individual contractor that did the dependent eligibility requirement to maintain the contract

in that legislation.

So what we've done is we've taken that out and opened it up for a request for proposal that would allow any company to go in there to do this audit, not the company that was -- I understand had a number of issues. So we've removed that company, and we've opened it up for other providers to be able to do this audit.

SENATOR KRUEGER: Thank you.

To speak on the bill, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Krueger on the bill.

SENATOR KRUEGER: Thank you.

I appreciate the sponsor's responses to my questions.

So here's my dilemma. I voted against this bill in a previous year because (a) I'm not opposed to this kind of audit, and in fact we did do one of these audits in 2009. And the first time you do an audit of errors in a benefit program of any sort, you're going to find a decent number of errors because you haven't checked in a long time. But there is a

decreasing value of doing multiple continuing audits of the same issue year after year because you don't have the same things to catch, you already caught those errors.

So one reason for me to vote no on this bill and to urge my colleagues to also vote no is we don't need to spend the money continuously doing audits that are going to have a lower value in return for the money.

Another reason I objected to the bill and continue to object to the bill is I'm quite sure that New York State agencies have the authority to conduct audits and even contract out for audits when they believe they are necessary, and that the Legislature does not need to insert itself by creating statutes requiring annual audits that could be quite expensive for the state and would then need legislation to reverse it at some point in time after everyone realized we were wasting money on duplicative and unnecessary audits.

And third, as the sponsor just clarified, his original bill actually was for a specific company. Which I fundamentally don't believe this Legislature should pass or move into

statute.

His answer today is to clarify that on the C print it's no longer for a specific company. Which makes it a better bill, but still not a bill that I believe should become the law in New York State.

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

ACTING PRESIDENT GRIFFO: Is there any other Senator who wishes to speak?

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

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: I'm going to ask all members to remain in the chamber, please.

THE SECRETARY: In relation to Calendar Number 121, those recorded in the negative are Senators Krueger and Rivera.

Absent from voting: Senators Dilan, Diaz, Espaillat, Farley, Montgomery, and Perkins.

Ayes, 52. Nays, 2.

ACTING PRESIDENT GRIFFO: Please announce the results again.

THE SECRETARY: In relation to Calendar Number 121, those recorded in the negative are Senators Krueger and Rivera.

Absent from voting are Senators Dilan, Diaz, Farley, Montgomery and Perkins.

Ayes, 53. Nays, 2.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Libous.

SENATOR LIBOUS: Mr. President, I would ask all the members to stay in the chamber if they can.

Earlier today, clergy could not make it on time because of the weather. But we do have clergy with us today. And I would ask at this time if you would invite clergy up for a benediction, in a sense, and we can then close out session.

ACTING PRESIDENT GRIFFO: I would

ask all members to please remain in the chamber.

I now invite Pastor Randolph Ferdinand, of the Helping Hands Christian Community Center of Brooklyn, to give us a benediction. Please rise.

PASTOR FERDINAND: We want to give thanks for this time and this opportunity, this privilege, in glorifying God for this day that he has made. This is a day that he made, and we're going to rejoice and be glad in this day.

As we get ready to close the session, we ask our Lord's blessings upon every member of this assembly here.

As we get ready to depart from this place, but not from His presence, we ask that His blessing be upon us, that He bless us in our going out, our coming in, our lying down and our rising up. Not only bless us here, but our family, our extended family also.

We thank God for the work that's been done here and what you are doing to make life better for all of us in this great State of New York, this Empire State. The entire world, the entire nation is looking at this state for what we do here.

We thank you for your efforts that were put forth, we thank you for everything that was done here this week. We give praise, honor and glory for everything that was done and what you are doing for us here.

We thank You, Lord, in the name of our Lord and Savior Jesus Christ for this time, this opportunity, and this privilege. In His name we pray.

Amen and amen.

ACTING PRESIDENT GRIFFO: Thank you, Pastor Ferdinand.

Senator Libous.

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

ACTING PRESIDENT GRIFFO: There is no further business before the desk.

SENATOR LIBOUS: Thank you, Mr. President.

There being no further business, I move that we adjourn until Monday, March 5th, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT GRIFFO: On motion, the Senate stands adjourned until Monday,

March 5th, at 3:00 p.m., intervening days being legislative days.

Senate adjourned.

(Whereupon, at 12:17 p.m., the Senate adjourned.)