NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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3:18 p.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: Today's invocation will be offered by Rabbi Michael White, from Temple Sinai in Roslyn Heights.

Rabbi?

RABBI WHITE: Thank you.

And I want to thank Senator Martins for this great honor.

I come here today with a group of teenagers who came from our community to work with you to address the scourge of bullying and cyberbullying.

And so I ask that you hear their eloquence and their passion and their urgency, theirs and all teenagers, and that you work with them to end this corrosive epidemic that's destroying our youth.

I also humbly ask that God endow you all with wisdom, with courage, and with compassion. I ask that God enable all of you to act only in a way that affirms justice for all New Yorkers, that exalts dignity and human decency for all New Yorkers, and that enables empathy among all New Yorkers. Because if you do, then you will certainly act according to God's will.

Amen.

ACTING PRESIDENT GRIFFO: Thank you, Rabbi White.

The reading of the Journal.

THE SECRETARY: In Senate, Monday, April 16th, the Senate met pursuant to adjournment. The Journal of Saturday, April 14th, 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.

The Secretary will read.

THE SECRETARY: On page 21,

Senator Valesky moves to discharge, from the Committee on Codes, Assembly Bill Number 3964A and substitute it for the identical Senate Bill Number 657A, Third Reading Calendar 464.

ACTING PRESIDENT GRIFFO: Substitution so ordered.

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, on behalf of Senator Flanagan, on page 6 I offer the following amendments to Calendar Number 125, Senate Print 5650B, and ask that the bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT GRIFFO: So ordered.

SENATOR LIBOUS: On behalf of Senator Young, I move that the following bills be discharged from their respective committees

and be recommitted with instructions to strike the enacting clause: Senate Print Numbers 865, 3208, 5578, and 5744.

ACTING PRESIDENT GRIFFO: So ordered.

Senator Libous.

SENATOR LIBOUS: Mr. President, at this time I'd like to recognize Senator Carlucci for a brief announcement.

ACTING PRESIDENT GRIFFO: Senator Carlucci.

SENATOR CARLUCCI: Thank you, Mr. President.

Today I rise to acknowledge and congratulate the Suffern High School Boys Varsity Hockey Team for their victory this season in becoming New York State Division I champions for New York State.

Later this week the Senate will pass a resolution commemorating and honoring their achievements.

And this journey, they went on a long road -- started in the rinks in Rockland County and went on to travel around the state. They went on to win 21 games this

season.

And perhaps the most notable of their victories was their four-overtime win in the semifinal game against West Genesee. Shortly thereafter, the Mounties of Suffern High won a much-deserved championship over Pittsford by a score of 3 to 2.

And really at the helm, to get this far, you've got to have strong leadership. And under their coach, Rob Schelling, they went on to receive this victory, the first hockey championship for the State of New York from Suffern High School in over 20 years. And rightfully so, Rob Schelling was named New York State Division I Coach of the Year for his excellence in coaching.

So really we're so excited to have you here today to honor you, your achievements. And really we want you to remember that the victories that you've seen on the ice, by having strong teamwork, dedication, a commitment to yourselves, to the members on your team, you can really achieve whatever you want to achieve.

So we're expecting great things from you guys, not only in athletics, but in the

classroom, in the boardroom, in the community. And we look forward to seeing you guys prosper in the future.

Thank you, and congratulations for your victory.

(Applause.)

ACTING PRESIDENT GRIFFO: We'd like to welcome and congratulate the Suffern High Boys Hockey Team.

Congratulations on that victory that you won in the great city of Utica. And we extend to you all the privileges and courtesies of the house.

Let's hear it for these fine athletes.

(Applause.)

ACTING PRESIDENT GRIFFO: Senator Libous.

SENATOR LIBOUS: Mr. President, I would ask you to recognize Senator Espaillat for a brief announcement at this time.

ACTING PRESIDENT GRIFFO: Senator Espaillat.

SENATOR ESPAILLAT: Thank you, Mr. President.

It is a privilege and an honor to welcome a distinguished delegation of Russian-Americans from Northern Manhattan here today visiting the chambers.

I want to thank namely all the Russian-Americans that are in New York State -- not just in Northern Manhattan, but they are in Brooklyn and in other parts of the state contributing to the well-being of our state.

Specifically, I want to recognize the Honorable Andrey Yushmanov, Consul General of the Russian Federation in New York City, and Maxim Vladimirov, Vice Consul, Consulate General of the Russian Federation in New York City.

And I also recognize His Eminence Archbishop Vladika Justinian, of the Russian Orthodox Church, who is also Administrator of the Patriarchal Parishes in the USA, and Igor Kochan, chairman of the Youth Committee of the Moscow Patriarchy Parishes in the USA.

They are a very strong and growing community. There is a great presence not just in Northern Manhattan, but across the state. And we are very happy that they continue to contribute to our state.

Today is a very special moment. I believe this may be their first visit here to Albany. And as we do with other groups across the state, we want to make sure that you're welcome here in this chamber.

And many of the folks that are here, including the American Association of Russian Women, we have the director of the Arts on the Hudson, the president of Days of Russia, New York State, and a few groups and journalists that are here with us celebrating the rich culture of Russian-Americans in New York State.

So I would like, Mr. President, for you to extend to them the courtesies of this chamber.

And I wish you all the very best in your visit here in the State Legislature. And we recognize your contributions to this great state and to our country of many, many years, not just now.

Very often we take for granted that many famous and important Americans even in the arts, such as Yul Brynner, Kirk Douglas and Natalie Wood, are of Russian descent. Many artists and athletes and scientists and important

Americans are of Russian descent.

So we welcome you, we thank you for your hard work and the contributions that you make to our great state. Thank you so much for coming to Albany.

ACTING PRESIDENT GRIFFO: On behalf of the Senate, we extend to all of our visitors, in celebration of Russian-American Heritage Month, our warm and sincere best wishes to all of you. And we extend the courtesies of the house. Congratulations, and have a great celebration.

(Applause.)

ACTING PRESIDENT GRIFFO: Senator Libous.

SENATOR LIBOUS: Mr. President, there's a resolution at the desk by Senator LaValle, Number 3131. It was previously adopted by this house on March 20th. May we have the title read and please call on Senator LaValle.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 3131, by Senator LaValle, memorializing Governor Andrew M. Cuomo to

proclaim April 15 through 21, 2012, as Osteopathic Medicine Week in the State of New York, in conjunction with National Osteopathic Medicine Week.

ACTING PRESIDENT GRIFFO: Senator LaValle.

SENATOR LaVALLE: Thank you, Mr. President.

As Senator Libous indicated, this resolution has passed designating April 15th to 21st as Osteopathic Medicine Week.

Let me say that there are two schools of osteopathic medicine in New York State. One is in Old Westbury, part of the NYIT program, and the other one is at Touro College in Harlem.

The doctors that are trained in both primary care and specialty care, there are over 100,000 throughout the country that are either students or practicing physicians.

I would say I had the opportunity to visit the school in Old Westbury, and it was the first time and the last time, I think, that I saw a cadaver. And it was a very vivid experience.

So with us today we have students in the gallery. Good luck, and congratulations on your careers.

ACTING PRESIDENT GRIFFO: Thank you, Senator LaValle. And welcome to all of you.

And again, the resolution was adopted on March 20th.

Senator Stavisky.

SENATOR STAVISKY: May I just add my welcoming to the group that is here today, and to indicate that these are the folks who go into the primary care services.

These are the folks who have the residency programs that are increasing in numbers. And historically these are the students who tend to practice in the areas where they live and where we live and represent.

So again, welcome to Albany. And I met with a number of the students earlier today, and we welcome you once again to Albany.

Thank you.

ACTING PRESIDENT GRIFFO: Thank you, Senator Stavisky.

And again, we welcome you all and

extend the courtesies of the house.

(Applause.)

ACTING PRESIDENT GRIFFO: Senator Libous.

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

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 177, by Senator Lanza, Senate Print 5282, an act to amend the Highway Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 209, by Senator LaValle, Senate Print 1756, an act in relation to permitting the County of

Suffolk.

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, 55.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 257, by Senator Hannon, Senate Print 1920, an act to amend the Real Property Tax Law.

ACTING PRESIDENT GRIFFO: Can I have some order, please, in the house.

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, 55.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 274, by Senator Marcellino, Senate Print 2631, an act to amend the Tax 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, 53. Nays, 2. Senators Duane and Parker recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 333, by Senator Lanza, Senate Print 3549A, an act to amend the State Finance Law.

SENATOR SQUADRON: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 343, by Senator Saland, Senate Print 6548 --

SENATOR LIBOUS: Lay it aside for the day.

ACTING PRESIDENT GRIFFO: Lay it aside for the day.

THE SECRETARY: Calendar Number 370, by Senator LaValle, Senate Print 3148, an act to amend the Real Property Actions and Proceedings Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54. Nays, 1. Senator Parker recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 371, by Senator Young, Senate Print 6553, an act to amend the Private Housing Finance 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, 54. Nays, 1. Senator Parker recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 381, by Senator Little, Senate Print 341, an act to amend the State Finance Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 415, by Senator Skelos, Senate Print 1539, an act to amend the Penal Law.

SENATOR SQUADRON: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay the bill aside.

THE SECRETARY: Calendar Number 426, by Senator Huntley, Senate Print 6406, 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.)

ACTING PRESIDENT GRIFFO: Senator DeFrancisco to explain his vote.

SENATOR DeFRANCISCO: Yes, I'm going to vote no. Not because I want to condone stealing four bicycles, but the problem with the bill is that we currently have a law that determines what the penalties are for various thefts depending upon value.

And there's a dangerous precedent this would make by one particular item being considered a felony, if you steal four bicycles, or maybe four other things that are as equally valuable are not felonies.

And I think it's a better procedure what is already in the law; namely, that we're

penalizing thefts and imposing punishments based upon value of the items, whatever they may be.

For that reason, I'm voting no.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco to be recorded in the negative.

The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 426, those recorded in the negative are Senators DeFrancisco, Duane, Farley, Hassell-Thompson, Marcellino, Montgomery, O'Mara and Perkins.

Ayes, 47. Nays, 8.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 432, by Senator Skelos, Senate Print 1825, an act to amend the Correction 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.)

ACTING PRESIDENT GRIFFO: Announce the results.

THE SECRETARY: In relation to Calendar Number 432, those recorded in the negative are Senators Hassell-Thompson, Montgomery, Parker and Perkins.

Ayes, 51. Nays, 4.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 445, by Senator Young, Senate Print 6164, an act to amend the General Municipal 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, 54. Nays, 1. Senator Parker recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 464, substituted earlier today by Member of the

Assembly Magnarelli, Assembly Print Number 3964A, an act to amend the Public Health 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.)

THE SECRETARY: Ayes, 54. Nays, 1. Senator Parker recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 474, by Senator Griffo, Senate Print 4193A, an act to amend the Banking 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, 54. Nays, 1. Senator Parker recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

SENATOR LIBOUS: Thank you, Mr. President.

Before we do the controversial reading, if we can go to Calendar Number 333 and lay it aside for the day, please.

ACTING PRESIDENT GRIFFO: Calendar Number 333, by Senator Lanza, will be laid aside for the day.

SENATOR LIBOUS: And before we do the controversial calendar, at this time could you please call on Senator Perkins for an announcement.

ACTING PRESIDENT GRIFFO: Senator Perkins.

SENATOR PERKINS: Thank you very much. Thank you for this opportunity to briefly speak on my resolution that is scheduled for adoption later this week, and the opportunity to recognize members of the New York State Youth Leadership Council joining us today up in the gallery.

My resolution recognizes the 105th anniversary of the busiest day in Ellis Island's history, when nearly 12,000 individuals arrived there to begin new lives here in America.

From 1892 to 1954, over 17 million immigrants entered the United States through Ellis Island. Today, the approximately 100 million living descendants of these Ellis Island immigrants account for more than 40 percent of the country's population.

Leaving behind the lives they knew for hopes of a better tomorrow, many immigrants underwent numerous hardships in order to start better lives here in America and achieve the American dream.

Today, just as 105 years ago, there are thousands of immigrants living, working, and contributing to this great country and state who continue to yearn for the American dream. Unfortunately, the dream has fallen short for many who are unable to access financial aid needed to afford higher education.

On April 9, 2012, a group of 15 undocumented youth and supporters from the New York State Youth Leadership Council began a

long journey 150 miles on foot from New York City to Albany in support of the New York DREAM Act, a bill which would provide access to state-funded financial aid, TAP, and scholarships to qualifying undocumented youth.

These dedicated and passionate youth are here today with us in the gallery, and I'd like to take this opportunity to recognize them for their tireless and unwavering advocacy of this vital issue. These youth are a shining example of the American initiative and dedication for which we should all strive.

Thank you very much.

ACTING PRESIDENT GRIFFO: We'd like to extend a warm welcome to the New York State Youth Leadership Council in attendance today. Welcome to the chamber.

(Applause.)

ACTING PRESIDENT GRIFFO: Senator Libous, that completes the announcements and the reading of the noncontroversial calendar.

SENATOR LIBOUS: How about if we go for the reading of the controversial calendar, Mr. President.

ACTING PRESIDENT GRIFFO: The

Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 415, by Senator Skelos, Senate Print 1539, an act to amend the Penal Law.

SENATOR RIVERA: Explanation.

ACTING PRESIDENT GRIFFO: An explanation has been requested, Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

The measure before us by Senator Skelos -- I'm proud to be a cosponsor -- establishes a persistent violent felony offender statute of anyone convicted of at least two previous and separate occasions of violent felony offenses.

Those are enumerated, but let me just outline what the major ones are: Kidnapping, first-degree rape or sodomy, first or second-degree robbery, burglary, assault or aggravated sexual abuse.

Those prior violent felonies, Mr. President, must have been committed after the sentence for which the previous violent felony was imposed. And that the three violent felonies

must have been committed within a 10-year period, not counting time served.

ACTING PRESIDENT GRIFFO: Excuse me, Senator Nozzolio.

Can we have some order in the chamber, please.

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President. That concludes my explanation.

ACTING PRESIDENT GRIFFO: Senator Rivera.

SENATOR RIVERA: On the bill.

ACTING PRESIDENT GRIFFO: Senator Rivera on the bill.

SENATOR RIVERA: Thank you, Mr. President.

I rise today to vote in the negative on this piece of legislation for a couple of basic reasons.

While I certainly agree with Senator Nozzolio as well as Senator Skelos that there are certain offenses which people should be held accountable for at a higher level than other ones, I believe, number one, that we have already done -- by many laws that we have passed in this

chamber over the years, we have already created certain punishments for a lot of these people. That's number one.

Number two --

SENATOR SQUADRON: Mr. President, I'm having trouble hearing.

ACTING PRESIDENT GRIFFO: Senator Squadron, thank you.

Again, I will ask for order in the chamber. Please take conversations outside the chamber. If the Sergeants would close the doors.

Senator Rivera, you may continue.

SENATOR RIVERA: Thank you, Mr. President.

But the second and most important reason why I oppose this piece of legislation and encourage all of my colleagues to do the same is that the list that this creates -- first of all, the penalty that it creates, putting someone in jail for the rest of their lives without the possibility of parole, is too serious a punishment for many of these crimes. And I think that we have already, as I stated, established punishments for a lot of these crimes.

Now, Senator Nozzolio did point out

a couple of the ones that are already -- that are on the list, but I'd like to mention a couple of other ones.

Criminal possession of a weapon in the first or second degree. Intimidating a witness, a victim or a witness in the first or second degree. Menacing a police officer or a peace officer. Stalking in the first degree. Aggravated unpermitted use of indoor pyrotechnics in the first degree.

Now, in any of these crimes that already exist on the books -- and punishments for them already exist. What we're talking about here is creating a very broad category which would ultimately lead to what I like to call three strikes and you're in: Three strikes and you're in jail for the rest of your life.

Now, in the last 10 years or in the last 20 years the prison population has actually decreased. We've been able to, by judicious use of law enforcement, been able to, in different parts of our state been able to control crime, been able to actually take the population that is prison, which I still believe is too high, but we've actually brought that down. There's a

couple of prisons that had to close last year because of this.

Now we're saying that we want to put a lot of people back in there. And the only thing that I would say to my colleagues is that if you would observe what happened in California, where a similar piece of legislation was approved and taken to its ultimate extreme, ultimately what ended up happening was that the federal government ordered the California government to actually take people out of prison because their civil rights were being violated, they were being stacked on top of each other.

I'm not saying that we should not be putting laws on the books that punish people who have committed crimes. And again, I believe that these are crimes that are already punished.

ACTING PRESIDENT GRIFFO: Senator Nozzolio, why do you rise?

SENATOR NOZZOLIO: Mr. President, will Senator Rivera be so kind as to yield to a question?

ACTING PRESIDENT GRIFFO: Senator Rivera.

SENATOR RIVERA: Yes,

Mr. President.

ACTING PRESIDENT GRIFFO: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, I was intrigued by Senator Rivera's characterization that the court in fact struck down California's three-strikes law. Is Senator Rivera aware that California's courts have not stricken down such a law?

ACTING PRESIDENT GRIFFO: Senator Rivera.

SENATOR RIVERA: Through you, Mr. President, yes. But that was not the point I was making.

Through you, Mr. President, the point that I was making was the only reason why the federal courts ordered the State of California to actually decrease its prison population was because of the dramatic increase in prison population. Which I would argue was directly a result of the "three strikes and you're out" law.

SENATOR NOZZOLIO: Mr. President, will Senator Rivera continue to yield.

ACTING PRESIDENT GRIFFO: Senator

Rivera, would you yield?

SENATOR RIVERA: Absolutely, Mr. President.

SENATOR NOZZOLIO: So to clarify, Senator Rivera is not stating that the three-strikes law of the State of California was stricken down by a court directly; that law is in fact still on the books.

SENATOR RIVERA: Through you, Mr. President, yes, that is correct.

But my point still stands. The population of the State of California's prisons became so unbearable, not only to the system itself but to the people that are incarcerated, that the federal government ordered the California government to set loose a great number of people -- I don't remember the exact number.

But, Mr. President, still on the bill.

ACTING PRESIDENT GRIFFO: Senator Rivera still on the bill.

SENATOR RIVERA: Thank you, Mr. President.

The point that I am making, my colleagues, is that this law, ultimately what it

does is it imposes what I believe is too much of a punishment. We already have, for many of these crimes -- as a matter of fact, for all of these crimes, because they are already considered felonies, we already have punishments for them.

I believe that what has happened in the last 10 years, where the prison population has actually decreased, demonstrates that many of the efforts that we have taken to control crime and to keep our state safe have been successful.

To create something like this, which would only open up the door for many people to go to prison forever, would make us not only a little bit like California but, for my more fiscally conservative colleagues, a state which will spend millions and millions more dollars in putting people in prison, incarcerating them, and not making sure that they are productive members of society.

So ultimately I believe this piece of legislation is not only unwarranted and unnecessary, but it is unjust and it does not -- I do not believe that it should be passed in this body.

Thank you so much, Mr. President.

I will be voting in the negative.

ACTING PRESIDENT GRIFFO: Senator Rivera, thank you.

Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. President, on the bill.

ACTING PRESIDENT GRIFFO: Senator Marcellino on the bill.

SENATOR MARCELLINO: What we're talking about here is everyone's quality of life.

We're talking about career criminals. We're not talking about people who get involved in petty theft or anything like that. We're talking about career, hard-core, violent criminals who have proven time and time again that they are unfit to walk the streets with normal human beings.

This is not a good thing, this is not something we want to encourage. These people in many cases have committed many more crimes than they've ever been caught for or convicted of, and will continue to.

There is no possible chance of them ever being remediated or in some way returned

back to society or changing their lifestyle. They've proven that they cannot or they've proven that they will not change their lifestyle. They like, quote, unquote, the criminal life. Therefore, they're in it and they stay in it.

Every one of us suffers because of it. You can't walk down streets, you must lock your doors, you must be careful. You put your car on the street, it could be stolen, it could be damaged. Your children are out playing late at night, you've got to usher them indoors now.

This is not what anybody wants. It's putting the normal citizen, it's putting the good citizen in jail while we leave the felons on the street to run wild and do what they please.

This is not what I want to live with, this is not what anyone here wants. It's certainly not what my constituents want. If you have proven that you cannot and will not obey the laws of society, then perhaps you don't belong on the street.

And I think this bill goes a long way towards making the statement that our society is a society of laws from which no one is exempt and no one has a right to presume that they can

just go about doing anything they please whenever they please because they're capable of it.

I say this bill needs to be passed. We need to send a strong message to the criminal element they're not going to be tolerated. It simply will not be tolerated. And until they get the message, stronger tactics need to be taken.

Mr. President, I intend to vote aye and encourage all of us to vote aye. Let's send a message to the criminal element in our society that they're not going to be tolerated, that there's no place for them here.

Mr. President, I intend to vote aye. Thank you.

ACTING PRESIDENT GRIFFO: Is there any other Senator wishing to be heard?

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

Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first of November.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Nozzolio to explain his vote.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President and my colleagues, let this be clear. These convictions are not minor offenses. We are not talking about jaywalking. We are not talking about a small, petty offense. We are talking about those who have been convicted on three occasions of violent felony offenses: Kidnapping, first-degree rape, sodomy, second-degree robbery, burglary, assault, aggravated sexual abuse. These are very serious, violent actions.

And if this body is serious about stemming the tide of violent crime, they will support this measure. It's something I'm honored to support, and I hope it's adopted.

Mr. President, thank you very much.

ACTING PRESIDENT GRIFFO: Senator Nozzolio will be recorded in the affirmative.

Senator Montgomery to explain her vote.

SENATOR MONTGOMERY: Yes, to

explain my vote.

I'm voting no on this legislation. And no matter how much it's portrayed as stemming the tide, this really is a tremendous burden on the state's budget. And it is not really going to make a big difference in protecting the public from crime.

But this is a "three strikes and you're out." It has killed the budget of the State of California. It is the reason why the State of Texas has backed away from this mass incarceration, unlimited, without reason, without result, because it is killing the state's budget.

And this is just one more opportunity for a statement to be made that is totally not necessary and certainly is a terrible direction for New York State.

So I'm voting no, no, no.

ACTING PRESIDENT GRIFFO: Senator Montgomery to be recorded in the negative.

Senator Golden to explain his vote.

SENATOR GOLDEN: Thank you, Mr. President.

I heard it mentioned on the floor

that this will put an awful lot of people into jail and it will be an extreme cost to the State of New York.

I've heard my colleagues Senator Marcellino and Senator Nozzolio explain the types of crimes that we're talking about. We're talking about forcible rape, sodomy, robbery with a gun, burglary. We're talking about serious, serious crimes. Serious, persistent, violent felonies.

If we have many people in this city or state, in this great State of New York that are persistent violent felons, they belong in jail. The only way we're going to get crime and keep crime under control is by putting those that commit the crime where they belong, in jail.

In 1990 there were 2145 homicides in the City of New York. The City of New York changed and wrote an SOP, a standard operating procedure, that helped the state and helped the nation to turn crime around across this great country and to bring that crime down.

This bill would help us to keep crime down. It would take the worst of the worst and get them off of the streets of our cities,

our towns and our villages and put them where they belong, in jail.

I vote aye, Mr. President. And I would hope that all of my colleagues here in this room and in the Assembly would see the value in putting persistent violent felonies convicted three times where they belong, in jail.

Thank you, Mr. President.

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

Senator Krueger to explain her vote.

SENATOR KRUEGER: Thank you, Mr. President. I rise to vote no and explain my vote.

I have listened to my colleagues on both sides of the aisle. This bill has come up several times in this house. Although, for the record, it doesn't come up in the other house, at least not for the last 15 years. So I'm not sure we're really debating whether this bill becomes law or not.

But I think it is important to remember the importance of judicial discretion. There are reasons why judges might decide that

there must be a finding of mandatory life imprisonment. And there are also reasons why judges might find there are alternative options and there are different scenarios.

So fundamentally, I need to vote no on this bill because I think we've made a terrible mistake moving further and further down the road of not allowing judicial discretion, not recognizing that not everybody is a square peg in a square hole, even when they appear to be very bad people, and that this long list of violent felony offenses may in fact be different scenarios for different people at different times.

So one of my colleagues just said we don't want "three strikes and you're out" laws in New York State. And I have to agree that based on the states that went down this road and the research findings of what has happened when you take away judicial discretion, when you mandate life sentences without other options, I don't believe you are doing either the right thing in criminal justice policy, nor are you necessarily doing anything to protect the public interest.

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

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

Senator Robach to explain his vote.

SENATOR ROBACH: Yes, Mr. President. I rise to support this measure for two simple reasons.

One, in my district I constantly hear from not only victims of crime but other people that follow this, constantly wondering how can people, first of all, be out of jail who have sexually assaulted people, robbed people at gunpoint, assaulted people, only to do it again.

We have a huge amount, unfortunately, of youth-on-youth violence in the city of Rochester, mostly in the urban core. And almost every single one of the shooters has a rap sheet this long. And the public wants to know why they're not in jail.

So going to the comment about discretion and what happens in court, I quite frankly think the public is furious and fed up with it.

But even more important than that,

I'm going to support this measure because whatever that cost is, I can assure you the cost is gigantic to the victims and families.

I, for one, am tired to going to funerals of young people and other people being killed almost every single time by some habitual criminal. They're not first-time offenders, they're not new to the game, so to speak, as they say on the street.

And I really think it's a little bit concerning to me to hear people putting a dollar value on people's lives or other things.

Though I respect everyone's opinion, I think we should not only pass this bill, but we should make sure that Senator Nozzolio has a sponsor in the Assembly and get this passed for the protection of everybody, especially those people who constantly are victimized in dealing with the hurt of those crimes firsthand and frequently across our state.

I vote aye.

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

Announce the results.

THE SECRETARY: In relation to

Calendar Number 415, those recorded in the negative are Senators Dilan, Duane, Hassell-Thompson, Krueger, Montgomery, Parker, Perkins, Rivera, and Squadron.

Absent from voting: Senator Adams.

Ayes, 46. Nays, 9.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

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: There being no further business, I move that the Senate adjourn until Wednesday, April 18th, at 3:00 p.m.

ACTING PRESIDENT GRIFFO: On motion, the Senate stands adjourned until Wednesday, April 18th, at 3:00 p.m.

Senate adjourned.

(Whereupon, at 4:04 p.m., the Senate adjourned.)