NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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3:13 p.m.

REGULAR SESSION

SENATOR JOHN FLANAGAN, Acting President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT FLANAGAN: The Senate will come to order.

Today the colors will be presented by the Francis Lewis High School Junior Reserve Officer Training Corps.

(The Color Guard entered the chamber and presented colors.)

ACTING PRESIDENT FLANAGAN: I ask everyone present to please repeat the Pledge of Allegiance.

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

(The Color Guard exited the chamber.)

ACTING PRESIDENT FLANAGAN: Senator Libous.

SENATOR LIBOUS: Mr. President, I believe clergy will be attending shortly.

So in the meantime, I would have ask members to please sit in their chairs, and I would ask you to please call on Senator Avella at this time for an announcement.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Libous.

Senator Avella.

SENATOR AVELLA: Thank you, Mr. President.

I rise to recognize the Francis Lewis Junior ROTC Program who just performed one of the best color guards I've ever seen.

The Junior ROTC program at Francis Lewis High School is the largest -- and I repeat, the largest -- Junior ROTC program in the country, and that includes over 1725 programs. And as of last year they had 741 students in the high school in the program.

And just to give you an example, last year Francis Lewis High School Junior ROTC had 15 members go on to West Point, the largest number in the country except for one high school that is near West Point that deals with military families.

So I'd like to recognize Sergeant Richard Gogarty, who started the program in 1994, and the four members of the Color Guard: Kathy Lao, Jonathan Lim, Sharinne Lercara, Willie Pan, and we also have Nicole Kang taking pictures for them.

But I would ask that the Senate recognize the achievements of these individuals, and also of the largest ROTC program in the country.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Avella.

The Senate certainly welcomes and recognizes the achievements of the Color Guard, the sergeant and the four members of the Color Guard. We hope you enjoy your visit with us today in the Senate.

Thank you, Senator Avella.

(Applause.)

ACTING PRESIDENT FLANAGAN: Senator Libous.

SENATOR LIBOUS: If we can continue with the regular order, Mr. President.

ACTING PRESIDENT FLANAGAN: The reading of the Journal.

THE SECRETARY: In Senate, Sunday, March 25th, the Senate met pursuant to adjournment. The Journal of Saturday, March 24th, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT FLANAGAN:

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: Thank you, Mr. President.

On behalf of Senator Seward, Mr. President, on page 9 I offer the following amendments to Calendar Number 220, Senate Print 6078A, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT FLANAGAN: The amendments are received and the bill will maintain its status on the Third Reading Calendar.

SENATOR LIBOUS: On behalf of Senator Zeldin, on page 16 I offer the following

amendments to Calendar Number 358, Senate Print 5634B, and I ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR LIBOUS: And, Mr. President, on behalf of you, sir, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause, and that would be Senate Print 6760.

ACTING PRESIDENT FLANAGAN: So ordered.

SENATOR LIBOUS: Mr. President, at this time could we please have the noncontroversial reading of the calendar.

ACTING PRESIDENT FLANAGAN: The Secretary will read.

THE SECRETARY: Calendar Number 259, by Senator Gallivan, Senate Print 5868A, an act to amend the Labor Law.

ACTING PRESIDENT FLANAGAN: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect on the 240th day.

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 278, by Senator Marcellino, Senate Print 6547, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT FLANAGAN: Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52. Nays, 1. Senator Diaz recorded in the negative.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 282, by Senator Little, Senate Print 5670, an act to amend the Public Authorities Law.

ACTING PRESIDENT FLANAGAN: There

is a home rule message at the desk.

Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52. Nays, 1. Senator Ball recorded in the negative.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 286, by Senator Young, Senate Print 771, an act to amend the Agriculture and Markets Law.

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT FLANAGAN: The bill is laid aside by Senator Breslin.

THE SECRETARY: Calendar Number 313, by Senator Maziarz, Senate Print 219A, an act to amend the Banking Law.

ACTING PRESIDENT FLANAGAN: Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 373, by Senator Seward, Senate Print 6552, an act to amend the Insurance Law.

ACTING PRESIDENT FLANAGAN: Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 383, by Senator Bonacic, Senate Print 2135B, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT FLANAGAN: Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT FLANAGAN: Senator Rivera to explain his vote.

SENATOR RIVERA: Thank you, Mr. President.

March 16th was the 41st birthday of my older brother, José Manuel Rivera, affectionately known as Papotin. He was actually -- when he was born, shortly after he was born and he started to show some developmental disabilities, he was diagnosed with autism.

Today he is 41 years old, a graduate of high school and of college, with a job. He actually translates books into Braille back in Puerto Rico. He lives at home with my parents but has a productive career.

What we're doing here today with this vote is that we're creating a task force dealing specifically with the issues of people like my brother and other individuals who unfortunately do not have the higher functioning capacity that my brother has.

I am incredibly thankful to the sponsor for establishing this piece of legislation because, again, it will give us an opportunity to really think about what are the things that we can do as a state to make it easier for these individuals to continue to be productive members of society just like my brother.

I know if he was here today he would say thank you to the sponsor, and so in his name I say thank you so much.

I will be voting in the affirmative, Mr. President.

ACTING PRESIDENT FLANAGAN: Senator Rivera to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 403, by Senator Young, Senate Print 855A, an act to amend the Highway Law.

ACTING PRESIDENT FLANAGAN: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect immediately.

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 405, by Senator O'Mara, Senate Print 5818, an act to amend the Highway Law.

ACTING PRESIDENT FLANAGAN: Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 406, by Senator Martins, Senate Print 6240, an act to amend the Highway Law.

ACTING PRESIDENT FLANAGAN: Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 407, by Senator Griffo, Senate Print 6531, an act to amend the Highway Law.

ACTING PRESIDENT FLANAGAN: Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 408, by Senator Maziarz, Senate Print 6536, an act to amend the Public Authorities Law.

ACTING PRESIDENT FLANAGAN: Read

the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 412, by Senator Diaz, Senate Print 271, an act to amend the Banking Law.

ACTING PRESIDENT FLANAGAN: Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 420, by Senator Adams, Senate Print 3686, an act to amend the Penal Law.

ACTING PRESIDENT FLANAGAN: Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT FLANAGAN: Senator Adams to explain his vote.

SENATOR ADAMS: Thank you, Mr. President.

I'd like to explain my vote. And also, in the process, I don't know if people know I'm wearing this hood as respect for Trayvon Martin.

But this is an important bill about domestic violence and how, far too often, innocent victims of domestic violence are repeated victims and people who violate orders of protection are allowed to continue their acts of domestic violence.

And this is a way to increase the penalties around domestic violence and save people who have to deal with repeated perpetrators inflicting violence on innocent

people.

Thank you.

ACTING PRESIDENT FLANAGAN: Senator Adams to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 421, by Senator DeFrancisco, Senate Print 4305A, an act to amend the Penal Law.

ACTING PRESIDENT FLANAGAN: Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT FLANAGAN: The bill is passed.

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

SENATOR LIBOUS: Could we have the controversial reading, please.

ACTING PRESIDENT FLANAGAN: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 286, by Senator Young, Senate Print 771, an act to amend the Agriculture and Markets Law.

SENATOR BRESLIN: Explanation.

ACTING PRESIDENT FLANAGAN: Senator Young, Senator Breslin has requested an explanation.

SENATOR YOUNG: Certainly. I'll be glad to, Mr. President.

This legislation requires that information collected and maintained by the Department of Agriculture and Markets relating to the registration and identification of premises and animals shall be kept confidential.

It is supported by the Farm Bureau. There are no opposition memos received. And actually it's been passed by this house twice already, once in 2008 with one nay vote and in 2010 with unanimous votes in favor of it.

ACTING PRESIDENT FLANAGAN: Senator Krueger, why do you rise?

SENATOR KRUEGER: If the sponsor

would yield, please, Mr. President.

ACTING PRESIDENT FLANAGAN: Senator Young, will you yield?

SENATOR YOUNG: Happy to, Mr. President.

ACTING PRESIDENT FLANAGAN: Senator Krueger.

SENATOR KRUEGER: Thank you.

So my understanding is that this bill would prevent me from using a Freedom of Information request to find out about outbreaks of disease among animals on the farms of New York State. Is that correct?

SENATOR YOUNG: Actually, Mr. President, if I may draw Senator Krueger's attention to a section of the bill: "The department may disclose the data referred to in paragraph (a) of this subdivision to any agency or the public if it determines that such disclosure will aid in the law enforcement process or the protection of public or animal health and safety."

So there's a component of the bill that if there is a serious issue, it would be disclosed by the department.

However, what we find in many cases is that -- well, first of all, there are two points. One is that farms are actually small businesses, and they have competitors who may be looking for information about a farm in order so that they could have a competitive advantage over someone else. We feel that these are proprietary concerns. They should be kept confidential.

The second issue has to do with biosecurity. And over the years the federal government has identified biosecurity threats whereas, for example, in a herd someone may introduce some kind of disease or whatever in order to impact the health and safety of the public or the animals.

So what we're looking at is a mechanism to help small businesses be able to remain competitive and at the same time have systems in place so that you don't have the opposite effect of allowing farms to be identified so that they can be threatened by terrorists or some other biosecurity threat.

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

ACTING PRESIDENT FLANAGAN:
Senator Young, will you continue to yield?
SENATOR YOUNG: Yes,
Mr. President.
ACTING PRESIDENT FLANAGAN:
Senator Krueger.
SENATOR KRUEGER: So outbreaks in infectious disease among animals on farms is actually growing. Some of it might be from bioterrorism threats, but apparently most of it is from natural occurrences.
Actually, I was reading about climate change increasing the types and spread of viruses through animal stock and the different kinds of diseases that in fact are unfortunately infecting various types of farm animals in our country and our state.
How does it help the public not to ensure that people know that there are these outbreaks, we make sure that these animals do not go into our food stream, we make sure that -- I believe the term is correctly used that the animals are depopulated so that it doesn't travel from farm to farm in a close-knit area if the public and even other farmers can't know about

these circumstances?

How is this a good public health protection not to make sure this information is available to those who want to ensure that our food supply stays healthy?

SENATOR YOUNG: Mr. President, through you. I appreciate Senator Krueger's concerns. I share the same concerns.

And so basically, on the bill, I'll restate it, because I think -- while I share concerns along those same lines, I think that this doesn't really have much to do with that.

We have the Department of Agriculture and Markets, we have the federal government who handles outbreaks of disease and makes sure that they're taken care of, because they're very strict about those issues and following up and stopping something in its tracks.

So Senator Krueger's concern is my concern. They do an excellent job at that. But basically, as I stated previously, in the bill there is a provision that allows for public notification if there is a health or safety or law enforcement issue.

So that is actually handled in the bill. I appreciate Senator Krueger's concern about it; it's my concern. But it's already taken care of. So it's a nonissue as far as this legislation is concerned.

SENATOR KRUEGER: Through you, Mr. President, on the bill.

ACTING PRESIDENT FLANAGAN: Senator Krueger on the bill.

SENATOR KRUEGER: Thank you.

I appreciate the sponsor's answers. I think that she and I have the same goals, but we have a disagreement about whether public access to information about disease on our farms and among our farm animals is a good or bad thing.

She is correct, the bill allows the department to make a decision whether to release information. My concern is that government agencies aren't always perfect.

And in fact, when you look at the history of inspection of our food supply, unfortunately the rate at which we have been providing inspections has been decreasing, federal and state, and the rate at which our food

supply actually has outbreaks of infection has been increasing.

So there's been a pattern of growing risk to our health from our food supply and fewer inspections done, with the federal government, in my opinion, completely falling down on the job when it comes to U.S. Department of Agriculture inspections and follow-through on infection, viruses, and other dangers to our agricultural system.

And I believe, Mr. President, that the continuing rate of growth in outbreaks does more harm to our food industry nationally and internationally than any potential risk with making sure that the public knows about outbreaks.

In fact, there are risks to whether other countries will even import certain of our food products because of their fear that we don't do a very good job in the United States of America making sure that our agricultural products, and particularly our meat products, are inspected correctly, that we're handling outbreaks correctly.

And I actually think we do great

harm to ourselves -- big picture in agriculture -- when we don't do more thorough inspections and we don't get the word out that there are dangers, there are infections that animal populations should be depopulated and not allowed to go into the food supply.

And I guess I'm also concerned that if we try not to let the public know, we actually send a message that we're not that concerned about it. And I think we're all concerned. I know that Senator Young is concerned, as I am.

I'm also very concerned about the fact that there is research showing that the types of foods we are feeding our livestock, the kinds of hormones we are injecting them with, the kinds of pesticides that may be used on the food that they eat is in fact exponentially increasing the risks to our own food supply -- tied in with the fact that climate change appears to be adding to the growth in the types of viruses that we see spreading quickly through our food supply.

So I do think we're at a point in history where we need to sound the alarm bells that there is a real risk to the health of our agriculture industry, to the health of actually

our meat industry within agriculture, and that more public awareness, more inspection, more observation and more follow-through on making sure that dangers lurking are publicized and that we as a government are more aggressive about making sure we're there before it happens, when it happens, and to make sure it doesn't happen again.

And so in fact I think this is a step in the wrong direction for New York State public health. And in fact, while intended to be in the best interests of our agricultural industry, I don't actually think it is in the best interests of our agricultural industry. And I will be voting no.

Thank you, Mr. President.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Krueger.

Any other Senator wishing to be heard? Hearing none, the debate is closed.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT FLANAGAN: Senator Young to explain her vote.

SENATOR YOUNG: Thank you, Mr. President.

While I do appreciate the concerns of my colleague Senator Krueger, actually this bill does the opposite of what she was talking about, in that it actually protects the food supply from biosecurity risks.

So I would urge all of my colleagues to vote yes on this. There is a provision in it that would notify the public if there are health and safety risks, law enforcement risks. But this actually is a way so that farms aren't targeted and put in harm's way of being contaminated by biosecurity concerns out there.

So I would urge all of my colleagues to vote yes on this bill. They've supported it in the past. And on top of that, it's supported by the Farm Bureau.

So thank you, Mr. President. I vote aye.

ACTING PRESIDENT FLANAGAN: Senator Young to be recorded in the affirmative.

The Secretary will announce the results.

While we are waiting for the Secretary to tally the results, I would respectfully remind everybody that we have an invocation that will be occurring right after the bill. Rabbi Butman has arrived.

The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 286, those recorded in the negative are Senators Adams, Avella, Duane, Espaillat, Hassell-Thompson, Huntley, Krueger, Montgomery, Parker, Peralta, Perkins, Rivera, Sampson, Serrano, Squadron, Stavisky and Stewart-Cousins.

Absent from voting: Senators Little and Smith.

Ayes, 40. Nays, 17.

ACTING PRESIDENT FLANAGAN: The bill is passed.

If all will rise, today's invocation will be given by Rabbi Shmuel Butman,

of the Lubavitch Youth Organization in Brooklyn, New York.

Rabbi Butman.

RABBI BUTMAN: {in Hebrew}

Our heavenly Father, I ask You to bestow Your benevolence upon all the members of the New York State Senate. Give them Your blessing for themselves, for their wives, for their husbands, for their children, and for their family. They should have good health, long life, and time to do the right thing between man and man and between God and God.

I understand that you are going to pass a resolution commemorating 110 Days of Education in the State of New York in honor of the Rebbe's, Rabbi Menachem M. Schneerson's 110th birthday.

The Rebbe cares about the education of every child -- of the Jewish child, of the American child, of the Italian child, of the French child, of every child. The Rebbe always said that he wants our children, all children of the universe, to know that there is an Eye that sees and an Ear that hears and that the world is not a jungle.

In Psalm 111 -- it's actually the psalm that we start saying on the Rebbe's birthday, because the Rebbe is now in his 111th year -- King David speaks about the need to thank Almighty God for all the good things that He does with us every single day, for the life that He is giving us, for the sustenance that He is giving us, for the families that He is giving us.

You were elected not only by the people of the State of New York, but you were selected by Divine Providence, by Almighty God, to be the representatives who legislate laws that govern relationships between man and man and between man and God.

You are the ones who are in charge to make this world a better place. And indeed, this is what you try to do in your daily lives.

I want you to know that in our prayers every Saturday when we come to shul, we come to our synagogues, we say a special prayer for you. We say {in Hebrew}, which means "All of those who serve the public faithfully." We ask Almighty God to give you life, to give you strength to continue to do good things.

In 1999 I opened a much smaller Senate room than this one, the United States Senate in Washington, D.C. And before I went to Washington, I went to see the Rebbe. And the Rebbe said, "You should take a charity box with you. And while you are offering the prayer, you should put in a dollar in the charity box and everyone should see what you are doing, and they should know what money should be spent for."

I know over here you spent even more money that they spent in Washington, so you should know what money should be spent for. For good things.

And I want to do the same. I want to offer a dollar in the pushkeh, as the Rebbe asked me to do. And I would like to invite everyone to do the same. I don't want you to think that this has to do with the budget whatsoever. This is not going to help the budget.

(Laughter.)

RABBI BUTMAN: This is going to help, however, that we are doing an act of goodness and kindness.

In that merit, may God bestow His

blessing on you on a daily basis, for you and for your families. And may you pass the budget successfully today.

Thank you.

ACTING PRESIDENT FLANAGAN: Thank you, Rabbi Butman.

Senator Libous.

SENATOR LIBOUS: Thank you, Rabbi.

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

ACTING PRESIDENT FLANAGAN: Senator Libous, there is none.

SENATOR LIBOUS: There being no further business, I move that we adjourn -- only after we put a dollar in the Rabbi's box -- until Tuesday, March 27th, at 3:00 p.m.

ACTING PRESIDENT FLANAGAN: On motion, the Senate stands adjourned until Tuesday, March 27th, at 3:00 p.m.

(Whereupon, at 3:48 p.m., the Senate adjourned.)