

1 NEW YORK STATE SENATE

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3
4 THE STENOGRAPHIC RECORD

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9 ALBANY, NEW YORK

10 May 1, 2012

11 3:28 p.m.

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13
14 REGULAR SESSION

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18 SENATOR JOSEPH A. GRIFFO, Acting President

19 FRANCIS W. PATIENCE, Secretary

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

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

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

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

9 ACTING PRESIDENT GRIFFO: In the
10 absence of clergy, I ask that we all bow our
11 heads in a moment of silent reflection.

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

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

16 THE SECRETARY: In Senate,
17 Monday, April 30th, the Senate met pursuant to
18 adjournment. The Journal of Saturday,
19 April 28th, was read and approved. On motion,
20 Senate adjourned.

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

24 Presentation of petitions.

25 Messages from the Assembly.

1 Messages from the Governor.

2 Reports of standing committees.

3 Reports of select committees.

4 Communications and reports from
5 state officers.

6 Motions and resolutions.

7 Senator Libous.

8 SENATOR LIBOUS: Mr. President, at
9 this time could you please call on
10 Senator Kennedy for the purposes of a statement.

11 ACTING PRESIDENT GRIFFO: Senator
12 Kennedy.

13 SENATOR KENNEDY: Yes, thank you,
14 Mr. President.

15 First of all, let me thank
16 Senator Libous for giving me the opportunity to
17 address this honorable body.

18 New York State needs to do a better
19 job of protecting our children. And there's a
20 little boy from Western New York who can tell
21 that story better than anyone else, who's joined
22 us here today: a little boy by the name of Jay
23 J. Bolvin, one of the bravest little boys I've
24 ever met.

25 Along with Jay J. are his

1 grandparents, Joseph and Tabitha Retzer. If
2 you could stand up, please. Also, Jay J.'s
3 Uncle Kevin and Aunt Chris Retzer are here
4 with us today.

5 Jay J. is with us here today for
6 one reason, to prevent other children from
7 ever having to suffer the pain that he has
8 endured. As an infant, Jay J. suffered severe
9 abuse at the hands of his own father. In the
10 violent attacks, 11 of his bones were
11 fractured. And Jay J. was left with a severe
12 seizure disorder after being violently shaken.

13 To make matters worse, his abuser
14 had previously assaulted another one of his
15 sons and broken his arm. However, the state's
16 Penal Law failed Jay J., and a gap in the
17 state law led to his abuser being handed a
18 light sentence of one and a third to four
19 years in prison because his previous
20 conviction had happened four years earlier.

21 Today, Jay J., his family -- his
22 grandparents, his aunt and his uncle -- are
23 advocating for families across New York State
24 and will help us to deliver justice and
25 protect victims just like Jay J.

1 Many of us are parents and want
2 nothing more than to protect children all across
3 New York State. That's exactly what Jay J. and
4 his family, the Retzers, want.

5 Today we welcome Jay J. as well as
6 Joseph and Tabitha, Kevin and Chris Retzer.
7 Thank you for all of your advocacy on behalf of
8 Jay J. and on behalf of families across all of
9 New York State.

10 I'd also like, again, to extend my
11 appreciation to all of the Western New York
12 delegation who have stepped up with the Retzer
13 family in advocating for Jay J. all across the
14 State of New York.

15 Thank you very much.

16 ACTING PRESIDENT GRIFFO: Senator
17 Kennedy, thank you. You were recognized without
18 objection.

19 Senator Grisanti, without
20 objection. Senator Grisanti.

21 SENATOR GRISANTI: Thank you,
22 Mr. President.

23 I want to thank Senator Kennedy and
24 also the Western New York delegation.

25 But most importantly, I too have

1 gotten to meet Jay J. this afternoon. What a
2 lovely boy.

3 And I want to again recognize his
4 grandparents and his aunt and uncle who are in
5 the gallery, and just briefly say for advocating
6 on behalf of Jay J. -- but not only that, it's
7 your courage and your love for Jay J. and your
8 commitment to Jay J. that has led you here in
9 your grassroots efforts.

10 So I appreciate it. I'm there for
11 you, whatever you need, and so is the Western
12 New York delegation. So again, thank you for
13 coming here today, and thank you for what you
14 stand for. I appreciate it. And thank you up
15 there.

16 Thank you, Mr. President.

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

19 At the request of Senator Libous,
20 and without objection, Senator Maziarz.

21 SENATOR MAZIARZ: Thank you very
22 much, Mr. President.

23 I just want to briefly add my
24 support and welcome and thank Jay J.'s family.
25 They have really adopted this cause. And I know

1 that they've spent a long day here.

2 And on behalf of the entire Western
3 New York delegation -- I speak of all the members
4 of the Senate delegation and of the Assembly
5 delegation -- that we very much appreciate the
6 family's advocacy and we appreciate the fact that
7 you have advocated not just here in Albany but
8 across Western New York, and you're doing great
9 work. Thank you.

10 Thank you, Mr. President.

11 ACTING PRESIDENT GRIFFO: Senator
12 Gallivan, without objection.

13 SENATOR GALLIVAN: Thank you,
14 Mr. President.

15 I too would like to thank my
16 colleagues, and more importantly thank and
17 welcome the Retzer family to Albany, to the
18 chamber. I was thrilled to be able to meet the
19 family in person today for the first time.

20 But we know the story, and I simply
21 would like to thank you for standing up and
22 trying to make a difference. And certainly you
23 know that you have our support.

24 Thank you.

25 ACTING PRESIDENT GRIFFO: Thank

1 you, Senator Gallivan.

2 Without objection, Senator
3 Ranzenhofer.

4 SENATOR RANZENHOFER: Thank you.
5 Just to add a couple of comments.

6 Again, welcome to the chambers.
7 Good to see you this morning. And we're going to
8 do all that we can to be helpful.

9 Thank you.

10 ACTING PRESIDENT GRIFFO: Senator
11 Libous.

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

14 And certainly to Jay J. and his
15 family, the advocates -- to Jay J., God bless
16 him, and this body will do what it can to help
17 Senator Kennedy and Senator Grisanti and the
18 Western New York delegation move forward.

19 Mr. President, at this time would
20 you call on Senator Carlucci.

21 ACTING PRESIDENT GRIFFO: Senator
22 Carlucci.

23 SENATOR CARLUCCI: Mr. President,
24 on page number 15 I offer the following
25 amendments to Calendar Number 291, Senate Print

1 Number 653, and ask that the said bill retain its
2 place on the Third Reading Calendar.

3 ACTING PRESIDENT GRIFFO: The
4 amendments are received, and the bill shall
5 retain its place on third reading.

6 Senator Libous.

7 SENATOR LIBOUS: Mr. President, on
8 behalf of you, sir, I move that the following
9 bill be discharged from its respective committee
10 and be recommitted with instructions to strike
11 the enacting clause: Senate Print 3460.

12 ACTING PRESIDENT GRIFFO: So
13 ordered.

14 Senator Libous.

15 SENATOR LIBOUS: Mr. President, at
16 this time may we please adopt the Resolution
17 Calendar, with the exception of Resolution
18 Numbers 4281, 4308, and 4330.

19 ACTING PRESIDENT GRIFFO: We will
20 now undertake the Resolution Calendar with the
21 exception of Resolutions 4281, 4308, and 4330.
22 All in favor of adopting the Resolution Calendar
23 signify by saying aye.

24 (Response of "Aye.")

25 ACTING PRESIDENT GRIFFO:

1 Opposed?

2 (No response.)

3 ACTING PRESIDENT GRIFFO: The
4 Resolution Calendar is adopted.

5 Senator Libous.

6 SENATOR LIBOUS: Thank you,
7 Mr. President.

8 I believe there's a resolution at
9 the desk by Senator McDonald. It's Resolution
10 4330. I would like you to have it please read in
11 its entirety and then, at the completion of
12 reading it, please call on Senator Saland.

13 ACTING PRESIDENT GRIFFO: The
14 Secretary will read.

15 THE SECRETARY: Legislative
16 Resolution Number 4330, honoring Rylyn
17 Swierzewski and Benjamin Grant upon the occasion
18 of being selected as the Upstate New York Chapter
19 of the Leukemia and Lymphoma Society's 2012 Girl
20 and Boy of the Year.

21 "WHEREAS, It is the sense of this
22 Legislative Body to recognize and pay tribute to
23 those outstanding individuals whose personal
24 triumphs and extraordinary spirit and
25 determination are an inspiration to others; and

1 "WHEREAS, Attendant to such
2 concern, and in full accord with its
3 long-standing traditions, this Legislative Body
4 is justly proud to honor Rylyn Swierzewski and
5 Benjamin Grant upon the occasion of being
6 selected as the Upstate New York Chapter of the
7 Leukemia and Lymphoma Society's 2012 Girl and Boy
8 of the Year; and

9 "WHEREAS, The individuals selected
10 as the Girl and Boy of the Year are chosen by the
11 Leukemia and Lymphoma Society for their strength
12 and courage while battling leukemia. They serve
13 as examples for thousands of children across the
14 United States who are winning the war against
15 blood cancer; and

16 "WHEREAS, Rylyn Swierzewski and
17 Benjamin Grant, in their role as 2012 Girl and
18 Boy of the Year, serve as inspirations for local
19 Leukemia and Lymphoma Society Man and Woman of
20 the Year candidates to raise awareness and
21 monetary contributions with the hope to find a
22 cure for all blood cancers; and

23 "WHEREAS, Because of their strength
24 and the sacrifices of their families, the
25 Leukemia and Lymphoma Society is one step closer

1 to achieving its goal to find a cure for blood
2 cancer so that children like Rylyn Swierzewski
3 and Benjamin Grant do not suffer the injustice of
4 blood cancer in years to come; and

5 "WHEREAS, It is the custom of this
6 Legislative Body that when individuals of such
7 enduring courage and bravery are brought to our
8 attention, they should be celebrated and
9 recognized by all the citizens of this great
10 Empire State; now, therefore, be it

11 "RESOLVED, That this Legislative
12 Body pause in its deliberations to honor
13 Rylyn Swierzewski and Benjamin Grant upon the
14 occasion of being selected as the Upstate
15 New York Chapter of the Leukemia and Lymphoma
16 Society's 2012 Girl and Boy of the Year; and be
17 it further

18 "RESOLVED, That copies of this
19 resolution, suitably engrossed, be transmitted to
20 Rylyn Swierzewski and Benjamin Grant."

21 ACTING PRESIDENT GRIFFO: Senator
22 Saland.

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

25 I certainly am honored to stand

1 before you this afternoon and share with you the
2 road, the long and arduous road traveled by this
3 young 7-year-old girl that brings us here today,
4 despite the enormous obstacles that she has had
5 to contend with during the course of her tender
6 years and very young life.

7 Rylyn was diagnosed with acute
8 lymphoblastic leukoma, ALL, in 2009 at the age of
9 seven. She had intense chemotherapy over the
10 course of the next six months, during which time
11 she needed several blood transfusions, bone
12 marrow aspirations, and the placement of a port,
13 a challenge for anybody at any stage of their
14 life, but certainly I'm sure even that much more
15 challenging for one of such tender years.

16 Rylyn was initially placed in a
17 clinical trial where she went through four
18 extremely difficult treatments before they
19 decided that they had to stop because of allergic
20 reactions that she was experiencing that were in
21 fact worsening her condition.

22 She's currently in the maintenance
23 phase of her treatment. She takes chemotherapy
24 medications daily at home and has chemotherapy
25 treatments intravenously once a month at the

1 Melodies Center at Albany Medical Center. In
2 addition, Rylyn receives a spinal tap every three
3 months.

4 She especially enjoys the Beads of
5 Courage Program. Through the program, children
6 tell their stories in colorful beads as a
7 meaningful symbol of courage that commemorates
8 milestones they've achieved along their very
9 unique treatment path. She has received a new
10 and different bead for everything from hospital
11 stays, clinical visits, chemotherapy treatments,
12 spinal taps, blood transfusions, x-rays and hair
13 loss.

14 Quite an assortment of travails and
15 quite an assortment of hurdles that she's been
16 enduring over the course of her young life.
17 She's proud to tell her story through the beads
18 she has earned each step of the way.

19 Today Rylyn is 9 years old and
20 loves art and animals. She has three brothers
21 who she's very proud to say have been most
22 supportive of her. I'm happy to report that
23 Rylyn completed her chemotherapy treatments on
24 February 1st of this year. She and her family
25 certainly have been through a lot. She's

1 fortunate to have a family support system that
2 perhaps others are not so fortunate to have.

3 She has served as an inspiration to
4 everyone who knows her. And I'm honored that she
5 could be here and grace our chamber today. And
6 she's in the gallery above us right in the
7 center.

8 If you would please recognize her,
9 Mr. President. Thank you.

10 ACTING PRESIDENT GRIFFO: Thank
11 you.

12 Senator Breslin.

13 SENATOR BRESLIN: Thank you,
14 Mr. President.

15 I equally have a compelling story,
16 as Senator Saland did.

17 Ben Grant, who's in our gallery,
18 loved to play. Growing up through his toddler
19 years, Ben displayed the typical boundless energy
20 of a boy of his age. So it was slowly but surely
21 telling when in the fall of 2008, Mom and Dad,
22 Jean and Bill, began to notice a decline in his
23 energy level, along with unexplainable spiking
24 headaches.

25 This all seemed very unusual for

1 Ben, so his parents began to seek answers from
2 his pediatrician. It turned into a series of
3 appointments as the doctor saw these symptoms as
4 little more than a viral issue that in time
5 should fix itself. As Ben's symptoms progressed,
6 his mom insisted on blood work, as the diagnosis
7 being given was just not ringing true in her
8 heart.

9 After weeks of watching their
10 once-energy-filled boy change before their eyes,
11 the pediatrician called and stated that Ben
12 needed to go to Albany Medical Center Children's
13 Hospital, as there were concerns with his most
14 recent blood work. This began a series of
15 tests -- a bone marrow biopsy, a spinal tap, and
16 more blood draws, confirming the diagnosis of
17 acute lymphoblastic leukemia, ALL.

18 On October 6, 2008, Ben went into
19 surgery to have a port placed in his chest and
20 his first dose of chemotherapy in his spine as
21 well as the first chemo medicine in his port.
22 This began a whirlwind of procedures, as Ben had
23 a protocol that needed to be followed.

24 On December 9, 2011, Ben finished
25 his ALL protocol. December 29th marks the day

1 that he had his port removed.

2 His parents are so grateful for the
3 treatment Ben received. With each new day, they
4 see a little bit more of Ben's fun-loving,
5 energy-filled personality shining through once
6 again.

7 Ben will continue to have monthly
8 checkups and will continue to have hope, and we
9 all pray that it will blaze a path to a healthy
10 and productive life.

11 And Ben is with us. And as I said,
12 he's with his mom and dad, Jean and Bill.

13 Thank you, Mr. President.

14 ACTING PRESIDENT GRIFFO: Thank
15 you, Senator Breslin.

16 To Rylyn and Benjamin, we welcome
17 you to the Senate chamber. We admire your
18 courage, and we ask God's blessings upon both of
19 you.

20 (Standing ovation.)

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

24 (Response of "Aye.")

25 ACTING PRESIDENT GRIFFO:

1 Opposed?

2 (No response.)

3 ACTING PRESIDENT GRIFFO: The
4 resolution is adopted.

5 Senator Libous.

6 SENATOR LIBOUS: Thank you,
7 Mr. President.

8 At this time I believe that
9 Senator Little has a resolution at the desk,
10 Number 4281. Could we please have the title read
11 and call on Senator Little.

12 ACTING PRESIDENT GRIFFO: The
13 Secretary will read.

14 THE SECRETARY: Legislative
15 Resolution Number 4281, by Senator Little,
16 recognizing Saturday, May 5, 2012, as I Love My
17 Park Day in the State of New York.

18 ACTING PRESIDENT GRIFFO: Senator
19 Little.

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

22 As we know, New York State has many
23 great state parks and historic sites -- as a
24 matter of fact, 178 state parks, 35 state
25 historic sites. And this Saturday, May 5th, will

1 be the first I Love My New York Park Day.

2 And what that means is that the
3 Parks & Trails New York association, which was
4 formed in 1985, has begun an effort in all of our
5 parks and historic sites for volunteers to come
6 in and to work on those parks for cleanup, for
7 improvement, for beautification.

8 It wasn't so long ago we were here
9 in the chamber talking about having our parks
10 closed and seeing many cuts take place.
11 Fortunately, this year in our New York State
12 budget the Governor has allocated \$89 million in
13 the New York Works project for improving our
14 parks.

15 But this is an effort on behalf of
16 those who enjoy and use the parks and who truly
17 love New York State parks to work on their behalf
18 for cleanup and for programs. There will be
19 celebrations at many of our parks, from
20 Niagara Falls to northern New York to
21 Long Island.

22 And I really thank everyone and
23 encourage you in your districts to enjoy your
24 parks. And as always, we support the parks and
25 certainly support the Parks & Trails New York for

1 this initiative, because it will be very
2 beneficial to our state. So I'm sure you all
3 join me in loving our New York State parks.

4 Thank you.

5 ACTING PRESIDENT GRIFFO: Thank
6 you, Senator Little.

7 Senator Serrano.

8 SENATOR SERRANO: Thank you very
9 much, Mr. President.

10 And I also would like to thank
11 Senator Little for bringing this resolution. And
12 it's a pleasure to work with her as chair of the
13 committee that oversees parks. And her
14 leadership has meant a great deal to parks during
15 some very difficult fiscal times.

16 And this program that will be
17 happening this Saturday really gives a great
18 opportunity for people who love state parks to
19 get involved in their local parks, to help
20 beautify them, to help make them look as good as
21 they should.

22 And I think it's important to
23 remember that a couple of years ago, when there
24 was a threat because of budget cuts that we were
25 going to lose a number, I think it was about 91

1 state parks across the State of New York, the
2 outpouring of outrage from people everywhere
3 across the state about potentially losing their
4 beloved parks.

5 And it was really, I think, a great
6 time here in the Senate because we saw a
7 bipartisan effort -- Democrats, Republicans, it
8 didn't matter from what political ideology you
9 were, there was a common language, and that was
10 to save our state parks. And it was a successful
11 campaign, and the parks were saved.

12 And if you still love your park and
13 if you still want to make sure that it has a
14 future and that it stays beautiful, get involved
15 this Saturday. Parks & Trails on their website
16 has a lot of different options for you to get
17 involved in parks in your area.

18 But once again, my sincere thanks
19 to Senator Little for her leadership on this
20 issue as they pertain to parks.

21 Thank you.

22 ACTING PRESIDENT GRIFFO: Thank
23 you, Senator Serrano.

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

1 (Response of "Aye.")

2 ACTING PRESIDENT GRIFFO:

3 Opposed?

4 (No response.)

5 ACTING PRESIDENT GRIFFO: The
6 resolution is adopted.

7 Senator Libous.

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

10 I believe Senator Little would like
11 to open the resolution up to all the members of
12 the Senate. If there's someone who wishes not to
13 be on the resolution, please let the desk know.

14 ACTING PRESIDENT GRIFFO: So
15 noted.

16 SENATOR LIBOUS: And if I could
17 just go backwards a little bit on the McDonald
18 resolution, he too would like to open that up to
19 every member of the Senate. If anyone chooses
20 not to be on, please let the desk on.

21 ACTING PRESIDENT GRIFFO: The
22 resolutions are open. Anyone who chooses not to
23 cosponsor please notify the desk.

24 Senator Libous.

25 SENATOR LIBOUS: Thank you,

1 Mr. President.

2 There's a resolution at the desk by
3 Senator Bonacic, it's Number 4136. Now, it had
4 been previously adopted by the house on
5 April 26th. Could we please have it read in its
6 entirety, and then if you would call on
7 Senator Bonacic.

8 ACTING PRESIDENT GRIFFO: The
9 Secretary will read Resolution 4136.

10 THE SECRETARY: Legislative
11 Resolution Number 4136, by Senator Bonacic,
12 honoring New York State Court Officer Sergeant
13 Robert Kowal, New York State Court Officer Scott
14 Truex, New York State Court Officer Michael
15 Mathisen, and New York State Court Officer
16 Michele Lynch for their heroic actions on
17 February 8, 2012.

18 "WHEREAS, It is the sense of this
19 Legislative Body to recognize and honor those
20 distinguished officers who devote themselves to
21 public service, demonstrating great courage and
22 diligence in providing for the care and welfare
23 of the citizens of their communities and this
24 great Empire State, expressing its highest regard
25 and admiration for the great skill and courageous

1 dedication exhibited by those who take prompt and
2 heroic action in an emergency situation; and

3 "WHEREAS, Attendant to such
4 concern, and in full accord with its
5 long-standing traditions, this Legislative Body
6 is justly proud to honor New York State Court
7 Officer Sergeant Robert Kowal, New York State
8 Court Officer Scott Truex, New York State Court
9 Officer Michael Mathisen, and New York State
10 Court Officer Michele Lynch for their heroic
11 actions on Wednesday, February 8, 2012; and

12 "WHEREAS, At approximately 9 a.m.
13 on Wednesday, February 8, 2012, a gunman from
14 Middletown, New York, ran up the steps of
15 Middletown City Hall holding a shotgun and
16 attempted to gain entry into the Middletown City
17 Court; and

18 "WHEREAS, One of the New York State
19 court officers saw the gunman in the hallway and
20 instantly alerted the others; and

21 "WHEREAS, Working swiftly and
22 calmly, Court Officer Lynch took immediate action
23 to clear all the individuals from the crowded
24 courtroom in remarkable time, directing the
25 public, court staff and lawyers to get out

1 through the emergency exit; and

2 "WHEREAS, The gunman then began to
3 fire the shotgun toward three New York State
4 court officers near the entrance, hitting Court
5 Officer Truex in the arm; and

6 "WHEREAS, Court Officer Kowal and
7 Court Officer Mathisen returned fire on the
8 gunman and with Court Officer Truex were able to
9 successfully suppress and disarm the gunman; and

10 "WHEREAS, The quick and astute
11 actions of these officers undoubtedly saved the
12 lives of countless citizens on the morning of
13 February 8, 2012; and

14 "WHEREAS, Through their heroic
15 actions, Robert Kowal, Scott Truex, Michael
16 Mathisen, and Michele Lynch have demonstrated
17 their character and compassion for the welfare of
18 others, personifying the collective concern of
19 public servants and ordinary citizens across the
20 community of the State of New York who respond
21 when others are in need of help; and

22 "WHEREAS, It is the sense of this
23 Legislative Body that those dedicated public
24 servants who unselfishly devote their lives to
25 the preservation of order and the protection of

1 others are worthy and due full praise for their
2 commitment and noble endeavors; now, therefore,
3 be it

4 "RESOLVED, That this Legislative
5 Body pause in its deliberations to honor New York
6 State Court Officer Sergeant Robert Kowal,
7 New York State Court Officer Scott Truex,
8 New York State Court Officer Michael Mathisen,
9 and New York State Court Officer Michele Lynch
10 for their heroic actions on February 8, 2012; and
11 be it further

12 "RESOLVED, That copies of this
13 resolution, suitably engrossed, be transmitted to
14 New York State Court Officer Sergeant Robert
15 Kowal, New York State Court Officer Scott Truex,
16 New York State Court Officer Michael Mathisen,
17 and New York State Court Officer Michele Lynch."

18 ACTING PRESIDENT GRIFFO: May we
19 have some order in the chamber, please.

20 Senator Bonacic.

21 SENATOR BONACIC: Thank you,
22 Mr. President.

23 I'm honored to stand here today to
24 thank four heroes from the Supreme Court Officers
25 Association. Accompanying them today are

1 parents, wives, children who are sharing this
2 moment with our four heroes.

3 Many of you may not realize, but
4 today is Law Day. And at 12 o'clock there was a
5 ceremony in the Court of Appeals where these four
6 officers were given a medal of valor by the
7 judiciary for their actions. And I did have an
8 opportunity to speak briefly.

9 And what struck me about Law Day is
10 when we think of Law Day, the common person, they
11 probably think of Judge Judy, on television,
12 watching two people fighting it out. Or you may
13 have a justice giving elegant words or a court
14 decision or referring to laws that we pass in
15 this distinguished Legislature.

16 But it's all meaningless unless you
17 have the physical presence to enforce the law.
18 We have our Army that has a physical presence.
19 It enforces the laws of our land. We have a
20 police SWAT team that enforces the law and the
21 safety of our residents.

22 On February 8, 2012, we had the
23 physical presence of four individuals who got in
24 harm's way of a deranged man who came to the
25 courthouse with a shotgun, intent on a killing

1 spree. And one of these officers was wounded.

2 And they killed that perpetrator
3 and they saved the lives of many people in that
4 courtroom and, I'm sure, a couple of those
5 judicial employees that are sitting up in the
6 chambers today.

7 It's for their courage, their
8 valor, their training that we are indebted to
9 these four heroes.

10 On Friday I gave them the Liberty
11 Medal, which is the highest medal that we can
12 give civilians at the Senate level. And today,
13 as I indicated, they were honored by the
14 judiciary.

15 So I'm proud to thank them for
16 keeping the courtroom safe. And we are forever
17 indebted for your courage.

18 Before I ask the four to stand up,
19 I'm also joined by four other distinguished
20 officers. Number one, Jon Strandberg, president
21 of the Supreme Court Officers Association -- Jon,
22 why don't you stand up -- Richard Poidevin, who's
23 also the recording secretary of the Supreme Court
24 Officers Association; Chief Mary Ellen Murray, of
25 the 9th Judicial District; and Major Brian Negron

1 of the 9th Judicial District.

2 I'd ask you all four to sit and ask
3 my four heroes to stand up. I ask you all to
4 congratulate them and recognize them.

5 (Standing ovation.)

6 ACTING PRESIDENT GRIFFO: To the
7 court officers in attendance today, we welcome
8 you. We thank you for your service to our state,
9 and we honor your courage.

10 This resolution, as previously
11 mentioned, was adopted on April 26th.

12 Senator Libous.

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

15 At this time there's a resolution
16 by Senator Peralta at the desk. It's Number
17 4308. I'll ask that the title be read, and could
18 you call on Senator Peralta.

19 ACTING PRESIDENT GRIFFO: The
20 Secretary will read the resolution.

21 THE SECRETARY: Legislative
22 Resolution Number 4308, by Senator Peralta,
23 commemorating the celebration of Cinco de Mayo,
24 May 5, 2012.

25 ACTING PRESIDENT GRIFFO: Senator

1 Peralta.

2 SENATOR PERALTA: Thank you,
3 Mr. President. Thank you for allowing me to say
4 a few words on this Cinco de Mayo resolution.

5 The Cinco de Mayo commemoration of
6 the Battle of Puebla transcends the victory of
7 the greatly outnumbered Mexican army over the
8 French armed forces. Cinco de Mayo has evolved
9 into an American celebration of Mexican and
10 Hispanic culture and heritage in this country.

11 Cinco de Mayo is about the spirit
12 and determination of our Mexican and Chicano
13 brethren, about unity and patriotism, about
14 strength of will and perseverance. It is a
15 celebration of liberty and freedom and of the
16 long-standing friendship between the United
17 States of America and Mexico.

18 From the arts and culture to
19 politics and the economy, Mexico and
20 Mexican-Americans have indelible contributions.
21 Mexican heritage and folklore are intertwined in
22 the American fabric and Mexican-American
23 experience. In every borough, in every county of
24 our great state, Mexican-Americans enrich our
25 communities. In celebrating Cinco de Mayo we

1 recognize their myriad contributions and
2 strengthen the innumerable ties that bind us.

3 Today let us remember that the
4 United States of America and Mexico are not
5 simply neighbors bound by geography and history,
6 we're two societies that are woven together by
7 millions of family and friends, by common
8 interests and a shared future.

9 And although today's the Primero de
10 Mayo, the first of May, I'd like to say "Happy
11 Cinco de Mayo" to all of you.

12 ACTING PRESIDENT GRIFFO: Thank
13 you, Senator Peralta.

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

16 (Response of "Aye.")

17 ACTING PRESIDENT GRIFFO:
18 Opposed?

19 (No response.)

20 ACTING PRESIDENT GRIFFO: The
21 resolution is adopted.

22 Senator Libous.

23 SENATOR LIBOUS: Mr. President,
24 Senator Peralta would like to open this up for
25 cosponsorship. So if there's any member who

1 chooses not to go on the resolution, to please
2 let the desk know.

3 ACTING PRESIDENT GRIFFO: So
4 noted.

5 Senator Libous.

6 SENATOR LIBOUS: Mr. President,
7 there's a resolution at the desk by
8 Senator Sampson, Number 3947. It was previously
9 adopted by this house on the 19th of April.
10 Could we please have the title read, and I
11 believe Senator Montgomery would like to speak on
12 it.

13 ACTING PRESIDENT GRIFFO: The
14 Secretary will read the title.

15 THE SECRETARY: Legislative
16 Resolution Number 3947, by Senator Sampson,
17 mourning the death of Gil Noble, distinguished
18 citizen and devoted member of his community.

19 ACTING PRESIDENT GRIFFO: Senator
20 Montgomery.

21 SENATOR MONTGOMERY: Yes, thank
22 you, Mr. President.

23 I would like to say a few things
24 about this absolutely wonderful historical
25 figure, Gil Noble, who passed away on April 5th

1 of this year, 2012.

2 There are so many things and so
3 many ways that we could honor him and say about
4 him. But I would like to read from the tribute
5 that was given to us by Our Time Press in
6 Brooklyn. He was a Brooklynite, after all.

7 "Legendary television journalist
8 Gil Noble passed to the other side on April 5,
9 2012. And as producer and host of the beloved
10 'Like It Is' television program, he took with him
11 an awareness and love of the African Diaspora
12 that I do not expect to see on mainstream
13 television again.

14 "Gil Noble was not in pursuit of
15 the big network gig, nor did he have a public
16 relations firm paid to tout his every utterance.
17 What he had was a love of African people. And he
18 had decided that his job was bringing to the
19 forefront information about the African-American
20 experience that could not be found anyplace else.

21 "Watching 'Like It Is' was an
22 educational experience, and shows were talked
23 about the next day, the next year, and many years
24 after. The interview with Sammy Davis, Jr.,
25 comes to mind as one that could not have been

1 done with a white sensibility.

2 "Mr. Noble's 'Like It Is'
3 demonstrated that diversity in media is not
4 simply about having a non-white news reader or
5 host, or covering stories with black people in
6 them. It is the freedom to bring an African and
7 African-American perspective. Many of us are
8 afraid of freedom, but Gil Noble was not one of
9 them. And he proved it every Sunday at 12 noon
10 on 'Like It Is.'

11 "When he was threatened, it was the
12 people who rose up and stood around him in
13 protection. They did it because Gil Noble was
14 not just respected and admired as a journalist,
15 he was revered as a living institution. And
16 that's a level that is only achieved when the
17 people know you love them.

18 "Gil Noble was a media warrior --
19 referred to often as an electronic griot -- on
20 our behalf, and we will miss his courtliness,
21 generosity, intelligence and his bravery and his
22 courage to tell the news, as he said, 'like it
23 is.'

24 "As Ossie Davis said of Malcolm X,
25 'He was our Black shining prince', and we will

1 always hold Gil Noble as the standard to be
2 measured against in media."

3 On behalf of all the people that I
4 represent and all of the people Gil Noble shared
5 so much with and represented so much for, I thank
6 you for allowing us an opportunity to pay a
7 tribute to this great and wonderful media
8 personality.

9 Thank you, Mr. President.

10 ACTING PRESIDENT GRIFFO: Thank
11 you, Senator Montgomery.

12 Senator Adams.

13 SENATOR ADAMS: Thank you,
14 Mr. President.

15 I want to thank Senator Sampson and
16 Senator Montgomery for her comments on
17 Gil Noble.

18 And one of the great moments that
19 we have by doing resolutions is that it allows us
20 to learn about those who are part of our universe
21 and share it not only with the state but also
22 share it with our members and colleagues here.

23 The name Gil Noble may not resonate
24 to many of you, but he does resonate in many of
25 the communities that watched his show every week

1 and for the long number of years that he has
2 really brought a level of history and America's
3 history. Because although we may split up and
4 divide the various ethnic groups we have in this
5 country as well as this state, it is part of the
6 rich part of American history. And Gil Noble
7 added to that history every week, every Sunday.
8 And I watched him often.

9 And not only that, he was not only
10 a great reporter, he was not only a great
11 commentator and a great historian, but he was a
12 great friend. I'd known him for over 25 years.
13 And often I was on his program and I would sit
14 down and speak with him about various issues that
15 impact the cities and the State of New York.

16 We're going to miss him. He had a
17 short period of ailment after he suffered a
18 stroke. But he was a great human being, he was a
19 great American, he was a great member of the
20 greatest race alive, and that's the human race.
21 And I don't want to confine him to just one
22 ethnic group; he was a great human being.

23 And I'm glad that he was my friend,
24 and I'm glad to have known him during these
25 days.

1 Thank you.

2 ACTING PRESIDENT GRIFFO: Senator
3 Parker.

4 SENATOR PARKER: On the
5 resolution.

6 ACTING PRESIDENT GRIFFO: Senator
7 Parker.

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

10 Let me add my voice to those
11 congratulating Senator Sampson and
12 Senator Montgomery for bringing this resolution
13 to the floor memorializing Gil Noble, who was,
14 you know, as you've heard the other speakers
15 indicate, you know, just a really significant
16 journalist, somebody who did so much,
17 particularly for the African-American community.

18 I think in this time it's fairly
19 common to see African-American newscasters and
20 African-American commentators and
21 African-American journalists on television and
22 hear them on the radio. At the time that he
23 started 'Like It Is' almost 40 years ago, it
24 wasn't. He really was the voice out there and
25 really was somebody who stuck out, speaking about

1 issues that no one else would speak about, of
2 having and providing a forum for both issues and
3 people who were not being covered by the
4 mainstream media.

5 And so we thank him for his years
6 of service. He toiled long, and we hope that he
7 rests well.

8 ACTING PRESIDENT GRIFFO: Senator
9 Stewart-Cousins.

10 SENATOR STEWART-COUSINS: Thank
11 you, Mr. President.

12 I too wanted to just thank
13 Senator Sampson for bringing forward this
14 resolution honoring Gil Noble.

15 And all of what my colleagues have
16 said is just really what I wanted to echo. I
17 think Senator Parker, when he was talking about
18 journalists and African-American journalists --
19 many years ago, I wanted to be a journalist. And
20 frankly it wasn't until I saw Gil Noble that I
21 realized I could be. And actually I did become a
22 reporter for a newspaper.

23 But again, what we see in terms of
24 the cultural diversity on television now was not
25 that way in the '60s. And so what people of

1 color looked at as their range of opportunity
2 very often did not include a place in
3 television. But Gil Noble broke that barrier in
4 many ways.

5 They called on Gil Noble because
6 they needed someone during the Civil Rights Era
7 who could actually talk to people who were
8 involved in the civil rights struggle. And they
9 realized that, finally, having an
10 African-American report on what was happening in
11 terms of civil rights, it could not only
12 illuminate the issue but be more authentic and
13 people would be more willing and open.

14 So Gil Noble had his opportunity.
15 And when that door was opened, he made sure that
16 voices were let in and that other people who
17 aspired to be journalists could indeed become
18 that.

19 So we honor Gil Noble for what he
20 has meant to certainly the African-American
21 community, to all those people like me who only
22 knew I could be that once I saw someone like him
23 doing it. And certainly we do hope he rests in
24 peace, because his memory will be kept alive by
25 all of us.

1 ACTING PRESIDENT GRIFFO: Thank
2 you, Senator Stewart-Cousins.

3 Senator Espaillat.

4 SENATOR ESPAILLAT: Yes,
5 Mr. President, I too would like to stand in
6 support of this resolution honoring the lifelong
7 contributions of Gil Noble, who in addition to
8 being an extraordinary journalist was also
9 someone that educated all of us about the African
10 Diaspora in its many forms -- not just about
11 civil rights, the issue of race in the United
12 States, but also culture, music, history, and a
13 host of things that are so much a part of the
14 African Diaspora both in the United States, in
15 the Caribbean, and in the hemisphere.

16 So I would like to stand here to
17 recognize not only his work as a journalist --
18 and every one of us that saw him on Sunday will
19 surely miss him -- but also as an educator of
20 many people beyond the African-American
21 community.

22 Thank you, Mr. President.

23 ACTING PRESIDENT GRIFFO: Thank
24 you, Senator Espaillat.

25 As previously indicated, the

1 resolution was adopted on April 19th.

2 Senator Libous.

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

5 There's a resolution at the desk by
6 Senator Stewart-Cousins, Number 3943. It was
7 previously adopted by this house on April 19th.
8 May we please have the title read, and I would
9 have you call on Senator Stewart-Cousins.

10 ACTING PRESIDENT GRIFFO: The
11 Secretary will read.

12 THE SECRETARY: Legislative
13 Resolution Number 3943, by Senator
14 Stewart-Cousins, memorializing Governor Andrew M.
15 Cuomo to proclaim April 15 through 21, 2012, as
16 Abusive Head Trauma/Shaken Baby Syndrome
17 Awareness Week in the State of New York.

18 ACTING PRESIDENT GRIFFO: Senator
19 Stewart-Cousins.

20 SENATOR STEWART-COUSINS: Thank
21 you, Mr. President.

22 As was noted by Senator Libous, we
23 did pass this resolution, but I thought it would
24 be -- as part of what we do is to educate the
25 public, it was worth taking some time to remind

1 people about Shaken Baby Syndrome.

2 This legislative body passed a law
3 several years ago which requires maternity wards
4 to offer a video on Shaken Baby Syndrome. And
5 the reason that happened is not only because it's
6 happened to many children, but certainly it
7 happened to Cynthia Gibbs in the year 2000,
8 November 17th.

9 And she was a young child in my
10 district, eight months old. She was with a
11 babysitter who was apparently tired of her
12 crying. And so she took Cynthia and she shook
13 her, and Cynthia later died because of head
14 trauma. It only took a few seconds and Cynthia
15 was gone.

16 And now we have to tell people that
17 yes, babies cry, that it's okay, if you're
18 frustrated, to let a baby cry in a safe place.
19 It's fine, because they can cry maybe three hours
20 a day. But by shaking them even for a little
21 bit, it can cause trauma and actually death.

22 Just so you know some statistics,
23 in New York State there's an average of
24 33 children under the age of 4 years old who are
25 hospitalized for Shaken Baby Syndrome. Also, the

1 immediate symptoms are tiredness, not eating, no
2 smiling, talking, laughing, difficulty
3 swallowing, sucking, breathing. It can lead to
4 cerebral palsy, blindness, hearing loss, learning
5 and behavior problems, seizures and paralysis.

6 And just so you know, there's an
7 estimate of 1,000 to 3,000 children in the
8 United States who suffer from Shaken Baby
9 Syndrome each year.

10 So we talked about the young heroes
11 who are fighting leukemia and lymphoma, and
12 Jay J., who had experienced breakages due to a
13 parent. This Shaken Baby Syndrome could happen
14 just because you think it's okay just to give the
15 baby a little jolt.

16 And so it's up to us to remind
17 everyone that babies are very, very delicate.
18 And if you shake them even for a few seconds, it
19 could lead to a life of disability or even,
20 ultimately, death.

21 So thank you so much for letting me
22 speak on that issue.

23 ACTING PRESIDENT GRIFFO: Thank
24 you, Senator Stewart-Cousins.

25 As indicated, that resolution also

1 was adopted on April 19th.

2 Senator Libous.

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

5 At this time could you please call
6 on Senator Young for the purposes of a statement.

7 ACTING PRESIDENT GRIFFO: Senator
8 Young.

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

11 We've heard about resolutions
12 passed today and resolutions that we've passed
13 before and people talking about them. And I have
14 the privilege today of talking about a resolution
15 that will be passed this coming week.

16 And the reason that I'm talking
17 about it today is because we have a very
18 important group of individuals up in the Senate
19 gallery, and those are Girl Scouts who have come
20 from around the state, their parents, their
21 leaders. And so we will be recognizing them, and
22 I want to thank them for coming.

23 You know, it was a hundred years
24 ago when Girl Scouts was started in the
25 United States, and it actually started in

1 Savannah, Georgia, in 1912, when 18 girls went to
2 a meeting that was hosted by Juliette Gordon
3 Low. And since that time, Girl Scouting has
4 touched the lives of 50 million American women.
5 Think about that fact. And you girls are a part
6 of that movement.

7 You know, I had the privilege when
8 I was a little girl to be a Brownie and a
9 Girl Scout. Today is May 1st. At the end of
10 this month, as you know, we will be commemorating
11 Memorial Day, and many of the Senators here will
12 be taking part in ceremonies, parades, in order
13 to honor our fallen heroes who have died in the
14 military while protecting our freedom and our
15 country.

16 And when I was a little girl, that
17 was the first parade that I ever marched in. And
18 we would march down the street and we would be
19 with the veterans and we would go to the village
20 park in the middle of the town, and many of the
21 town members would be there. And we would take
22 part in the ceremonies, but also we would listen
23 to a recitation of the Gettysburg Address.

24 Now, you don't have to do what I
25 did. I had to wear a uniform, but we also had to

1 wear little white gloves when we did that -- this
2 was a long time ago. But I remember feeling at
3 that time that I was part of something that was
4 really important, very profound, not only for my
5 community but also for my state and my country.

6 And the reason I was able to be a
7 part of those things is because we had caring
8 adults who took the time, gave of their time and
9 their talents to help these young girls learn and
10 grow. And that's what happens with you now.

11 I remember that we did arts and
12 crafts, camping, those types of things. I know
13 you do that. But we also took part in community
14 service projects. And I know that you do that
15 too. In fact, I remember going to a nursing
16 home, we were singing Christmas carols, and one
17 of the residents said "Shut the heck up" to me.
18 And I knew at that point that a career as a
19 professional singer was out.

20 But what I learned from those
21 experiences were things that I have carried with
22 me throughout my entire life. And that's what
23 you're doing through Girl Scouting.

24 So we will be celebrating
25 Girl Scouts this coming week. But I do want to

1 thank you for coming. And I want to point out we
2 had Girl Scouts here from all over the state, we
3 had the Girl Scouts of Greater New York,
4 Girl Scouts Heart of the Hudson, Girl Scouts of
5 Nassau County, Girl Scouts of NYPENN Pathway,
6 Girl Scouts of Suffolk County, and Girl Scouts of
7 Western New York.

8 And I do want to point out that we
9 had a Scout from my district, Khadijah Bagais.

10 But all of the girls, if you could
11 stand up and be recognized, we want to say to you
12 "Congratulations." These girls are special
13 because they've earned Silver and Gold Awards.
14 Those are the highest awards you can earn as
15 Girl Scouts. That means that they've worked
16 hard, they've put a lot of effort into that.

17 But congratulations and keep up the
18 great work.

19 ACTING PRESIDENT GRIFFO: To the
20 Girl Scouts on both sides, we extend a warm
21 welcome.

22 (Standing ovation.)

23 ACTING PRESIDENT GRIFFO: Again, to
24 the Scouts on both sides, we appreciate you
25 coming here today and we welcome you to the

1 Senate chambers.

2 Thank you, Senator Young.

3 Senator Carlucci.

4 SENATOR CARLUCCI: Mr. President,
5 I also rise to honor the Girl Scouts of America
6 and to echo what Senator Young spoke about so
7 eloquently in the history of the Girl Scouts of
8 America.

9 Since that cold day in March in
10 1912 in Savannah, Georgia, when the first
11 Girl Scouts troop was formed, since that hundred
12 years, now we have, today, over 3.2 million
13 active Girl Scouts serving thousands of
14 communities across this nation.

15 And I'm so honored because I have
16 three wonderful young women who have all earned
17 the Silver Award which Senator Young had spoke
18 about. And these Girl Scout cadets, that that's
19 the highest honor you can receive as a Girl Scout
20 cadet. And they all come from Rockland County.
21 And we have Victoria Gomes, Julia Mintz, and
22 Beth McKiever, who all received that award.

23 And we're so proud and honored to
24 have you in the chamber today. And because of
25 your commitment to our community, it's people

1 like you that make Rockland County a wonderful
2 place to live. So I thank you and commend you
3 for your service and your dedication to our
4 community.

5 Thank you.

6 ACTING PRESIDENT GRIFFO: Senator
7 Maziarz.

8 SENATOR MAZIARZ: Thank you very
9 much, Mr. President.

10 I just want to offer my
11 congratulations to these great girls, these very
12 talented young ladies. I visited them this
13 morning in the Albany Room, saw their Gold and
14 Silver projects, their effort to give back to the
15 community, be it through the food pantry, a
16 reading program, or a shelter for abused
17 animals. They do a great job.

18 And after 100 years of Girl
19 Scouting, this country and Western New York is a
20 better place. So thank you very much.

21 ACTING PRESIDENT GRIFFO: Senator
22 Montgomery.

23 SENATOR MONTGOMERY: Yes, thank
24 you, Mr. President.

25 I rise to thank, first of all,

1 Senator Young for recognizing these wonderful
2 young women who are obviously the future leaders
3 of America and the world.

4 But I also want to especially
5 recognize someone from my own district who has
6 received the highest award, and that is the Gold
7 Award. That is Lesego Pearl Nkosi. She is from
8 the County of Kings. That's Brooklyn. And I
9 believe that Senator Young did not call Kings
10 because she didn't realize that that was actually
11 the County of Kings.

12 So congratulations, Lesego Nkosi.
13 And I'm waiting and hoping that many of these
14 young women are going to be sitting down here
15 someday and not too far in the future.

16 Thank you, Mr. President.

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

19 Senator Parker.

20 SENATOR PARKER: Mr. President, on
21 the resolution.

22 ACTING PRESIDENT GRIFFO: On the
23 resolution.

24 SENATOR PARKER: Thank you very
25 much, Mr. President.

1 I'm joining my colleagues in
2 congratulating Senator Young on bringing this
3 important resolution to the floor congratulating
4 the Girl Scouts. You don't look a day over 30,
5 40 -- certainly not a hundred, right?

6 But just think, you young ladies
7 who belong to the Girl Scouts, out of 10 million
8 girls worldwide, you are in an exceptional
9 position to make a difference not just in your
10 community, but to change the world.

11 And so I want to say
12 congratulations to all of you, particularly to,
13 as Senator Montgomery indicated, the Gold Award
14 recipients, which again for the Girl Scouts is
15 the highest achievement. And so I commend you
16 all for that honor.

17 I particularly want to commend
18 Alexia Codington, a young lady from my district,
19 also in Kings County in Brooklyn. And not just
20 congratulate you, but to pledge myself to partner
21 with you as we join forces in changing the world
22 to make this a place where all girls are
23 Girl Scouts.

24 Thank you.

25 ACTING PRESIDENT GRIFFO: Thank

1 you, Senator Parker.

2 Senator Libous.

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

5 At this time we would like to go to
6 the noncontroversial reading of the calendar,
7 please.

8 ACTING PRESIDENT GRIFFO: The
9 Secretary will read.

10 THE SECRETARY: Calendar Number
11 38, by Senator Fuschillo, Senate Print 1998A, an
12 act to amend the Judiciary Law.

13 ACTING PRESIDENT GRIFFO: Read the
14 last section.

15 THE SECRETARY: Section 6. This
16 act shall take effect on the first of November.

17 ACTING PRESIDENT GRIFFO: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 58.

21 ACTING PRESIDENT GRIFFO: The bill
22 is passed.

23 THE SECRETARY: Calendar Number
24 242, by Senator Johnson, Senate Print 1208, an
25 act to amend the Vehicle and Traffic Law.

1 ACTING PRESIDENT GRIFFO: Read the
2 last section.

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

5 ACTING PRESIDENT GRIFFO: Call the
6 roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 57. Nays,
9 1. Senator Duane recorded in the negative.

10 ACTING PRESIDENT GRIFFO: The bill
11 is passed.

12 THE SECRETARY: In relation to
13 Calendar Number 242, those recorded in the
14 negative are Senators Duane and Parker.

15 Ayes, 56. Nays, 2.

16 ACTING PRESIDENT GRIFFO: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 277, by Senator Marcellino, Senate Print 6481A,
20 an act to amend Chapter 704 of the Laws of 1991.

21 ACTING PRESIDENT GRIFFO: Read the
22 last section.

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

25 ACTING PRESIDENT GRIFFO: Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 58.

4 ACTING PRESIDENT GRIFFO: The bill
5 is passed.

6 THE SECRETARY: Calendar Number
7 305, by Senator Lanza --

8 SENATOR BRESLIN: Lay it aside.

9 ACTING PRESIDENT GRIFFO: Lay the
10 bill aside.

11 THE SECRETARY: Calendar Number
12 310, by Senator Fuschillo, Senate Print 5012C, an
13 act to amend the Limited Liability Company Law.

14 ACTING PRESIDENT GRIFFO: Read the
15 last section.

16 THE SECRETARY: Section 11. This
17 act shall take effect immediately.

18 ACTING PRESIDENT GRIFFO: Call the
19 roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 57. Nays,
22 1. Senator Ball recorded in the negative.

23 ACTING PRESIDENT GRIFFO: The bill
24 is passed.

25 THE SECRETARY: Calendar Number

1 431, by Senator Maziarz, Senate Print 512A, an
2 act to amend the Correction Law.

3 ACTING PRESIDENT GRIFFO: Read the
4 last section.

5 THE SECRETARY: Section 3. This
6 act shall take effect on the 30th day.

7 ACTING PRESIDENT GRIFFO: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: In relation to
11 Calendar Number 431, those recorded in the
12 negative are Senators Hassell-Thompson,
13 Montgomery, Parker, and Perkins.

14 Ayes, 54. Nays, 4.

15 ACTING PRESIDENT GRIFFO: The bill
16 is passed.

17 THE SECRETARY: Calendar Number
18 497, by Senator Saland, Senate Print 6672, an act
19 to amend the Criminal Procedure Law.

20 ACTING PRESIDENT GRIFFO: Read the
21 last section.

22 THE SECRETARY: Section 3. This
23 act shall take effect on the first of November.

24 ACTING PRESIDENT GRIFFO: Call the
25 roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 56. Nays,

3 2. Senators Duane and Parker recorded in the
4 negative.

5 ACTING PRESIDENT GRIFFO: The bill
6 is passed.

7 THE SECRETARY: Calendar Number
8 498, by Senator Saland, Senate Print 6673, an act
9 to amend the Penal Law.

10 ACTING PRESIDENT GRIFFO: Read the
11 last section.

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

14 ACTING PRESIDENT GRIFFO: Call the
15 roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 58.

18 ACTING PRESIDENT GRIFFO: The bill
19 is passed.

20 THE SECRETARY: Calendar Number
21 499, by Senator Saland, Senate Print 6674, an act
22 to amend the Penal Law.

23 ACTING PRESIDENT GRIFFO: Read the
24 last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect on the 30th day.

2 ACTING PRESIDENT GRIFFO: Call the
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 56. Nays,
6 2. Senators Montgomery and Parker recorded in
7 the negative.

8 ACTING PRESIDENT GRIFFO: The bill
9 is passed.

10 THE SECRETARY: Calendar Number
11 511, by Senator Fuschillo, Senate Print 528A, an
12 act to amend the Civil Rights Law.

13 ACTING PRESIDENT GRIFFO: Read the
14 last section.

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

17 ACTING PRESIDENT GRIFFO: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 55. Nays,
21 3. Senators Montgomery, Parker, and Perkins
22 recorded in the negative.

23 ACTING PRESIDENT GRIFFO: The bill
24 is passed.

25 THE SECRETARY: Calendar Number

1 514, by Senator Fuschillo, Senate Print 597A, an
2 act to amend the Executive Law.

3 ACTING PRESIDENT GRIFFO: Read the
4 last section.

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

7 ACTING PRESIDENT GRIFFO: Call the
8 roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT GRIFFO: Senator
11 Rivera to explain his vote.

12 SENATOR RIVERA: Thank you,
13 Mr. President, to explain my vote.

14 This is one of a few bills, my
15 colleagues, that we're going to be voting on
16 today related to sex offenders.

17 As I've made the case many times in
18 committee that I'm a ranker member on, Crime
19 Victims, Crime and Corrections, as well as on the
20 floor, there are many laws that we vote on that
21 are way too broad when they make the
22 determination about sex offenders.

23 We have a set of levels that we
24 establish when someone is release from their --
25 after they serve their time. This bill, for

1 example, does not contain that determination,
2 does not make a distinction between Level 1, 2,
3 and 3 sex offenders.

4 I believe that if it had that
5 determination, it would be a better law and it
6 would address the concern that all of us are
7 trying to address, which is making sure that we
8 protect our citizens from those folks that are
9 predators. Level 1 sex offenders are not. This
10 bill does not make that distinction, and
11 therefore I will be voting in the negative for
12 this bill.

13 Thank you, Mr. President.

14 ACTING PRESIDENT GRIFFO: Senator
15 Rivera to be recorded in the negative.

16 Announce the results.

17 THE SECRETARY: In relation to
18 Calendar Number 514, those recorded in the
19 negative are Senators Duane, Hassell-Thompson,
20 Montgomery, Parker, Perkins and Rivera.

21 Ayes, 52. Nays, 6.

22 ACTING PRESIDENT GRIFFO: The bill
23 is passed.

24 The Secretary will continue to
25 read.

1 THE SECRETARY: Calendar Number
2 520, by Senator Skelos, Senate Print 1538A, an
3 act to amend the Family Court Act.

4 ACTING PRESIDENT GRIFFO: Read the
5 last section.

6 THE SECRETARY: Section 10. This
7 act shall take effect on the 60th day.

8 ACTING PRESIDENT GRIFFO: Call the
9 roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 55. Nays,
12 3. Senators Duane, Parker and Perkins recorded
13 in the negative.

14 ACTING PRESIDENT GRIFFO: The bill
15 is passed.

16 THE SECRETARY: Calendar Number
17 521, by Senator Klein, Senate Print 1677A, an act
18 to amend the Executive Law.

19 ACTING PRESIDENT GRIFFO: Read the
20 last section.

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

23 ACTING PRESIDENT GRIFFO: Call the
24 roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 57. Nays,

2 1. Senator Parker recorded in the negative.

3 ACTING PRESIDENT GRIFFO: The bill
4 is passed.

5 THE SECRETARY: Calendar Number
6 523, by Senator Saland, Senate Print 2942, an act
7 to amend the Criminal Procedure Law.

8 ACTING PRESIDENT GRIFFO: Read the
9 last section.

10 THE SECRETARY: Section 3. This
11 act shall take effect on the 60th day.

12 ACTING PRESIDENT GRIFFO: Call the
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 56. Nays,
16 2. Senators Parker and Perkins recorded in the
17 negative.

18 ACTING PRESIDENT GRIFFO: The bill
19 is passed.

20 THE SECRETARY: Calendar Number
21 525, by Senator Ranzenhofer, Senate Print 3336,
22 an act to amend the Penal Law.

23 SENATOR BRESLIN: Lay it aside.

24 ACTING PRESIDENT GRIFFO: Lay the
25 bill aside.

1 THE SECRETARY: Calendar Number
2 538, by Senator Robach, Senate Print 356, an act
3 to amend the Correction Law.

4 ACTING PRESIDENT GRIFFO: Read the
5 last section.

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

8 ACTING PRESIDENT GRIFFO: Call the
9 roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: In relation to
12 Calendar Number 538, those recorded in the
13 negative are Senators Montgomery, Parker and
14 Perkins.

15 Ayes, 55. Nays, 3.

16 ACTING PRESIDENT GRIFFO: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 540, by Senator Klein, Senate Print 1522, an act
20 to amend the Correction Law.

21 ACTING PRESIDENT GRIFFO: Read the
22 last section.

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

25 ACTING PRESIDENT GRIFFO: Call the

1 roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT GRIFFO: Senator
4 Rivera to explain his vote.

5 SENATOR RIVERA: Thank you,
6 Mr. President.

7 This is the second of the bills
8 that I was referring to.

9 While I certainly applaud the
10 purpose of the bill, it does two things that I
11 think set up too high a standard. Number one, it
12 does not make the distinction between levels,
13 which again I think makes a big difference in
14 whether the law would apply in the ways that we
15 want it to apply and protect us from the
16 individuals that we want to be protected from.

17 And second, it establishes that the
18 person, the offender himself or herself, has to
19 actually physically travel around their --
20 wherever they are residing to determine whether
21 there are schools or other educational facilities
22 in a particular area of a half a mile from where
23 they reside.

24 If they make a good-faith effort to
25 establish which are the schools in the area but

1 they miss some of them, then all of a sudden they
2 are in violation, which means they go right back
3 to prison when they have already served out their
4 term.

5 But I would make a distinction
6 again. This is another bill that would be made
7 better if it was changed a little bit,
8 particularly as it relates to establishing the
9 different levels and how we take certain laws
10 that should apply to some offenders and not all.

11 So on this one I will also be
12 voting in the negative.

13 Thank you, Mr. President.

14 ACTING PRESIDENT GRIFFO: Senator
15 Rivera to be recorded in the negative.

16 Announce the results.

17 THE SECRETARY: In relation to
18 Calendar Number 540, those recorded in the
19 negative are Senators Hassell-Thompson,
20 Montgomery, Parker, Perkins, and Rivera.

21 Ayes, 53. Nays, 5.

22 ACTING PRESIDENT GRIFFO: The bill
23 is passed.

24 THE SECRETARY: Calendar Number
25 541, by Senator Skelos, Senate Print 1542, an act

1 to amend the Correction Law.

2 ACTING PRESIDENT GRIFFO: Read the
3 last section.

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

6 ACTING PRESIDENT GRIFFO: Call the
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: In relation to
10 Calendar Number 541, those recorded in the
11 negative are Senators Montgomery, Parker, Perkins
12 and Rivera.

13 Ayes, 54. Nays, 4.

14 ACTING PRESIDENT GRIFFO: The bill
15 is passed.

16 THE SECRETARY: Also Senator
17 Dilan. Ayes, 53. Nays, 5.

18 ACTING PRESIDENT GRIFFO: The bill
19 is still passed.

20 (Laughter.)

21 THE SECRETARY: Calendar Number
22 542, by Senator Skelos, Senate Print 1544, an act
23 to amend the Correction Law.

24 ACTING PRESIDENT GRIFFO: Read the
25 last section.

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

3 ACTING PRESIDENT GRIFFO: Call the
4 roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: In relation to
7 Calendar Number 542, those recorded in the
8 negative are Senators Montgomery, Parker, Perkins
9 and Rivera.

10 Ayes, 54. Nays, 4.

11 ACTING PRESIDENT GRIFFO: The bill
12 is passed.

13 THE SECRETARY: Calendar Number
14 572, by Senator Robach, Senate Print 487, an act
15 to amend the Penal Law.

16 ACTING PRESIDENT GRIFFO: Read the
17 last section.

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

20 ACTING PRESIDENT GRIFFO: Call the
21 roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: In relation to
24 Calendar Number 572, those recorded in the
25 negative are Senators Duane, Hassell-Thompson,

1 Montgomery, Parker and Perkins.

2 Ayes, 53. Nays, 5.

3 ACTING PRESIDENT GRIFFO: The bill
4 is passed.

5 THE SECRETARY: Calendar Number
6 573, by Senator Young, Senate Print 754, an act
7 to amend the Criminal Procedure Law.

8 ACTING PRESIDENT GRIFFO: Read the
9 last section.

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

12 ACTING PRESIDENT GRIFFO: Call the
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 58.

16 ACTING PRESIDENT GRIFFO: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 574, by Senator LaValle, Senate Print 816, an act
20 to amend the Social Services Law.

21 ACTING PRESIDENT GRIFFO: Read the
22 last section.

23 THE SECRETARY: Section 2. This
24 act shall take effect on the 90th day.

25 ACTING PRESIDENT GRIFFO: Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 58.

4 ACTING PRESIDENT GRIFFO: The bill
5 is passed.

6 THE SECRETARY: Calendar Number
7 579, by Senator Bonacic, Senate Print 3349A, an
8 act to amend the Criminal Procedure Law.

9 ACTING PRESIDENT GRIFFO: Read the
10 last section.

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

13 ACTING PRESIDENT GRIFFO: Call the
14 roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: In relation to
17 Calendar Number 579, those recorded in the
18 negative are Senators Duane, Espaillat,
19 Hassell-Thompson, Montgomery, Parker, and
20 Perkins.

21 Ayes, 52. Nays, 6.

22 ACTING PRESIDENT GRIFFO: The bill
23 is passed.

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

1 SENATOR LIBOUS: Mr. President, at
2 this time could we go to the controversial
3 reading of the calendar.

4 ACTING PRESIDENT GRIFFO: The
5 Secretary will ring the bell.

6 The Secretary will read.

7 THE SECRETARY: Calendar Number
8 305, by Senator Lanza, Senate Print 3871, an act
9 to prohibit.

10 ACTING PRESIDENT GRIFFO: Senator
11 Gianaris.

12 SENATOR GIANARIS: Thank you,
13 Mr. President. Would the sponsor yield for some
14 questions?

15 ACTING PRESIDENT GRIFFO: Senator
16 Lanza, do you yield?

17 SENATOR LANZA: Yes, I would.

18 SENATOR GIANARIS: Thank you.

19 This is a bill we've debated in the
20 past, so I'll try not to be repetitive of
21 previous conversations. But I guess my first
22 question to the sponsor is whether or not it
23 concerns him that if there is a federal
24 antiterrorism trial in New York that this bill,
25 if enacted, would create a safety hazard for the

1 people of New York in that it would not allow
2 local law enforcement to participate in providing
3 security at that trial.

4 SENATOR LANZA: Mr. President, the
5 idea behind this bill is to thwart efforts to
6 provide enemy combatants of the United States
7 with a civil trial in New York.

8 ACTING PRESIDENT GRIFFO: Senator
9 Gianaris.

10 SENATOR GIANARIS: If the sponsor
11 would continue to yield.

12 SENATOR LANZA: Yes.

13 ACTING PRESIDENT GRIFFO: Senator
14 Lanza yields.

15 SENATOR GIANARIS: Is the sponsor
16 aware that it is not a decision of state
17 government whether or not a federal antiterrorism
18 trial is held in New York or not?

19 SENATOR LANZA: Mr. President, I
20 believe it is within the right of the people of
21 New York to determine how their tax dollars are
22 spent.

23 And I firmly believe that providing
24 enemy combatants of the United States -- like
25 those who during a declared war attacked this

1 nation, committed mass murder, killed close to
2 3,000 American citizens, most of whom were our
3 neighbors here in New York -- I believe that to
4 provide them with a civil trial would not only be
5 wrong but would be dangerous to our security both
6 here in New York and throughout our nation.

7 We learned that when the bombers in
8 1993 of the World Trade Center were provided such
9 a trial. We learned that they exploited our
10 civil discovery laws and procedures in a way that
11 allowed them to come back some years later on
12 September 11th, sadly with more success.

13 And so I believe that it is
14 completely within the right of New York State
15 residents to craft a law and to enact a law that
16 would speak to whether or not our tax dollars
17 generated at the state and local level should be
18 utilized to provide those types of procedures for
19 enemy combatants.

20 SENATOR GIANARIS: Would the
21 sponsor continue to yield.

22 SENATOR LANZA: Yes.

23 ACTING PRESIDENT GRIFFO: The
24 sponsor yields.

25 SENATOR GIANARIS: I agree with

1 almost everything that the sponsor just said.
2 But being that it did not answer my question in
3 any way, I'll restate it again and hope for an
4 answer.

5 Is the sponsor aware that New York
6 State government has no decision-making power
7 over whether a federal antiterrorism trial is
8 held in New York or not?

9 SENATOR LANZA: Mr. President, my
10 colleague may not like my answer, but it was an
11 answer.

12 And I'll give him an answer again,
13 which is to say that the focus of this
14 legislation is to determine how New York
15 State-generated tax dollars at both the state and
16 local level ought to be expended. I firmly
17 believe that we should not expend our tax dollars
18 to provide enemy combatants of the United States
19 with the same privileges that are afforded under
20 the United States Constitution to citizens here.

21 Moreover, we should certainly not
22 use those tax dollars to provide enemy combatants
23 who continue to seek to do us harm and to destroy
24 our way of life with even greater rights than are
25 provided a United States soldier who has put

1 himself or herself in harm's way in order to
2 protect our liberties.

3 And that's what a civil trial will
4 do. That's what funding a civil trial with
5 taxpayer dollars here in New York would do.

6 SENATOR GIANARIS: Would the
7 sponsor continue to yield?

8 SENATOR LANZA: Yes,
9 Mr. President.

10 ACTING PRESIDENT GRIFFO: The
11 sponsor yields.

12 SENATOR GIANARIS: Why did the
13 sponsor not simply introduce a bill that would
14 prohibit those types of trial from taking place
15 in New York outright?

16 SENATOR LANZA: Mr. President,
17 because I believe that this is one of the powers
18 that we possess here in New York that would allow
19 us to thwart those federal efforts, as you've
20 implied are federal efforts. I believe that
21 within the State of New York this is probably the
22 most effective way for us to thwart those
23 efforts.

24 SENATOR GIANARIS: But if the
25 sponsor would continue to yield.

1 SENATOR LANZA: Yes.

2 ACTING PRESIDENT GRIFFO: The
3 sponsor yields.

4 SENATOR GIANARIS: But would it
5 not be more direct and more effective to simply
6 draft a bill doing exactly what you purport to
7 do, which is to prohibit these trials from taking
8 place in New York? Why was that not the approach
9 that was taken?

10 SENATOR LANZA: Mr. President, if
11 my colleague Senator Gianaris has more direct and
12 effective means to prevent civil trials for enemy
13 combatants in the State of New York, I'd be happy
14 to look at any legislation that he might propose.

15 SENATOR GIANARIS: Additional
16 questions, if the sponsor would continue to
17 yield.

18 SENATOR LANZA: Yes.

19 ACTING PRESIDENT GRIFFO: The
20 sponsor yields.

21 SENATOR GIANARIS: What would the
22 sponsor tell either the mayor or the police
23 commissioner of the City of New York if there was
24 such a trial taking place and they wanted to
25 provide NYPD coverage to that trial to make sure

1 that the people of New York are safe beyond
2 whatever security the federal government might be
3 providing?

4 SENATOR LANZA: Mr. President,
5 perhaps my colleague is not understanding the
6 intent of this legislation. The intent of this
7 legislation is to prevent such a trial in
8 New York.

9 And speaking of Mayor Bloomberg and
10 our police commissioner, Ray Kelly, they have
11 both come out very strongly in opposition to such
12 a trial being conducted and had in New York
13 City. In fact, Mayor Bloomberg estimates that
14 the cost in dollar terms to the City of New York
15 would be over \$1 billion.

16 That's not to even mention the
17 havoc that would be created in New York City if
18 we were to afford these mass-murderer enemy
19 combatants a civil trial in New York. That does
20 not even speak to the fact that we would also be
21 providing a new platform for the determined
22 enemies of America to launch another and
23 successive terrorist attacks right here in
24 New York City once again.

25 So both the mayor and the police

1 commissioner believe, as I do, that these
2 terrorists, these enemy combatants -- who are not
3 citizens, they are foreign combatants -- they
4 agree with me that they should never be provided
5 that trial that you speak of.

6 SENATOR GIANARIS: Would the
7 sponsor continue to yield.

8 ACTING PRESIDENT GRIFFO: Does the
9 sponsor yield?

10 SENATOR LANZA: Yes.

11 ACTING PRESIDENT GRIFFO: The
12 sponsor yields.

13 SENATOR GIANARIS: Do either the
14 mayor or the police commissioner support this
15 legislation?

16 SENATOR LANZA: Well, inasmuch as
17 this legislation would thwart federal efforts to
18 provide civil trials for enemy combatants of the
19 United States of America, and that they have very
20 strongly and publicly opposed providing those
21 trials, it would seem to me that they would
22 support this legislation.

23 SENATOR GIANARIS: Again, if the
24 sponsor would continue to yield.

25 ACTING PRESIDENT GRIFFO: Does the

1 sponsor yield?

2 SENATOR LANZA: Yes.

3 ACTING PRESIDENT GRIFFO: The
4 sponsor yields.

5 SENATOR GIANARIS: We all know in
6 this chamber we receive formal support and
7 opposition memoranda from a whole variety of
8 groups, including the City of New York and the
9 mayor of the City of New York, on a regular
10 basis.

11 Is it the sponsor's contention that
12 he has information that the mayor is supportive
13 of this legislation? Or is he just intuiting
14 that that's the case?

15 SENATOR LANZA: Always trying to
16 be intuitive, I am just connecting the very
17 obvious points here that the mayor has very
18 publicly opposed a civil trial for enemy
19 combatants, as did the police commissioner. And
20 inasmuch as this legislation would thwart those
21 efforts, it would seem to me that they would be
22 supportive.

23 I can tell you that I am not aware
24 of any memorandum in opposition of this
25 legislation from New York City or anyone else.

1 SENATOR GIANARIS: So if the
2 sponsor would yield to additional questions.

3 SENATOR LANZA: Yes.

4 ACTING PRESIDENT GRIFFO: The
5 sponsor yields.

6 SENATOR GIANARIS: So am I correct
7 in understanding that the city has no official
8 position on this legislation?

9 SENATOR LANZA: Mr. President, not
10 necessarily. I don't know of any expressed
11 position of the city specific to this piece of
12 legislation.

13 I can only tell you, and I will
14 repeat, that Mayor Bloomberg, Police Commissioner
15 Kelly have strongly and publicly opposed
16 providing a civil trial in New York City -- a few
17 blocks away from the attack on the World Trade
18 Center in 2001 -- for these enemy combatants.
19 And so that is what I know about their opinion
20 and their position.

21 And as I've said, the mayor has
22 never been shy with respect to providing members
23 of this body with memoranda in opposition on
24 legislation or any legislation that the mayor of
25 the City of New York believes is something that

1 he could not support. And in the absence of that
2 memorandum in opposition, I would just presume
3 that the mayor is supportive until I hear
4 otherwise.

5 I will say this, Mr. President.
6 Regardless of who disagrees with this
7 legislation, I will never stop asserting it. I
8 will never stop supporting it. And I will never
9 stop promoting it. Because I think that this
10 country needs to be serious about not only the
11 message that it sends to the rest of world with
12 respect to how we will treat terrorist attacks
13 against our nation, but that we've got to bring
14 all the resources we have together in order to
15 make sure it does not happen.

16 A civil trial afforded to enemy
17 combatants is not only wrong, it's not only
18 offensive to an American soldier, who is fighting
19 and putting their life on the line for us every
20 day, who would be given the same military
21 commission tribunal that I believe these enemy
22 combatants should be provided.

23 In fact, sadly, in March of this
24 year a U.S. sergeant was accused of killing
25 16 civilians in Afghanistan. That U.S. soldier

1 is going to be tried in a military commission
2 tribunal. I have not heard anyone here or anyone
3 else believe that that system of justice is not
4 good enough for that American soldier, that that
5 system of justice is incapable of securing
6 justice for that soldier.

7 And somehow there are those who
8 believe that the system that's good enough for an
9 American soldier is not good enough for an enemy
10 combatant.

11 And so I understand and I'm
12 listening to my colleague, and I have talked
13 about and spoken to what I know about the mayor's
14 position on this legislation, but I must say,
15 with all due respect, for me this is something
16 that I strongly believe in and I think is quite
17 necessarily needed for our security here in
18 New York State.

19 SENATOR GIANARIS: Would the
20 sponsor continue to yield, Mr. President.

21 SENATOR LANZA: Yes.

22 ACTING PRESIDENT GRIFFO: The
23 sponsor yields.

24 SENATOR GIANARIS: I certainly
25 appreciate, having had this conversation over a

1 couple of years now with the sponsor, that this
2 is a very heartfelt position of his. And his
3 intent is one I actually agree with.

4 It is the method that's being used
5 here, and the dangerous consequences that I
6 believe can result, that I'm interested in
7 discussing.

8 And just to go back for one second
9 to the question about the City of New York and
10 the mayor, because I was startled to hear one of
11 the previous answers, is it the sponsor's
12 contention that if the mayor of the City of
13 New York does not formally oppose a bill that we
14 can presume he is supportive of any bill this
15 body has before it? Because that seems to be
16 what I heard.

17 SENATOR LANZA: Mr. President, I
18 did not say that.

19 SENATOR GIANARIS: Well, if the
20 sponsor would continue to yield.

21 ACTING PRESIDENT GRIFFO: Does the
22 sponsor yield?

23 SENATOR GIANARIS: Thank you for
24 correcting my misunderstanding. But it seemed to
25 me that the sponsor was indicating that the mayor

1 frequently issues his formal oppositions, and in
2 the absence of that he was presuming that he
3 would be supportive of this. So I'm glad we were
4 able to correct that that's not the case.

5 ACTING PRESIDENT GRIFFO: Is that
6 a question, Senator Gianaris?

7 SENATOR LANZA: Mr. President,
8 what I said was, in response to a number of
9 questions on the same subject, was that I was not
10 aware of the mayor being opposed to this
11 legislation. And I cited the fact
12 circumstantially that in most cases that I know
13 of, when the mayor of the City of New York
14 opposes legislation, we quite often have a
15 memorandum in opposition.

16 I did not state that in any way
17 that was definitive with respect to the subject
18 of whether or not Mayor Bloomberg opposes or
19 supports this legislation.

20 ACTING PRESIDENT GRIFFO: Senator
21 Gianaris.

22 SENATOR GIANARIS: Thank you for
23 correcting my misunderstanding.

24 SENATOR LANZA: You're welcome.

25 SENATOR GIANARIS: On the bill,

1 Mr. President.

2 ACTING PRESIDENT GRIFFO: Senator
3 Gianaris on the bill.

4 SENATOR GIANARIS: This
5 legislation, while well-intentioned, is
6 incredibly, incredibly dangerous. It puts the
7 State of New York in a position of denying its
8 people protection during a potentially very
9 volatile antiterrorism trial in its midst.

10 I understand that the sponsor is
11 attempting to force the federal government's hand
12 and somehow, because the locality will not be
13 providing any support for such a trial, they will
14 somehow decide as a matter of national policy not
15 to move in a direction they may or may not have
16 decided to move.

17 I said it last year, I'll say it
18 again. It's the equivalent approach of putting a
19 gun to our own heads and telling the federal
20 government not to do what we don't want them to
21 or we might shoot.

22 A potential federal antiterrorism
23 trial in the middle of Manhattan that would be
24 denied NYPD coverage, would be denied any state
25 or local assistance for security, is

1 mind-boggling in the danger it would pose to the
2 people of this state.

3 Now, we've had a lot of bills that
4 have come through this body, many this year, that
5 have dealt with potential unintended consequences
6 of bills that have been drafted for a worthy goal
7 but drafted in a way that doesn't achieve that
8 goal. Usually we're talking about things like
9 dog control officers and whether people would be
10 subject to felonies for touching such law
11 enforcement officers.

12 But this is something on a whole
13 different level and something that is much more
14 serious. It's dealing with not having adequate
15 security in our own cities and in our own state
16 when terrorists are being tried in our streets.

17 Now, whether they're tried there or
18 not is not a decision we get to make. What we
19 get to decide is making sure that the people who
20 live and work around where these trials are
21 happening are safe. This bill would deny us that
22 ability and would deny our localities that
23 ability.

24 I understand that the mayor opposes
25 civil trials for such terrorists. I do as well.

1 Some of my colleagues may or may not disagree,
2 but I happen to agree.

3 But to say that we would not
4 provide security, I'd be very hard-pressed to
5 believe, in the absence of a support or
6 opposition memo, that those who control the
7 New York Police Department would say that that's
8 a good idea. To tie their hands and say they are
9 not able to provide the security they deem
10 necessary because we're trying to make a point to
11 the federal government is foolhardy.

12 I will be voting in the negative.
13 I think this is one of the more dangerous
14 proposals we've seen come through this chamber.
15 And I encourage all of my colleagues to do the
16 same.

17 Thank you, Mr. President.

18 ACTING PRESIDENT GRIFFO: Senator
19 Squadron.

20 SENATOR SQUADRON: Thank you,
21 Mr. President. If the sponsor could yield.

22 SENATOR LANZA: Yes.

23 ACTING PRESIDENT GRIFFO: The
24 sponsor yields.

25 SENATOR SQUADRON: Thank you. And

1 to follow up on Senator Gianaris's very
2 illuminating line of questioning, is the sponsor
3 aware of the fact that on July 5th of last year
4 the Obama administration announced that it was
5 going to prosecute in Federal District Court in
6 Manhattan, in the Southern District, Ahmed
7 Abdulkadir Warsame, who is a Somali accused of
8 ties to Islamic militant groups?

9 SENATOR LANZA: Yes,
10 Mr. President, I am aware of that.

11 SENATOR SQUADRON: If the sponsor
12 would continue to yield.

13 SENATOR LANZA: Yes.

14 ACTING PRESIDENT GRIFFO: The
15 sponsor yields.

16 SENATOR SQUADRON: Is it the
17 sponsor's contention that the New York Police
18 Department should not be protecting
19 Lower Manhattan as the pretrial actions occur and
20 the trial happens?

21 SENATOR LANZA: Mr. President, I
22 thank my colleague for bringing up the situation
23 dealing with that Somali terrorist, which speaks
24 to the reason for this bill.

25 The administration, despite what

1 some people think, is still intent upon providing
2 civil trials. This bill takes the President and
3 the U.S. Attorney {sic} at their word. I believe
4 they're being honest in what they are saying.

5 With respect to when -- and the
6 reason why that civil trial is occurring is
7 because Congress passed certain initiatives which
8 prevent the federal government from expending
9 funds -- a very similar piece of legislation to
10 this, only at the federal level. They passed a
11 resolution -- passed legislation to prohibit the
12 expenditure of funding to be used to transport
13 detainees at Gitmo to the United States of
14 America.

15 At that time U.S. Attorney {sic}
16 Eric Holder made a statement. He said that "In
17 November of 2009 I announced that Khalid Sheikh
18 Mohammed and four other individuals would stand
19 trial in federal court for their roles in the
20 terrorist attacks on our country on September 11,
21 2001. Unfortunately, since I made that decision
22 members of Congress have intervened and imposed
23 restrictions blocking the administration from
24 bringing any Guantanamo detainees to trial in the
25 United States regardless of the venue. As the

1 President has said, those unwise and unwarranted
2 restrictions undermine our counterterrorism
3 efforts and could harm our national security. We
4 will continue to seek to repeal those
5 restrictions. Our national security demands that
6 we continue to prosecute terrorists in federal
7 court, and we will do so."

8 So what the administration did was
9 that they detained this Somali terrorist on a
10 naval ship, having never brought him to
11 Guantanamo, so that they can circumvent the will
12 of the legislation and the executive order that
13 the President himself signed. And that's how
14 they brought him to New York City.

15 Now, the question you asked was do
16 I believe that New York City police officers
17 should cease to do their jobs because that trial
18 is occurring. And of course the answer is no.

19 But here's the difference. The
20 federal government found a way to bring this
21 individual -- not a central figure in that cast
22 of evil characters -- but to bring him to civil
23 trial with this strategy of avoiding Gitmo.

24 I think it would have been
25 different -- and I understand where

1 Senator Gianaris is coming from, and I appreciate
2 his concern. But I hear all the time from
3 colleagues here that if we pull funding from our
4 schools, we'll not have education. If we pull
5 funding from our healthcare system, we won't have
6 the delivery of healthcare services. In fact,
7 eliminating funding to something that government
8 provides is akin to killing it.

9 And so the reason why my colleague
10 Senator Squadron's premise here is incorrect is
11 because this bill is not the law of New York
12 State. And I believe that if it were, the
13 administration would not have gone through these
14 strained measures to circumvent the Congressional
15 rule if they knew, if they knew that there would
16 be no funding in support of these civil trials.

17 In fact, that's precisely what they
18 did in the case that you mentioned. Congress cut
19 off funding to do what many people believe we
20 should do, bring those Guantanamo Bay terrorists
21 to New York for a civil trial.

22 As soon as Congress passed this, as
23 soon as Congress passed this -- is there a time
24 limit on my response, Mr. President?

25 ACTING PRESIDENT GRIFFO: No.

1 SENATOR LANZA: There isn't, thank
2 you. I appreciate that. I see Senator Squadron
3 is shaking his head.

4 They did precisely what I would
5 like to see happen if this were a law here. They
6 decided not to give those four terrorists, which
7 they had previously announced would be given
8 civil trials in 2009 -- because the Congress
9 pulled funding, they didn't do it. They had to
10 reverse their decision. And now those four
11 terrorists are being tried in a military
12 commission tribunal.

13 So if we were to follow the federal
14 model here and pull funding in support of these
15 trials, it is my contention that we would never
16 have a scenario as hypothesized by
17 Senator Gianaris where we would have a trial
18 without protection. We would never have that
19 trial. We would do -- the Obama administration
20 would do exactly what it did in the face of
21 similar legislation from Congress, which is
22 decided not to have a civil trial.

23 ACTING PRESIDENT GRIFFO: Senator
24 Squadron.

25 SENATOR LANZA: I'm finished.

1 SENATOR SQUADRON: Thank you. If
2 the sponsor would continue to yield.

3 SENATOR LANZA: Yes.

4 ACTING PRESIDENT GRIFFO: The
5 sponsor continues to yield.

6 SENATOR SQUADRON: Thank you. And
7 I do appreciate the broad context.

8 I do appreciate the fact that the
9 temptation here, as with so many issues relating
10 to security and to the fight against terrorism,
11 is to get involved in these big national
12 political fights and the back and forth between
13 the parties at the national level.

14 My concern here is keeping New York
15 City, the city I represent, the city I love,
16 secure and safe and not allowing any political
17 fight to stand in the way of that. So I want to
18 really stay very focused on that question, can we
19 keep New York safe.

20 In fact, in my case both the
21 Southern District Federal Court in Manhattan and
22 the Eastern District Federal Court in Brooklyn
23 are in my district. I have residents, people
24 whose homes, the security of their homes is
25 personally affected by this bill.

1 So frankly, the back and forth at
2 the federal level about broader issues that I
3 know are incredibly tempting is not of interest
4 to me, nor to my constituents, nor should it be,
5 in my view, to New Yorkers.

6 So I want to ask the question which
7 I don't feel is exactly answered, just so that I
8 understand, again. The suspect Warsame appeared
9 in Federal District Court on September 8th in my
10 district in Lower Manhattan, just a few blocks
11 from the site of the September 11th attacks. Is
12 the sponsor aware, without getting into details,
13 of the way in which the NYPD deploys forces
14 around events like that happening, what are
15 called sort of high-target events or high-target
16 locations?

17 ACTING PRESIDENT GRIFFO: Senator
18 Lanza.

19 SENATOR LANZA: Mr. President,
20 first let me speak to the first part of my
21 colleague's comments. I agree with him. My goal
22 here is his goal, which is to keep the people of
23 New York State safe.

24 I submit that the best way to do
25 that in this instance is to ensure that there is

1 not a civil trial being provided to enemy
2 combatants of the United States of America, sworn
3 enemies. I submit that one of the ways we can
4 prevent that from happening is to prevent or
5 prohibit funding of such a trial.

6 And I think the proof, and why I
7 discuss what is happening at the federal level in
8 response to your question about what the federal
9 government has done vis-a-vis this Somali
10 terrorist, is to show that that proves the theory
11 here of this legislation.

12 Congress pulled funding, Congress
13 pulled funding from transporting enemy combatants
14 from Gitmo to New York to be provided a civil
15 trial. The administration, in response to that,
16 decided not to afford those combatants a civil
17 trial, because the funding stream was not there.

18 They circumvented that measure with
19 this strategy to have the Somali accused
20 terrorist detained on a naval ship, not at
21 Gitmo. That's how they were able to circumvent
22 that. And in their minds, they are doing the
23 right thing. They have never hidden their belief
24 that these folks should be provided a civil
25 trial. That is their position.

1 And so I think that logically
2 following that, if funding was not available from
3 New York for that civil trial, then I have every
4 belief that the administration would not seek to
5 provide that civil trial. In fact, they would do
6 exactly what they did in the face of the lack of
7 funding from the federal government and would not
8 provide those civil trials.

9 The second part of your question
10 was, Mr. President?

11 SENATOR SQUADRON: I'm sorry, I
12 was waiting. To ask the question again, if the
13 sponsor would yield for a clarification of the
14 question previously asked.

15 SENATOR LANZA: Of course.

16 ACTING PRESIDENT GRIFFO: The
17 sponsor yields.

18 SENATOR SQUADRON: Is the sponsor
19 aware of the fact, in generalities, that the
20 police department increases force strength around
21 what are deemed high-value, so-called high-value
22 targets or high-value events, such as, for
23 example, the appearance in court of a Somali
24 citizen accused of international terrorism?

25 ACTING PRESIDENT GRIFFO: Senator

1 Lanza.

2 SENATOR LANZA: I would hope
3 that's the case.

4 SENATOR SQUADRON: If the sponsor
5 would continue to yield.

6 SENATOR LANZA: Yes.

7 ACTING PRESIDENT GRIFFO: The
8 sponsor yields.

9 SENATOR SQUADRON: And the sponsor
10 of course would concede that such an increase in
11 resources costs an expenditure from the locality,
12 from the New York City Police Department.

13 SENATOR LANZA: Yes,
14 Mr. President, I would.

15 SENATOR SQUADRON: So if the
16 sponsor would continue to yield.

17 SENATOR LANZA: Yes.

18 ACTING PRESIDENT GRIFFO: The
19 Senator yields.

20 SENATOR SQUADRON: So does the
21 sponsor contend -- well, if the sponsor's bill
22 were to pass, do those who vote for the bill
23 contend that the police department on September 8
24 of 2011, when this suspect appeared in Federal
25 District Court in Manhattan, in my district,

1 should not have deployed extra resources in
2 whatever way they deemed appropriate to protect
3 the neighborhood and the city?

4 SENATOR LANZA: Mr. President,
5 absolutely not. My colleague is making the
6 mistake of not following the logic here.

7 If this legislation were the law of
8 the land on September 8th, that trial wouldn't
9 happen. I know that that's the case because of
10 what I just described to you in the scenario that
11 occurred with this Somali terrorist. When faced
12 with the fact that there would be no federal
13 funding for the removal of a detainee from Gitmo
14 to be brought here for a civil trial in New York,
15 for a civil trial which is what the stated
16 intention of this administration was, they
17 changed their mind. They didn't say, Well,
18 you're not going to fund it, but we're going to
19 do it anyway.

20 And I contend that this
21 administration would not do that in the face of
22 this law here in New York either. I don't
23 think -- and maybe you do, but I don't -- I don't
24 believe that President Obama and Attorney General
25 Holder would say, Well, there isn't going to be

1 funding for this civil trial, but we're going to
2 do it anyway. I don't believe they would do
3 that. So your hypothesis fails, in that this
4 legislation was not law at the time on September
5 8th that you describe. Were it, I believe that
6 that civil trial would not occur in New York
7 City.

8 And just as an aside, that trial
9 involves a completely different circumstance from
10 most of the cases that were to be brought here.
11 This was a small player in that evil regime who
12 was detained on a naval ship, interrogated in a
13 way that we don't precisely know. This was not
14 at Guantanamo Bay, it was on a ship. Which was
15 done to circumvent this law, as I've said. And
16 this person came here and copped a plea. So
17 that's what happened there.

18 SENATOR SQUADRON: If the sponsor
19 would continue to yield.

20 SENATOR LANZA: Yes,
21 Mr. President.

22 ACTING PRESIDENT GRIFFO: The
23 sponsor yields.

24 SENATOR SQUADRON: So dipping my
25 toe into the sponsor's logic, the Congress passed

1 a law to prevent detainees from being transferred
2 from Guantanamo. So the administration
3 circumvented that law, and there is now a
4 potential enemy combatant being tried in New York
5 City, in my district. And if we pass this law
6 that handcuffs the NYPD and the City of New York
7 and prevents them from protecting us, therefore
8 the administration will no longer do what they
9 did in this case.

10 So it's a little bit difficult for
11 me to reach fully, but my question is really just
12 this. So at core, the logic behind this bill is
13 to take the ability to protect New York and
14 New Yorkers away from the NYPD and the mayor and
15 give it to President Obama and Attorney General
16 Holder?

17 SENATOR LANZA: Mr. President, as
18 many times that is question is asked, I will
19 answer it the same way. That is a complete
20 mischaracterization of what this legislation
21 does. That is a complete mischaracterization of
22 what this legislation's author intends -- that's
23 me.

24 I'll speak to it again. This
25 legislation does not handcuff the New York City

1 Police Department in any way, shape or form.
2 This legislation would seek to thwart -- to use
3 your terminology, handcuff -- the federal
4 administration's ability to provide a civil trial
5 to enemy combatants of the United States of
6 America. Because I think that would be a very
7 dangerous move to make. I think that as we've
8 learned in the wake of the '93 bombing, that to
9 do so would imperil the future of this country.

10 This does not handcuff the New York
11 City Police Department. This sends the same
12 message that was sent by Congress and in fact
13 signed by the President that says if you don't
14 have funding for something, you can't do it.

15 This is really simple. It really
16 is. As legislators, we all understand the theory
17 that involves funding or not funding something.
18 If you don't fund it, it will not be. And this
19 seeks to pull funding from the provision of a
20 civil trial for enemy combatants.

21 So you can say as many times as you
22 like that somehow this legislation would hurt
23 New York City, would prevent the New York City
24 Police Department from doing their jobs, would
25 handcuff the New York City Police Department,

1 would prevent the mayor from protecting us.
2 That's nonsense. That's nonsense. In this case,
3 with respect to these enemy combatants, the best
4 way to ensure the safety of New York State and
5 its people and this country is to make sure that
6 we never provide a civil trial for enemy
7 combatants.

8 That's something -- trying enemy
9 combatants in a military commission tribunal is
10 something this country has been doing
11 successfully since the days of George Washington,
12 and it is the right way to approach this.

13 SENATOR SQUADRON: If the sponsor
14 would continue to yield.

15 SENATOR LANZA: Yes.

16 ACTING PRESIDENT GRIFFO: The
17 sponsor yields.

18 SENATOR SQUADRON: And again, I
19 would request both in the interests of time and
20 also, frankly, in the interests of my
21 constituents and New Yorkers, not to get into the
22 conversation, the broader national very political
23 conversation about --

24 SENATOR LANZA: I'm in no rush,
25 Mr. President.

1 ACTING PRESIDENT GRIFFO:

2 Gentlemen --

3 SENATOR SQUADRON: -- about enemy
4 combatants.

5 SENATOR LANZA: I'm in no rush.

6 ACTING PRESIDENT GRIFFO: -- just
7 direct your questions through the chair, please.

8 Do you have a question, Senator
9 Squadron?

10 SENATOR SQUADRON: I do. And I
11 believe the sponsor yielded to the question, and
12 I believe I am asking it, Mr. President.

13 ACTING PRESIDENT GRIFFO: Direct
14 your question.

15 SENATOR SQUADRON: Thank you.

16 To begin my question again, in the
17 interest of the security of those in my district
18 and of New Yorkers, I would request that the
19 sponsor in our conversation not focus on a large
20 national political question that's very
21 heightened, very political, very tempting, and is
22 not focused on the concern of the bill before the
23 house and the concern of all of our constituents
24 across the state. To change --

25 SENATOR LANZA: I'm afraid I can't

1 accommodate my colleague in that way.

2 SENATOR SQUADRON: To change the
3 topic a little bit, the sponsor was quoted
4 saying -- and forgive me if it's a misquote;
5 please correct it. But it was reported that the
6 sponsor said last summer that "The President and
7 Attorney General seem hell-bent on forcing trials
8 upon the people of New York based on a misguided
9 and dangerous political agenda. We the people
10 must act to protect ourselves. Each trial brings
11 a renewed threat to New York citizens and open us
12 up to another horrific terror attack."

13 I wanted to just know what the
14 sponsor, assuming that is an accurate quote,
15 what --

16 SENATOR LANZA: I believe,
17 Mr. President, that is the first time in my
18 political career that I have been accurately
19 quoted.

20 SENATOR SQUADRON: Fair enough.
21 Which moves us right along to exactly what --

22 ACTING PRESIDENT GRIFFO: Are you
23 asking the sponsor to continue to yield,
24 Senator Squadron?

25 SENATOR SQUADRON: I'm actually

1 still finishing the same question,
2 Mr. President.

3 Which is, what does the sponsor
4 mean by "opens us up to another" -- or, excuse
5 me, by "each trial brings a renewed threat to
6 New York citizens and opens us up to another
7 horrific terror attack"? I just want to sort
8 of -- I tend to agree in a number of different
9 ways, but I just wanted to know the sponsor's
10 thinking on that.

11 ACTING PRESIDENT GRIFFO: Senator
12 Lanza.

13 SENATOR LANZA: Well, first let me
14 say that the sponsor in the Assembly,
15 Assemblyman Hikind, has said pretty much the same
16 thing. We agree that providing a civil trial to
17 enemy combatants would present that risk to our
18 security in this nation and in this state.

19 And that is for a number of
20 reasons. A civil trial would afford enemy
21 combatants with the civil procedures that are not
22 available in discovery, that is not available at
23 a military commission tribunal.

24 We learned in the wake of the
25 attack in 1993 that the civil trial -- and back

1 then, this country did not understand and
2 appreciate and comprehend the nature of that
3 attack. They were treated in the same way that
4 an ordinary criminal would be treated, someone
5 perhaps who would spray graffiti on a federal
6 mailbox. A person that would do that would be
7 given the same civil trial in federal court in
8 your district, someone who sprayed paint on one
9 of those blue mailboxes across New York City.

10 And so that's how they were treated
11 in 1993, like ordinary street criminals. This
12 country did not understand and appreciate yet the
13 nature of the threat. This country perhaps did
14 not believe the very perpetrators who had
15 publicly declared war on this country. So they
16 were afforded a civil trial.

17 And what happened? What have we
18 learned? That during that civil trial they
19 afforded themselves of civil procedure, federal
20 civil procedure. And through discovery and
21 through the ability to call witnesses, that
22 perhaps you can't call in a military commission
23 tribunal, they learned a lot about this nation's
24 intelligence system and our methods.

25 And we've learned since then that

1 they used the information they gained at that
2 trial to bring another attack against our
3 country, only this time it was September 11th.
4 Only this time it was successful, more
5 successful. And this time 3,000 American
6 citizens were murdered in cold blood.

7 And so that's what I mean and
8 that's what Assemblyman Hikind means when we say
9 a civil trial will allow for our enemies to
10 better prepare ourselves to more successfully do
11 what they have vowed to do, which is to attack us
12 and destroy our way of life.

13 And there's another danger
14 presented in civil trial in New York City, and
15 this is just common sense. It would provide a
16 platform, it would provide a stage for the enemy
17 combatants that they yearn for. It would allow
18 them a greater stage and a greater opportunity to
19 commit further acts of terrorism against our
20 nation, I believe.

21 That's what I meant by that
22 statement. That's what -- without speaking too
23 far afield from my colleague in the Assembly,
24 that's what he means when he says substantially
25 the same thing.

1 SENATOR SQUADRON: And if the
2 sponsor would continue to yield.

3 SENATOR LANZA: Yes.

4 ACTING PRESIDENT GRIFFO: The
5 sponsor yields.

6 SENATOR SQUADRON: Just a point of
7 clarification before my question. Which is in
8 fact I believe that was the Assembly sponsor who
9 gave that quote. It was a similar quote to one
10 that the Senate sponsor has given, so consistent,
11 and I just wanted to clarify the record on that.

12 Just moving on, very briefly, is
13 the sponsor familiar with the case of Adis
14 Medunjanin?

15 ACTING PRESIDENT GRIFFO: Senator
16 Lanza.

17 SENATOR LANZA: I'm sorry,
18 Mr. President, could you repeat that?

19 SENATOR SQUADRON: Is the sponsor
20 familiar with the case of Adis Medunjanin?

21 SENATOR LANZA: Why don't you help
22 me out with it.

23 SENATOR SQUADRON: If the sponsor
24 would continue to yield, I'll explain and ask a
25 question.

1 SENATOR LANZA: Yes.

2 SENATOR SQUADRON: He is a Queens
3 man who has been tried in the Eastern District in
4 Brooklyn over the last few weeks for plotting to
5 stage suicide attacks in York subways. In fact,
6 just this afternoon, an hour before session
7 started, he was convicted by the jury of plotting
8 these attacks. He's a naturalized citizen born
9 in Bosnia and trained in Pakistan at an
10 al-Qaida-related camp.

11 Let me ask the sponsor, should that
12 trial -- was it okay for that trial to occur in
13 the Eastern District in the way that it did,
14 concluding or at least with a conviction just a
15 couple of hours ago?

16 SENATOR LANZA: Mr. President, I'm
17 glad that my colleague had brought that example
18 up. I wish I had it. It proves my point. I
19 think it proves the case here.

20 And perhaps it demonstrates that
21 some of my colleagues on that side of the aisle
22 either don't understand the intent of this
23 legislation or are ignoring it for some unknown
24 reason.

25 You mention that he is a

1 naturalized citizen of this country. Naturalized
2 or not, you're a citizen. He's a citizen. And
3 of course, under our Constitution, a
4 United States citizen should be afforded the
5 rights and privileges that come with being a
6 citizen.

7 This legislation speaks to those
8 enemy combatants, foreign enemy combatants, those
9 who have both declared war on America and have
10 engaged in acts of war against America who are
11 not United States citizens.

12 Throughout our entire history, as I
13 said, since the days of George Washington, the
14 War of 1812, the Civil War, the Revolutionary
15 War, World War I, World War II, we have tried
16 enemy combatants of this nation in military
17 commission tribunals.

18 This legislation is my way -- and
19 there may be better ways. And if there are any
20 that are brought to my attention, I would embrace
21 those as well. This is my way of ensuring that
22 that continues to happen in our great land.

23 SENATOR SQUADRON: If the sponsor
24 would continue to yield.

25 SENATOR LANZA: Yes.

1 ACTING PRESIDENT GRIFFO: The
2 sponsor yields.

3 SENATOR SQUADRON: So I appreciate
4 very much the clarification on whether this
5 person just convicted today is an enemy combatant
6 or not.

7 I notice that the sponsor in
8 answering the question used the word "foreign,"
9 used the word "noncitizen." I'm looking at the
10 bill itself here, and it simply says "safety of
11 such enemy combatants." The phrase "enemy
12 combatants" is used twice: Civilian criminal
13 trial of enemy combatants and, later, the custody
14 and safety of such enemy combatants.

15 Just to be clear, based on the
16 definition in the bill, one could have claimed
17 that Mr. Medunjanin was an enemy combatant and
18 could have claimed that the NYPD cannot protect
19 my district in downtown Brooklyn at the time of
20 the trial.

21 SENATOR LANZA: Mr. President,
22 that's not true. "Enemy combatant" is a term
23 that is defined by federal law. It does not
24 include citizens of the United States of America.

25 SENATOR SQUADRON: Through you,

1 Mr. President, is "enemy combatant" defined in
2 state law?

3 SENATOR LANZA: Mr. President,
4 that is irrelevant. It is a defined term. It
5 would have the same meaning unless expressed
6 otherwise by state law, perhaps, even -- which I
7 would doubt -- unless it is otherwise described
8 by state law.

9 So it would have the precise
10 meaning that it does in definition and that it
11 does in the federal law.

12 SENATOR SQUADRON: Through you,
13 Mr. President.

14 ACTING PRESIDENT GRIFFO: Are you
15 asking the sponsor to continue to yield?

16 SENATOR SQUADRON: Yes.

17 ACTING PRESIDENT GRIFFO: Senator
18 Lanza, do you yield?

19 SENATOR LANZA: Yes.

20 ACTING PRESIDENT GRIFFO: The
21 sponsor yields.

22 SENATOR SQUADRON: So that would
23 be the definition in federal law or in an
24 executive order signed by the President?

25 SENATOR LANZA: Mr. President, it

1 is in federal law, statute. An enemy combatant
2 is someone who is not a United States citizen,
3 someone who has engaged in an act of war against
4 this nation.

5 SENATOR SQUADRON: Through you,
6 Mr. President.

7 SENATOR LANZA: Yes.

8 ACTING PRESIDENT GRIFFO: The
9 sponsor yields.

10 SENATOR SQUADRON: If the federal
11 government were to change the definition of
12 "enemy combatant" based on the logic of this bill
13 and this were to become law, then that would
14 change the circumstances in which NYPD could
15 protect neighborhoods and courthouses across the
16 state?

17 SENATOR LANZA: Mr. President,
18 if -- as they say, the biggest word in the
19 English language -- if after 200 years the United
20 States of America was going to start redefining
21 what an enemy combatant is, if that happens, I
22 think we would probably come back as a state
23 legislature, assuming we vote for this
24 legislation and it becomes the law of the State
25 of New York, and I would imagine -- I wouldn't

1 imagine, I would tell you that I would be the
2 first, in the face of that incomprehensible
3 hypothetical, would be the first to define it
4 here in New York State for the folks at the
5 federal level.

6 SENATOR SQUADRON: On the bill.

7 SENATOR LANZA: But could I just
8 say this, Mr. President?

9 SENATOR SQUADRON: On the bill.

10 SENATOR LANZA: Through you,
11 Mr. President, I'm not finished. I'm not
12 finished.

13 ACTING PRESIDENT GRIFFO: Senator
14 Lanza -- Senator Lanza --

15 SENATOR LANZA: Excuse me,
16 Mr. President --

17 ACTING PRESIDENT GRIFFO: Senator
18 Lanza --

19 SENATOR LANZA: Yes.

20 ACTING PRESIDENT GRIFFO: Senator
21 Squadron has the floor. He's on the bill.

22 SENATOR LANZA: I'll come back,
23 okay.

24 ACTING PRESIDENT GRIFFO: Senator
25 Squadron.

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

3 Mr. President, there's a number of
4 concerning parts of this bill, and I want to be
5 very clear: Not one of them has to do with the
6 national political debate over where different
7 people are tried. That is not the question
8 before the house today. It's simply not.

9 And let's be very clear. What's
10 concerning about this bill is that it makes it
11 more difficult for local law enforcement across
12 the state, from Manhattan and Brooklyn up to
13 Erie County, to protect their communities in
14 cases of certain kinds of terror trials that have
15 existed and, however we feel about it, as we see
16 even today, will continue to exist.

17 The logic -- the sponsor's logic
18 that by preventing the dollars we will somehow
19 prevent the trials has a major flaw. Which is we
20 are preventing the dollars from our local law
21 enforcement without doing anything to the federal
22 government that makes this decision.

23 And in fact, by the sponsor's own
24 explanation behind the thinking on the bill, the
25 federal government has circumvented attempts to

1 prevent these sorts of trials in the past when
2 they were the ones affected by the law.

3 Now, somehow, because NYPD is going
4 to be prevented from protecting New Yorkers
5 because of a state law targeted at the current
6 federal administration, they're going to roll
7 over and say no more of these trials? I've got
8 to tell you, that's Russian roulette with our
9 security. It doesn't make any sense. That logic
10 doesn't hold.

11 Second, to the extent that logic
12 did hold at all, it would by definition take the
13 power to protect New Yorkers against terror
14 trials away from local law enforcement, away from
15 the NYPD -- in the case of two situations within
16 my own district -- who are the best in the world
17 at this, literally, and give it to a United
18 States Attorney General and a President who did
19 in fact want to try Khalid Sheikh Mohammed -- at
20 a cost of a billion dollars to New York City --
21 in Lower Manhattan, which was completely
22 inappropriate.

23 On that we absolutely agree. The
24 idea of a billion dollars and shutting down a
25 neighborhood made no sense.

1 Unfortunately, this bill would shut
2 down a neighborhood in a different way, because
3 it would make it impossible to secure that
4 neighborhood. That doesn't make any sense,
5 taking the power away from the New York City
6 Police Department and giving it to federal
7 authorities who frankly are more interested in
8 the national political issue that the sponsor
9 also, as he said, is not willing to not discuss
10 in his answers.

11 The final concern is when we talk
12 about what the definition of an enemy combatant
13 is, whether this bill is even tightly and
14 narrowly crafted, the sponsor says that we'll
15 probably come back, says to his credit that he
16 will stand up and try to change this bill.

17 But I've got to tell you, being in
18 a situation where we have trials of terrorists in
19 New York City -- already one of the highest
20 target locations in the world -- that we need to
21 come back to Albany to fix a law to allow the
22 NYPD to protect the city against is not an
23 acceptable situation.

24 If there is one moment that NYPD
25 cannot protect New Yorkers against terrorism in

1 the way that they have done so effectively for
2 the last 11 years, that's unacceptable. That
3 risk isn't worth sending a message on the
4 national political stage. That risk is not worth
5 hoping that, by tying our own hands, the federal
6 government will act differently.

7 You know, I said this last year on
8 this bill, and I say this to the sponsor -- who I
9 know has the goal and the interest of protecting
10 New Yorkers and cares a great deal about that --
11 and I say this to my colleagues: When we talk
12 about terrorism trials, when we talk about the
13 proposal, the wrong-headed proposal to try Khalid
14 Sheikh Mohammed in Lower Manhattan, when we talk
15 about the trials that are ongoing, we are not
16 talking about national politics. We are not
17 talking only about the nation, though of course
18 we are. We are talking about local communities.

19 And in the case of the Southern
20 District courthouse in Manhattan and the Eastern
21 District courthouse in Brooklyn, we are talking
22 about tens and tens of thousands of people who
23 live within a very close proximity to these
24 courthouses. Those people are my constituents.

25 And frankly, when the Khalid Sheikh

1 Mohammed question was raised, they were not
2 interested in whether he was an enemy combatant
3 or what happened in the War of 1812 -- they were
4 interested in the question as to whether they
5 could live their lives where they have made their
6 homes in a way that is secure and reasonable.
7 That's their interest.

8 And to raise these broader issues
9 and in any way, shape or form take away our
10 ability to say to my constituents and the
11 constituents across the state "You are not going
12 to be able to live your lives securely and
13 reasonably because we don't like the idea of
14 civil criminal trials versus tribunals or
15 1812 versus the Korean War" is simply not
16 acceptable.

17 We have communities that we
18 represent whose interests we must consider. This
19 bill would be terrible for my communities in
20 Lower Manhattan, which has already suffered so
21 much, and in downstate Brooklyn, which should not
22 be put in this situation.

23 So I urge my colleagues to vote
24 against this bill for all the reasons that
25 Senator Gianaris so eloquently talked about,

1 because of what I view as the flaws in logic
2 behind the argument that I know is sincere and is
3 based on a sincere belief of the sponsor's,
4 because that belief is not what we should be
5 dealing with here on the floor of the State
6 Senate. We must first be dealing with the
7 security and basic quality of life of
8 constituents across the state, and this bill
9 simply undermines them. That's why I vote no and
10 I urge my colleagues to vote no.

11 Thank you, Mr. President.

12 ACTING PRESIDENT GRIFFO: Senator
13 Rivera.

14 SENATOR RIVERA: Thank you,
15 Mr. President. Would the sponsor yield for a
16 question?

17 SENATOR LANZA: Yes.

18 ACTING PRESIDENT GRIFFO: The
19 sponsor yields.

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

22 Through you, Mr. President. Have
23 you ever heard the name Jose Padilla?

24 SENATOR LANZA: No.

25 SENATOR RIVERA: Through you,

1 Mr. President, if the sponsor would continue to
2 yield.

3 SENATOR LANZA: Yes.

4 ACTING PRESIDENT GRIFFO: The
5 sponsor yields.

6 SENATOR RIVERA: And how about
7 Muhajir Abdullah?

8 SENATOR LANZA: Sounds familiar.

9 SENATOR RIVERA: On the bill,
10 Mr. President.

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

13 SENATOR RIVERA: Thank you,
14 Mr. President.

15 Jose Padilla, also known as Muhajir
16 Abdullah, was actually a United States citizen
17 that was held for eight years as an enemy
18 combatant by the Bush administration.

19 So there's actually -- I just
20 wanted to state that for the record and as a
21 point of clarification for a statement that the
22 sponsor of the bill made a little bit earlier
23 when he stated that the United States had never
24 held a U.S. citizen as an enemy combatant. And
25 in this case there is that one case that I think

1 is very important to point out.

2 Thank you, Mr. President.

3 SENATOR DeFRANCISCO: Last
4 section.

5 (Laughter.)

6 ACTING PRESIDENT GRIFFO: Senator
7 Lanza, did you want to speak?

8 SENATOR LANZA: I'm permitted?

9 ACTING PRESIDENT GRIFFO: Yes.
10 Senator Lanza to close debate.

11 SENATOR LANZA: Oh, sure.

12 Listen, this is a good debate.
13 It's a healthy debate. It's one we should have.

14 War has been declared on our
15 nation. War has been declared on our very way of
16 life, the American way of life. It's a different
17 kind of war. The combatants don't wear the same
18 uniform or pledge allegiance to one country. Yet
19 they are as or more determined than any enemy of
20 this country we have ever had.

21 They are funded, they have vast
22 infrastructures, vast intelligence, they are
23 determined, they have an army. Nevertheless,
24 they have an army that stretches sadly across the
25 globe. And while they may not hail from one

1 nation, they subscribe to one notion, to one
2 mission, and that is to destroy the greatest
3 country the world has ever known.

4 We've got to be smart in our
5 defense. We've got to fight today's war, not
6 yesterday's war. We've got to understand and
7 appreciate not only the determination of our
8 enemy but the nature of the threat and our
9 enemy.

10 These terrorists wage war in a
11 different way. They exploit, they seek to
12 exploit our very system to gain advantage. They
13 seek to exploit every weakness they perceive in
14 our national defense. Tragically, they've done
15 so successfully not once but a number of times --
16 attacks on U.S. embassies in the '90s, an attack
17 on USS Cole in the '90s, an attack on the World
18 Trade Center in 1993, car bombings against our
19 interests and our allies around the world
20 repeatedly, numerous attempted and planned
21 attacks against this nation which have been
22 thwarted over the last several years, over the
23 last decade, and of course the September 11th
24 attacks where 3,000 Americans were killed, the
25 majority of whom were our neighbors, my friends,

1 your friends, here in New York. And why?

2 Because they were American.

3 Make no mistake. These are not
4 common criminals. These are enemy combatants,
5 foreign attackers, folks who are not
6 United States citizens, people who have declared
7 war on this country.

8 They want a civil trial. That's
9 what they want. They learned a lot in 1993. And
10 with the information they had, they came back.

11 Ramzi Yousef, you remember him? He
12 was the guy that perpetrated that '93 attack,
13 that first attack. He had that civil trial.
14 When he was brought to court, the marshal said,
15 "Look at the World Trade Center. It's still
16 standing." You know what he said? "For now."
17 "For now."

18 And then he exploited our civil
19 system, a system that is provided to American
20 citizens under our Constitution. That's why we
21 have that system. It is not a right or privilege
22 that you're afforded if you're from another land,
23 a noncitizen, an enemy combatant.

24 Well, because we made that mistake,
25 and for other reasons, September 11th happened.

1 We've got to be smarter than that. This
2 legislation is smart, and it is logical.

3 I listened to my colleague talk
4 about the fact that prohibiting funding from
5 something does not prevent it from happening.
6 I'll remember that next year in the budget
7 negotiations and discussions we have. When one
8 of my colleagues comes to me and says, "We need
9 new funding for a new social program that I'd
10 like to see enacted in New York State," I'll say,
11 "You don't need funding, it will happen anyway."

12 If you don't fund government
13 conduct, government conduct does not happen. And
14 I want to say it again, this is not a theory.
15 This has been proven by recent events. The
16 administration declared that those four
17 detainees, the masterminds of the September 11th
18 attacks, would be afforded civil trials. They
19 were determined, the Attorney General said so and
20 gave all the reasons. And I respect their point
21 of view. I really do.

22 There is an area of healthy debate
23 in this issue. And Senator Squadron said that we
24 should not be talking about this at that level,
25 at the federal level. That's all this has to do

1 with. Of course we need to discuss it at that
2 level. It's a federal attempt. It is the
3 federal government that is seeking to give these
4 civil trials to these combatants here in
5 New York. If we don't talk about it at that
6 level, then we're missing the entire point.

7 There's another point to why we
8 should talk about it at that level. We're a
9 republic. We have a system of states that have
10 been brought together in a republic, as a United
11 States. And so here in this legislative body we
12 talk about the things we can do as a state, the
13 laws we can enact as a state.

14 And that's why I talk about it at
15 that level. Because from my perspective, and
16 perhaps these words are too strong, but I feel
17 that the intent from the federal government is in
18 some way an attack on our safety. I believe
19 that. I truly do.

20 And we may talk about whether or
21 not there's a more perfect way to accomplish
22 this, but my position is clear. I think it would
23 be wrong, offensive and dangerous to provide a
24 civil trial for enemy combatants here. And I'm
25 going to do anything I can to prevent that from

1 happening. That's how I was raised. That's how
2 I was brought up. That's what I believe.

3 If someone is coming for you, if
4 you are threatened or your family is threatened
5 or your neighbors are threatened, you do whatever
6 it takes to fend off the threat. This is my way
7 of fending off this threat, this legislation.
8 This is what we can do in the New York State
9 Senate.

10 There are things we cannot do to
11 protect ourselves against this threat. But those
12 methods that we have the jurisdiction over and
13 that we have the power to employ, we should
14 employ. Let's talk about the safety of Senator
15 Squadron's neighbors, our neighbors, my
16 neighbors. I want that safety secured. This
17 legislation does not in any way threaten their
18 security.

19 Some of you have said you don't
20 like this legislation but you don't like civil
21 trials either. What is your response? What is
22 your solution? I've seen nothing else proposed
23 that would prevent these civil trials from
24 occurring in New York City. If you believe that
25 they should not occur, what is your answer? What

1 do you have? What can you do as a New York State
2 Senator?

3 This is what I can do. This is
4 what we can do.

5 And of course it's logical. Of
6 course it will work. You can't ignore what
7 happened when Congress prevented or prohibited
8 funding for the transport of detainees from Gitmo
9 to New York City. You can't ignore it. We know
10 what will happen if this is enacted. What
11 happened there? Funding was pulled, the
12 administration changed its mind, I think
13 responsibly, prudently. They said, Well, if we
14 can't have funding, we're not going to do it.

15 They did not respond, the
16 administration didn't respond in the way that I
17 think you're suggesting that they would here.
18 And we're going to disagree on that. They didn't
19 say the hell with it, I'm doing it anyway. They
20 didn't. They said, We can't, we don't have the
21 funding, we're not going to do it. And there
22 they are being tried where they should be tried,
23 in a military commission tribunal.

24 Now, you say then why do we need
25 this legislation if we've got this new law.

1 Well, the law is limited. The law says you can't
2 fund the transport from Gitmo to New York. So
3 the administration has been creative. They put a
4 detainee from Somalia on a boat that never docked
5 at Gitmo, and that's how they brought that
6 detainee to New York City.

7 So they are determined as well, an
8 I respect them for it. I take them at their
9 word. This legislation does just that, it takes
10 them at their word.

11 But speaking of the safety of the
12 people in downtown Manhattan and across New York
13 State, in my mind the best way to accomplish that
14 is to ensure that we never provide an enemy
15 combatant of the United States of America with
16 greater privileges than we do to our own
17 citizens, our own neighbors. And certainly not
18 provide them with greater rights and privileges,
19 greater rights and privileges than we do to
20 United States soldiers. If a military commission
21 tribunal is good enough for a United States
22 soldier, it's good enough for a mass-murdering
23 enemy combatant terrorist.

24 And this would certainly not
25 handcuff the Police Department in the City of

1 New York. To suggest that ignores the very logic
2 of this legislation. Which is that if this
3 becomes the law of the State of New York, there
4 will be no civil trial for an enemy combatant.
5 It wouldn't happen. I believe in my heart and I
6 believe that recent events have proven that the
7 administration would never do that.

8 And if they did, and if they did,
9 they would provide the federal funding for that
10 security. That's what would happen. You know
11 that, and I know that.

12 But let's do whatever we can. If
13 we agree on the proposition that they should not
14 be afforded civil trials -- and I respect those
15 who disagree. But if we agree on that
16 proposition, then let's try our best to prevent
17 it from happening. Let's not give and come up
18 with excuses as to why this bill is not perfect.

19 You know, this is not the first
20 piece of legislation that has ever been proposed
21 in the State of New York or anywhere else that is
22 not perfect. But it is, I believe, all we can do
23 besides advocacy by way of preventing these civil
24 trials from being provided here in New York City.

25 So, Mr. President, I believe this

1 is very important legislation. I believe that
2 this legislation will help ensure the safety and
3 the security of our nation today and tomorrow and
4 in our future. And I encourage my colleagues,
5 those of you who believe that providing a civil
6 trial to enemy combatants is a dangerous thing to
7 do, I encourage all of you to look past the
8 perceived imperfections and vote together,
9 Democrat and Republican, to send a message to
10 those enemy combatants that we're serious about
11 defending our nation.

12 Thank you, Mr. President. I vote
13 aye.

14 ACTING PRESIDENT GRIFFO: Seeing
15 and hearing no other Senator wishing to be heard,
16 debate is closed and the Secretary will ring the
17 bell.

18 Read the last section.

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

21 ACTING PRESIDENT GRIFFO: Call the
22 roll.

23 (The Secretary called the roll.)

24 ACTING PRESIDENT GRIFFO: Senator
25 Squadron to explain his vote.

1 You're under the two-minute rule,
2 Senator Squadron.

3 SENATOR SQUADRON: Thank you,
4 Mr. President. In under two minutes.

5 I appreciate the sponsor's sincere
6 conviction and interest in the question of civil
7 criminal trials versus military tribunals. I
8 worry that that debate is overwhelming the
9 question of basic security in our districts.

10 When I asked the sponsor during the
11 debate what the concern about civil trials is,
12 there was a real conversation, an interesting,
13 thoughtful one, about the risks of an open
14 trial. There was no commentary about the risks
15 of a terrorist event targeted to the trial itself
16 specifically.

17 That latter concern is the concern
18 that our constituents have all day, every day,
19 and need to be protected against.

20 I urge the sponsor to have a
21 debate; we have some disagreements about civil
22 trials. I'd be happy to debate that in any
23 setting, environment. What we can't do is
24 support a bill --

25 ACTING PRESIDENT GRIFFO: Can we

1 have some order in the chamber, please.

2 Senator Squadron, continue.

3 SENATOR SQUADRON: What we can't
4 do is support a bill that, because of inadvertent
5 flaws or because of a question of whether the
6 federal government will follow the same logic
7 followed by some members of this house, puts
8 people at risk in New York City and New York
9 State.

10 That's what this bill does, as
11 inadvertent as it may be. Therefore, we must all
12 vote no on the bill.

13 I vote no, Mr. President.

14 ACTING PRESIDENT GRIFFO: Senator
15 Squadron to be recorded in the negative.

16 Again, I would ask the house to
17 please come to order.

18 Senator Krueger to explain her
19 vote.

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

22 I was intrigued by the whole debate
23 here today. And I appreciate the sponsor's
24 passion and his pointedly stating that we should
25 be having national debates on this. I don't

1 disagree. I think this debate on the floor of
2 Congress would have been very interesting. You
3 might be ready and practicing for that.

4 But I am left with the fact that I
5 need to make sure that our local citizens are
6 protected by New York State and their local
7 police as needed, as necessary.

8 So I understand, through this
9 debate, we aren't going to control what trials do
10 or don't take place in federal courthouses in the
11 State of New York. That's not within our
12 control. Those are federal determinations.

13 But what is within our control is
14 making sure that we do everything possible at the
15 local and state level to protect people who live
16 in these neighborhoods and communities that
17 happen to have federal courthouses located in
18 them.

19 So I respect the sponsor's
20 passion. I respect the argument he's making
21 about the role of the federal government in
22 certain decisions involving courts and where and
23 who and why and how. But I'm a state legislator,
24 and my duty is to try to make sure that we are
25 doing everything possible to keep our options

1 open and to ensure that our police, state and
2 local, can do the jobs we may ask of them.

3 I am voting no.

4 Thank you, Mr. President.

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

7 Announce the results.

8 THE SECRETARY: In relation to
9 Calendar Number 305, those recorded in the
10 negative are Senators Adams, Avella, Breslin,
11 Duane, Gianaris, Hassell-Thompson, Krueger,
12 Montgomery, Parker, Peralta, Perkins, Rivera,
13 Sampson, Serrano, Squadron, Stavisky,
14 Stewart-Cousins. Also Senator Espaillat.

15 Absent from voting: Senator
16 Huntley.

17 Ayes, 39. Nays, 18.

18 ACTING PRESIDENT GRIFFO: The bill
19 is passed.

20 The Secretary will return to
21 Calendar 525 and read.

22 THE SECRETARY: Calendar Number
23 525, by Senator Ranzenhofer, Senate Print 3336,
24 an act to amend the Penal Law.

25 ACTING PRESIDENT GRIFFO: Read the

1 last section.

2 SENATOR BRESLIN: Explanation,
3 please.

4 ACTING PRESIDENT GRIFFO: An
5 explanation has been requested by Senator
6 Breslin.

7 Senator Ranzenhofer.

8 SENATOR RANZENHOFER: Yes, this is
9 a bill that amends Penal Law Section 221.05 and a
10 section of the Alcoholic Beverage Control Law,
11 Section 65C. It relates to underage possession
12 of alcohol and also the simple possession of
13 marijuana.

14 What's happening is that -- this
15 doesn't change the existing penalties that are in
16 the law right now for these charges, but it does
17 provide that a person who doesn't appear before
18 the court and complete their sentence, it gives
19 the court additional power of how to deal with
20 somebody that just doesn't do what they are
21 supposed to do.

22 The problem has been that there
23 have been a significant number of persons that
24 are charged with these offenses. And they either
25 just don't show up when they're given an

1 appearance ticket, they don't pay their fine when
2 a judge fines them, they don't get an alcohol
3 evaluation or a complete treatment if that's the
4 recommended sentence, or they don't perform their
5 community service if that's the sanction that's
6 imposed by the court.

7 And the way the state of the law
8 exists right now is there's absolutely nothing
9 that a judge can do to enforce a person's
10 appearance or to make sure that they complete the
11 sentence if they do appear.

12 This bill would provide for an
13 additional fine of up to \$250 for failure to
14 appear or complete the sentence, whether it's
15 paying a fine, getting the treatment that's been
16 recommended and ordered by the court, or
17 performing your community service.

18 This is both a problem at the
19 treatment level and also just a lack of respect
20 for the courts. Throughout the state, this is a
21 bill that has come to the attention of a lot of
22 the magistrates, not only from my area of Western
23 New York but Long Island, the rest of upstate,
24 New York City. And also not only from the
25 magistrates, but from the drug treatment

1 providers where these people are sent to go and
2 they don't go.

3 So basically what this does is just
4 provides some additional enforcement to those few
5 people that are not either showing up in court or
6 abiding by the sentence, whether it be community
7 service, drug evaluation or treatment, or a fine.

8 ACTING PRESIDENT GRIFFO: Senator
9 Krueger.

10 SENATOR KRUEGER: Thank you.
11 Through you, if the sponsor would please yield.

12 SENATOR RANZENHOFER: Yes.

13 ACTING PRESIDENT GRIFFO: The
14 sponsor yields.

15 SENATOR KRUEGER: Thank you.

16 ACTING PRESIDENT GRIFFO: I'm
17 going to ask to have some order in the house,
18 please, so we can hear the members discuss the
19 bill.

20 SENATOR KRUEGER: Thank you.

21 So under this proposed statute, if
22 the individual who could not afford to pay the
23 original fine as set by the court, after
24 120 days, pursuant to this bill, asks for more
25 time to pay, would the court be able to give the

1 individual additional time to pay rather than
2 increasing the fine or penalty?

3 SENATOR RANZENHOFER: I'm sorry,
4 I -- Mr. President, through you, I didn't hear
5 the entire question.

6 SENATOR KRUEGER: Through you,
7 Mr. President, I'd be happy to repeat the
8 question.

9 So under this bill, individuals who
10 fail to pay the original fines within 120 days
11 can be fined additional money or other
12 penalties. If they go to the court to say "I
13 can't afford the fine, may I have more time?"
14 would the court be allowed to give them more
15 time?

16 SENATOR RANZENHOFER: Under the
17 existing law right now, judges often do do that.
18 They often work with persons that appear in front
19 of them and very often are very considerate and
20 very understanding. If somebody needs additional
21 time, very frequently they do provide additional
22 time for someone who needs more time to pay the
23 fine.

24 SENATOR KRUEGER: Through you,
25 Mr. President, I heard the --

1 ACTING PRESIDENT GRIFFO: Are you
2 asking the sponsor to yield?

3 SENATOR RANZENHOFER: Yes, I will.

4 ACTING PRESIDENT GRIFFO: The
5 sponsor yields.

6 SENATOR KRUEGER: Yes, thank you.

7 To clarify, I heard the sponsor
8 answer that under current law that does happen.
9 Under this law that he would like to go into
10 effect, would the court also still have that
11 flexibility?

12 SENATOR RANZENHOFER: Through you,
13 Mr. President, there's nothing in this law which
14 takes away that flexibility.

15 SENATOR KRUEGER: Thank you.

16 Through you, Mr. President, if the
17 sponsor would continue to yield.

18 SENATOR RANZENHOFER: Yes.

19 ACTING PRESIDENT GRIFFO: The
20 sponsor yields.

21 SENATOR KRUEGER: Could the
22 collateral consequences of this bill be to
23 disproportionately more harshly punish those
24 defendants who have little money or often are
25 termed indigent, as opposed to more moneyed

1 defendants? Because again, this is a question of
2 whether somebody has paid the 250 -- or, excuse
3 me, the original fine.

4 SENATOR RANZENHOFER: Through you,
5 Mr. President, I don't believe it does. I mean,
6 this is no different than any other section of
7 law. You know, whether it be a criminal offense
8 or a felony offense, I mean this is a
9 discretionary judgment that a judge or justice
10 makes all the time.

11 There are alternative sentences
12 under this provision, such as community service
13 for someone that does not have the means to pay
14 the fine. So that's something that exists right
15 now where judges have discretion for people that
16 are not as able to pay a fine as others. And I
17 don't believe it would be any different under
18 this legislation.

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

22 SENATOR RANZENHOFER: Yes.

23 ACTING PRESIDENT GRIFFO: The
24 sponsor yields.

25 SENATOR KRUEGER: Thank you.

1 Under current law, does the court
2 have the authority to suspend a driver's license
3 rather than apply an additional fine?

4 SENATOR RANZENHOFER: Under
5 current law, it does not. Although this body
6 did, on January 23rd of this year, pass
7 legislation which would give a judge or
8 magistrate that power.

9 They would have the power to
10 suspend a driver's license if someone did not
11 appear. Or if they did appear and didn't
12 complete their sentence, whether it would be to
13 pay a fine, complete community service, or get an
14 evaluation and any treatment if necessary, under
15 the legislation that we passed earlier this year
16 in January, that bill did give a judge or
17 magistrate the power to do that.

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

21 SENATOR RANZENHOFER: Yes.

22 ACTING PRESIDENT GRIFFO: The
23 sponsor yields.

24 SENATOR KRUEGER: Thank you.

25 And under this law, can you see a

1 scenario where in fact a court can order a bench
2 warrant or actually order jail time?

3 SENATOR RANZENHOFER: Yes. Under
4 this law, as is the existing law for other
5 Penal Law violations, if somebody does not comply
6 with the appearance ticket -- in other words,
7 showing up for court when they've been given an
8 appearance ticket -- or if they do not pay their
9 fine or do their community service or get an
10 evaluation, the court would have the power to
11 issue a warrant to make them comply.

12 SENATOR KRUEGER: Mr. President,
13 on the bill.

14 ACTING PRESIDENT GRIFFO: Senator
15 Krueger on the bill.

16 SENATOR KRUEGER: Thank you.
17 So here's my dilemma with this
18 bill. It seems to reestablish criminal penalties
19 for low-level use of marijuana and move us
20 backwards in time to a time in New York State
21 history where we did criminalize minor use,
22 personal use of marijuana. And it also applies
23 to open bottles.

24 If we were to pass this law and it
25 became the law of the state, unlawful possession

1 of marijuana, which is currently a violation
2 level offense with a penalty for conviction
3 unique among other Penal Law violations, it would
4 result in marijuana having a unique conviction
5 standard.

6 Under the current law, a first- or
7 second-time offender of unlawful possession of
8 marijuana does not face incarceration and loss of
9 his or her freedom. Under the current statute, a
10 defendant may only be sentenced to incarceration
11 if he has two prior convictions under the section
12 within the past three years.

13 But if we amend the statute as
14 proposed by the sponsor, this would essentially
15 allow for those defendants convicted of
16 possessing small amounts of marijuana to be
17 incarcerated for up to 15 days and subjected to
18 an increased fine.

19 The current maximum penalty for
20 this offense is \$100 plus a mandatory surcharge
21 of \$95 to 100, in addition to a crime victim
22 assistance fee of \$25. So as such, an individual
23 with no prior convictions under the statute can
24 already owe up to \$225 to the court following a
25 conviction.

1 Although these fines and surcharges
2 alone seem relatively small, when added together
3 and added to the fine, the number grows quite
4 large. This bill would allow for an additional
5 fine of \$250 for nonpayment within 120 days and
6 could raise the amount owed by a defendant --
7 again, currently of a violation-level offense --
8 a defendant could owe \$475 for a first-time
9 offender. And the penalty of nearly \$500 is
10 quite excessive for such a minor offense under
11 our law.

12 And so I feel that we would be
13 increasing the penalties on people who can't pay
14 the existing fines, increasing the likelihood of
15 the poorest people who committed these violations
16 end up owing more money they can't pay or even
17 end up going to jail.

18 Now, in addition to the potential
19 incarceration as a result of the nonpayment,
20 defendants would also face the possibility of
21 liens on their property and civil judgments, the
22 implications of which are very far-reaching.
23 Civil judgments have a significant impact on an
24 individual's credit score, can lead to higher
25 interest rates or application denials for credit

1 card loans, higher insurance premiums, difficulty
2 obtaining housing or a job.

3 And if in fact the problem started
4 with having an inability to pay a fine of \$225,
5 then potentially growing to \$475 with civil
6 judgments, you could actually argue that what is
7 currently a violation or even a first-time
8 violation for small uses of private use of
9 marijuana could result in someone not finding
10 themselves employable, almost guaranteeing
11 they're not going to be able to pay the fine to
12 the court.

13 And so I find this proposal
14 counterintuitive to what we want to accomplish
15 here.

16 Now, let's add in -- let's say we
17 do end up putting them in jail for up to 15 days
18 on a first-time violation with failure to pay the
19 fine within 120 days. The assumption is that
20 they failed to pay approximately \$225 to the
21 court.

22 But if we end up determining that
23 we need to incarcerate them, we have the costs
24 associated with executing the arrest warrant,
25 serving the court summons, the cost of a hearing

1 which we would need to have if we were
2 incarcerating them to determine the defendant's
3 ability to pay, including court costs,
4 prosecutorial costs, and of course potential
5 costs of an assigned attorney -- because, again,
6 the argument is these people are
7 disproportionately likely to be indigent, so
8 we'll pay for their lawyers because we have gone
9 into the court process with them -- the potential
10 loss of tax revenue created by a defendant's loss
11 of employment as a result of being incarcerated
12 or from the inability to find employment once the
13 court files a civil judgment against them.

14 So the cost of incarcerating a
15 defendant for up to 15 days can average \$95 a
16 day. So on top of the court costs and the arrest
17 costs, we conceivably are going to add in state
18 and local costs of \$1425. So the cost of these
19 enforcement efforts could exceed \$2,000.

20 I think we should seriously
21 consider whether the solution of some people not
22 paying their fines within 120 days is really
23 worth the re-creation of criminal statutes for
24 violations under the law. That we have to ask
25 ourselves whether taking first-time offenders,

1 low-level, personal use of marijuana and open
2 containers of alcohol users and putting them in
3 jail because they couldn't pay their fines is
4 really the direction the State of New York wants
5 to go in criminal justice.

6 And some have argued that it would
7 be re-creation of the model of debtors prison.
8 Because, again, I suspect that facing a civil
9 proceeding, going to jail, becoming at risk of
10 losing one's job or being able to get another
11 job, ruining one's credit rating, et cetera,
12 et cetera, the likely punch line for many people
13 will be they simply didn't have the money to pay
14 the original fine.

15 And so I respect the sponsor's
16 concern that in some cases -- and he gives some
17 statistics in his memo to his bill -- in some
18 cases a number of the total number of people
19 facing these violations failed to pay within
20 120 days. I just don't think the right answer is
21 to recriminalize the use of marijuana, put people
22 in jail for it, and rack up significant costs to
23 our police system, our court system, and our
24 local jail system.

25 So I'm recommending a no vote.

1 Thank you, Mr. President.

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

4 Seeing none, hearing none, I call
5 on Senator Ranzenhofer to close debate.

6 SENATOR RANZENHOFER: Thank you.
7 Thank you, Mr. President.

8 Just to respond to a couple of the
9 points that were made, this was a problem that
10 was brought to my attention by the courts and the
11 treatment providers. We're dealing for the most
12 part with young kids, because we're dealing with
13 underage drinking, and basically we're dealing
14 with a -- not a lot of kids, but a small
15 percentage that simply don't follow the
16 directives of the court.

17 What we have here is we're not
18 criminalizing the underage of possession of
19 alcohol, we're not criminalizing the possession
20 of marijuana. What we're saying is that for
21 those people and only those people who have had
22 an opportunity to follow the directive of the
23 court, whether it be pay a fine, whether it be
24 complete your alcohol evaluation treatment,
25 whether it be complete your community service,

1 all we are saying is that for those few there
2 needs to be another remedy.

3 Because it's very important and we
4 ail know here that early intervention of the
5 problem, whether it be for alcohol or whether it
6 be for drugs, will save us much money. I have
7 heard numerous times over and over again that an
8 ounce of prevention is worth a pound of cure, and
9 that's what we're trying to do here.

10 We're trying to intervene early,
11 we're trying to get to the root of the problem,
12 rather than have somebody feel that they can just
13 ignore the dictates of the court, ignore
14 treatment evaluations. Because what we do know,
15 what we do find is that these people who find
16 that there are no consequences for their actions
17 will then be back in the criminal justice system
18 and then, under Senator Krueger's theory, then it
19 would cost us more money.

20 This is actually a cost-savings
21 method, not something that will cost more money,
22 because it does provide for early intervention to
23 get to the root of the problem.

24 So at the request of the treatment
25 providers, at the request of the magistrates

1 throughout the state, on behalf of our youth and
2 our young people throughout the state, this is an
3 effort to help them -- not to be more punitive,
4 but to get to those that are not taking the court
5 seriously, who are not addressing their
6 problems. And in the end I think that this will
7 be good for our youth, good for our state, not
8 harmful.

9 I would encourage my colleagues to
10 vote yes on this, and I do vote yes. Thank you.

11 ACTING PRESIDENT GRIFFO: The
12 debate is closed, and the Secretary will ring the
13 bell.

14 The Secretary will read the last
15 section.

16 THE SECRETARY: Section 3. This
17 act shall take effect on the 90th day.

18 ACTING PRESIDENT GRIFFO: Call the
19 roll.

20 (The Secretary called the roll.)

21 ACTING PRESIDENT GRIFFO: Announce
22 the results.

23 THE SECRETARY: In relation to
24 Calendar Number 525, those recorded in the
25 negative are Senators Adams, Avella, Breslin,

1 Diaz, Dilan, Duane, Espaillat, Gianaris,
2 Hassell-Thompson, Krueger, Montgomery,
3 Oppenheimer, Parker, Perkins, Rivera, Sampson,
4 Serrano, Smith, Squadron, Stavisky, and
5 Stewart-Cousins. Also Senator Peralta.

6 Absent from voting: Senator
7 Huntley.

8 Ayes, 35. Nays, 22.

9 ACTING PRESIDENT GRIFFO: The bill
10 is passed.

11 Senator Libous.

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

14 Is there any further business at
15 the desk?

16 ACTING PRESIDENT GRIFFO: There
17 is no further business.

18 SENATOR LIBOUS: Mr. President, at
19 this time could we go to motions.

20 ACTING PRESIDENT GRIFFO: We will
21 return to motions and resolutions.

22 Senator Libous.

23 SENATOR LIBOUS: Mr. President, I
24 have a motion by Senator Martins. On page 26, I
25 offer the following amendments to Calendar Number

1 530, Senate Print 6299A, and ask that said bill
2 retain its place on the Third Reading Calendar.

3 ACTING PRESIDENT GRIFFO: The
4 amendments are received, and the bill shall
5 retain its place on third reading.

6 Senator Libous.

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

9 Mr. President, there's a privileged
10 resolution at the desk. Can we have the title
11 read and move for its immediate adoption, please.

12 ACTING PRESIDENT GRIFFO: The
13 resolution is before the house, and the Secretary
14 will read.

15 THE SECRETARY: Senate resolution
16 by Senator Skelos, establishing a plan --

17 SENATOR BRESLIN: Mr. President.
18 Mr. President, point of order. Point of order --

19 THE SECRETARY: -- setting forth
20 an itemized list of grantees for certain
21 appropriations in the 2012-2013 state fiscal --

22 ACTING PRESIDENT GRIFFO: Senator
23 Breslin, why do you rise?

24 SENATOR BRESLIN: Because I would
25 like to know what we're voting on. We have no

1 knowledge of --

2 ACTING PRESIDENT GRIFFO: There's
3 a privileged resolution that was brought before
4 the desk and the Secretary is reading right now.

5 SENATOR BRESLIN: Mr. President,
6 we request time to look at the resolution before
7 we vote on it.

8 ACTING PRESIDENT GRIFFO: The
9 Secretary will continue to read. The resolution
10 is before the house, Senator Breslin.

11 THE SECRETARY: Senate resolution
12 by Senator Skelos, establishing a plan setting
13 forth an itemized list of grantees --

14 SENATOR BRESLIN: Mr. President --
15 (Multiple voices.)

16 ACTING PRESIDENT GRIFFO: Let the
17 Secretary read the resolution, please.

18 SENATOR LIBOUS: Mr. President,
19 the resolution is before the house. I have the
20 floor. I don't believe the other members have
21 the floor.

22 ACTING PRESIDENT GRIFFO: Correct.
23 Senator Libous still has the floor.

24 You had a point of order,
25 Senator Breslin. I am allowing -- I had said

1 that the resolution was brought before the house
2 and the Secretary must read the title. Let the
3 Secretary continue to read.

4 SENATOR BRESLIN: Mr. President --

5 ACTING PRESIDENT GRIFFO: The
6 Secretary will read.

7 SENATOR BRESLIN: Mr. President, I
8 would request that you --

9 ACTING PRESIDENT GRIFFO:
10 (Gaveling.) Read this resolution, Secretary.

11 SENATOR BRESLIN: Yes, read the
12 entire resolution.

13 THE SECRETARY: Senate resolution
14 establishing a plan setting forth an itemized
15 list of grantees for certain appropriations in
16 the 2012-2013 state fiscal year.

17 ACTING PRESIDENT GRIFFO: Senator
18 Breslin, as to your point of order, under Rule 6,
19 Section 9, privileged resolutions are allowed to
20 be handed directly from the floor, as this has
21 been done.

22 Senator Libous.

23 SENATOR BRESLIN: Mr. President --

24 ACTING PRESIDENT GRIFFO: Senator
25 Libous has the floor.

1 Senator Libous.

2 SENATOR BRESLIN: Mr. President --
3 Mr. President, you are suggesting that we are to
4 vote on something we have not seen and not read
5 and not -- have just gotten. And this is a
6 democracy. Please.

7 ACTING PRESIDENT GRIFFO: Senator
8 Breslin, I have --

9 SENATOR BRESLIN: We are only
10 requesting time to review the resolution.

11 SENATOR LIBOUS: Mr. President,
12 the resolution -- if I could make a statement, I
13 have the floor. The resolution is before the
14 house.

15 Read the resolution in its
16 entirety. It is before the house. It will be
17 voted on.

18 ACTING PRESIDENT GRIFFO: Very
19 good. And, Senator Breslin, you're requesting
20 for a full reading of the resolution?

21 SENATOR BRESLIN: That's correct.

22 ACTING PRESIDENT GRIFFO: Senator
23 Libous, without objection, the Secretary will
24 read the entire resolution.

25 SENATOR SQUADRON: Point of order,

1 Mr. President. It's not without objection. The
2 ability -- any member can ask for the entire
3 resolution to be read. It is not without
4 objection.

5 ACTING PRESIDENT GRIFFO: Senator
6 Squadron (gaveling).

7 The Secretary will read.

8 THE SECRETARY: "RESOLVED, That
9 funds originally appropriated in 2011 pursuant
10 to Chapter 53 of the Laws of 2011 and
11 reappropriated pursuant to Chapter 53 of the Laws
12 of 2012, which enacts the Aid to Localities
13 budget to the Education Department under the
14 pre-kindergarten through Grade 12 education
15 program from the General Fund, Local Assistance
16 Account, for additional grants in aid to school
17 districts, libraries, not-for-profit educational
18 institutions for the 2011-12 school year, shall
19 be allocated only pursuant to a plan setting
20 forth in an itemized list of grantees with the
21 amount to be received by each.

22 "Such plan shall be subject to the
23 approval of the Temporary President of the Senate
24 and the Director of the Budget and thereafter
25 shall be included in a resolution calling for the

1 expenditure of such monies, which resolution must
2 be approved by a majority vote of all members
3 elected to the Senate upon a roll call vote, in
4 accordance with the following schedule:

5 "Addion Central School District,
6 50,000;

7 "Catskill School District, 50,000;

8 "Alexandria Central School
9 District, 15,000;

10 "Altmar-Parish-Williamstown School
11 District, 10,000;

12 "Amityville Public Schools, 40,000;

13 "Arkport Central School, 40,000;

14 "Attica Central School, 75,000;

15 "Ausable Valley School District,
16 80,000;

17 "Averill Park Central School
18 District, 25,000;

19 "Babylon Union Free School
20 District, 40,000;

21 "Baldwin School District, 50,000;

22 "Baldwinsville Central Schools,
23 125,000;

24 "Ballston Spa School District,
25 25,000;

1 "BayShore Union Free School
2 District, 40,000;
3 "Beaver River Central School
4 District, 150,000;
5 "Belleville-Henderson Central
6 School District, 10,000;
7 "Bellmore Merrick Central High
8 School, 40,000;
9 "Bellmore Public Schools, 40,000;
10 "Berlin Central School District,
11 30,000;
12 "Bethpage School District, 25,000;
13 "Brasher Falls Central School
14 District, 50,000;
15 "Brewster School District, 100,000;
16 "Brighton Central School District,
17 75,000;
18 "Brittonkill School District,
19 15,000;
20 "Broadalbin-Perth Central School
21 District, 100,000;
22 "Brocton Central School District,
23 100,000;
24 "Canajoharie School District,
25 30,000;

1 "Canisteo-Greenwood Central School
2 District, 40,000;
3 "Canton Central School District,
4 30,000;
5 "Carthage Central School District,
6 15,000;
7 "Central Square Central School
8 District, 25,000;
9 "Cold Spring Harbor Central School
10 District, 55,000;
11 "Commack Central School District,
12 75,000;
13 "Connetquot School District,
14 40,000;
15 "Copiague School District, 40,000;
16 "Coxsackie Athens School District,
17 50,000;
18 "Dansville Central School District,
19 100,000;
20 "Deer Park Union Free School
21 District, 40,000;
22 "Downsville Central School
23 District, 25,000;
24 "Duanesburg School District,
25 30,000;

1 "East Bloomfield School District,
2 30,000;
3 "East Greenbush School District,
4 20,000;
5 "East Rockaway School District,
6 50,000;
7 "East Williston Union Free School
8 District, 20,000;
9 "Edwards-Knox Central School
10 District, 15,000;
11 "Ellenville Central School
12 District, 25,000;
13 "Elmira Heights Central School
14 District, 50,000;
15 "Himont School District, 50,000;
16 "Elmont Union Free School District,
17 25,000;
18 "Elwood Union Free School District,
19 55,000;
20 "Fabius Pompey Central Schools,
21 25,000;
22 "Fallsburg Central School District,
23 50,000;
24 "Fonda-Fultonville School District,
25 40,000;

1 "Frankfort-Schuyler School
2 District, 50,000;
3 "Franklin Square Union Free School
4 District, 5,000;
5 "Fredonia Central School District,
6 100,000;
7 "Freeport Public Schools, 40,000;
8 "Fulton City School District,
9 30,000;
10 "Galway School District, 30,000;
11 "Gananda School District, 30,000;
12 "General Brown Central School
13 District, 15,000;
14 "Genesee Valley Central School
15 District, 50,000;
16 "Glen Cove City School District,
17 55,000;
18 "Gorham-Middlesex Central School
19 District, 40,000;
20 "Goshen Central School District,
21 50,000;
22 "Gouverneur Central School
23 District, 15,000;
24 "Great Neck Public Schools, 25,000;
25 "Greece Central School District,

1 175,000;
2 "Greenville School District,
3 50,000;
4 "Haldane School District, 35,000;
5 "Half Hollow Hills School District,
6 55,000;
7 "Hammond Central School District,
8 15,000;
9 "Hammondsoort Central School
10 District, 25,000;
11 "Hannibal Central School District,
12 30,000;
13 "Happauge School District, 65,000;
14 "Harborfields Central School
15 District, 55,000;
16 "Harrisville Central School
17 District, 50,000;
18 "Hartford School District, 50,000;
19 "Hermon-DeKalb Central School
20 District, 15,000;
21 "Herricks Union Free School
22 District, 25,000;
23 "Heuvelton Central School District,
24 15,000;
25 "Hewlett-Woodmere School District,

1 50,000;
2 "Hicksville Union Free School
3 District, 50,000;
4 "Hilton Central School District,
5 100,000;
6 "Homer Central School District,
7 50,000;
8 "Hoosic Valley School District,
9 30,000;
10 "Hoosick Falls School District,
11 30,000;
12 "Hunter Tannersville School
13 District, 50,000;
14 "Huntington Union Free School
15 District, 55,000;
16 "Hyde Park School District, 30,000;
17 "Indian Lake School District,
18 30,000;
19 "Island Park School District,
20 25,000;
21 "Islip School District, 40,000;
22 "Kings Park Central School
23 District, 75,000;
24 "LaFargeville Central School
25 District, 15,000;

1	"LaFayette Central Schools, 45,000;
2	"Lake Pleasant School District,
3	30,000;
4	"Lansingburgh School District,
5	30,000;
6	"Lawrence School District, 50,000;
7	"Liberty Central School District,
8	25,000;
9	"Lindenhurst Public Schools,
10	40,000;
11	"Lisbon Central School District,
12	15,000;
13	"Livonia Central School, 25,000;
14	"Lockport City School District,
15	425,000;
16	"Locust Valley Central School
17	District, 55,000;
18	"Long Beach School District,
19	50,000;
20	"Lyme Central School District,
21	15,000;
22	"Lynbrook School District, 50,000;
23	"Madrid-Waddington Central School
24	District, 15,000;
25	"Mahopac School District, 90,000;

1 "Malverne School District, 50,000;
2 "Manhasset Union Free School
3 District, 25,000;
4 "Marcellus Central Schools, 85,000;
5 "Marion School District, 30,000;
6 "Massapequa Public Schools, 40,000;
7 "Mayfield School District, 100,000;
8 "Mechanicville School District,
9 30,000;
10 "Merrick Public Schools, 40,000;
11 "Mexico Academy & Central School
12 District, 15,000;
13 "Milford Central School, 50,000;
14 "Millbrook School District, 20,000;
15 "Mineola Union Free School
16 District, 50,000;
17 "Minerva School District, 30,000;
18 "Minisink Valley Central School
19 District, 50,000;
20 "Mohonasen School District, 30,000;
21 "Monticello Central School
22 District, 25,000;
23 "Moravia School District, 30,000;
24 "Morristown Central School
25 District, 15,000;

1 "New Hyde Park-Garden City Park
2 Union Free School District, 20,000;
3 "Newark School District, 30,000;
4 "Newfane Central School District,
5 75,000;
6 "Niagara Falls School District,
7 275,000;
8 "North Babylon School District,
9 40,000;
10 "North Bellmore Schools, 40,000;
11 "North Greenbush School District,
12 5,000;
13 "North Rose Wolcott School
14 District, 30,000;
15 "North Shore School District,
16 55,000;
17 "North Syracuse Central Schools,
18 150,000;
19 "Northport-East Northport Union
20 Free, 100,000;
21 "Northville School District,
22 150,000;
23 "Oceanside School District, 50,000;
24 "Odessa-Mountour Central School
25 District, 50,000;

1 "Ogdenburg City School District,
2 30,000;
3 "Onondaga Central Schools, 25,000;
4 "Oswego City School District,
5 30,000;
6 "Oyster Bay East Norwich School
7 District, 55,000;
8 "Palmyra-Macedon School District,
9 30,000;
10 "Pawling High School, 100,000;
11 "Peekskill School District, 50,000;
12 "Penn Yan Central School District,
13 90,000;
14 "Perry Central School, 70,000;
15 "Peru School District, 80,000;
16 "Phelps Clifton Springs School
17 District, 30,000;
18 "Phoenix Central School District,
19 30,000;
20 "Poland Central School, 50,000;
21 "Port Byron School District,
22 40,000;
23 "Port Jervis City School District,
24 50,000;
25 "Port Washington Union Free School

1 District, 25,000;
2 "Portville Central School District,
3 50,000;
4 "Pulaski Academy & Central School
5 District, 15,000;
6 "Putnam Valley School District,
7 125,000;
8 "Red Creek School District, 30,000;
9 "Rensselaer School District,
10 25,000;
11 "Rockville Centre School District,
12 75,000;
13 "Romulus School District, 10,000;
14 "Rondout Valley Central School
15 District, 25,000;
16 "Roslyn Union Free School District,
17 25,000;
18 "Sachem Central School District,
19 250,000;
20 "Salem School District, 50,000;
21 "Sandy Creek Central School
22 District, 10,000;
23 "Saranac School District, 50,000;
24 "Saratoga Springs School District,
25 20,000;

1 "Saugerties Central School
2 District, 50,000;
3 "Sauquoit Valley Central School
4 District, 175,000;
5 "Schodack School District, 30,000;
6 "Schroon Lake School District,
7 50,000;
8 "Schuylerville School District,
9 25,000;
10 "Seaford Public Schools, 40,000;
11 "Seneca Falls School District,
12 35,000;
13 "Shenendehowa School District,
14 20,000;
15 "Smithtown Central School District,
16 80,000;
17 "South Huntington Union Free School
18 District, 55,000;
19 "Sodus School District, 30,000;
20 "Solvay Union Free School District,
21 40,000;
22 "Somers Central School District,
23 50,000;
24 "South Glens Falls School District,
25 35,000;

1 "South Lewis Central School
2 District, 50,000;
3 "South Seneca School District,
4 30,000;
5 "Southern Cayuga School District,
6 25,000;
7 "Stillwater School District,
8 25,000;
9 "Sullivan West Central School
10 District, 25,000;
11 "Ticonderoga School District,
12 50,000;
13 "Troy School District, 35,000;
14 "Trumansburg Central School
15 District, 25,000;
16 "Valley Stream Central High School
17 District, 25,000;
18 "Valley Stream Union Free School
19 District #13, 25,000;
20 "Valley Stream Union Free School
21 District #24, 25,000;
22 "Valley Stream Union Free School
23 District #30, 25,000;
24 "Waterford-Halfmoon School
25 District, 25,000;

1 "Watertown City School District,
2 30,000;

3 "Watkins Glen Central School
4 Districts, 100,000;

5 "Windham-Ashland-Jewett, 50,000;

6 "Worcester Central School, 50,000;

7 and

8 "Yorktown Central School District,
9 50,000."

10 ACTING PRESIDENT GRIFFO: The
11 question is on the resolution.

12 Senator Krueger, why do you rise?

13 SENATOR KRUEGER: To ask some
14 questions, Mr. President.

15 ACTING PRESIDENT GRIFFO: Senator
16 Krueger has questions.

17 SENATOR KRUEGER: Thank you. Who
18 is the sponsor of this resolution?

19 SENATOR LIBOUS: Mr. President,
20 can we have some order in the chamber.

21 And if members don't want to take
22 their seats, they can leave the chamber. Staff
23 should sit down. I believe there's a resolution
24 before the house.

25 ACTING PRESIDENT GRIFFO: Thank

1 you, Senator Libous.

2 Again, please, everyone, I would
3 ask you to cooperate so that the members can hear
4 each other to discuss the legislation.

5 There was a request for a reading.
6 The reading has been completed. I would ask now
7 for order in the house.

8 Senator Krueger has rose to ask a
9 question. Senator DeFrancisco will yield to you
10 to answer that question.

11 I will remind you that we're under
12 Rule 9, and as we discuss the resolution there is
13 a time allotment given for this of 30 minute
14 minutes.

15 Senator Krueger.

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

18 Can the sponsor please tell me what
19 these six pages of numbers add up to in total
20 amount?

21 SENATOR DeFRANCISCO: 9.95
22 million.

23 SENATOR KRUEGER: 9.95 million,
24 thank you.

25 Through you, Mr. President, if the

1 sponsor will continue to yield.

2 SENATOR DeFRANCISCO: Yes.

3 ACTING PRESIDENT GRIFFO: The
4 sponsor yields.

5 SENATOR KRUEGER: Thank you.

6 And this is 2011-2012 money that
7 apparently we are attempting to reallocate during
8 2012-2013; is that correct?

9 SENATOR DeFRANCISCO: Absolutely
10 incorrect. Back in -- actually, on March 30th of
11 2011, when we passed the budget, we passed a bill
12 the last year -- I mean passed a -- part of the
13 budget was a procedure by which additional
14 funding could be allocated to school districts.

15 And that language in the budget
16 required that there be a resolution passed by
17 both the Assembly and the Senate concurrently,
18 with the names of the districts that would be
19 getting additional funding.

20 Well, the Senate passed that
21 resolution, and unfortunately the Assembly never
22 did. Which, because of the budget language,
23 these dollars could not be moved.

24 So in this year's budget, there
25 was -- part of the budget said that we could move

1 this very money from the last year's budget just
2 by a resolution of the Senate alone, without
3 having to wait for the Assembly to do what they
4 were supposed to do last year. And what this --
5 that was in this year's budget.

6 So what this resolution is is those
7 same items that would have been released had the
8 Assembly done what they should have done under a
9 joint resolution. Now we can do it alone, based
10 upon our budget language this year, and that's
11 what we're doing.

12 ACTING PRESIDENT GRIFFO: Senator
13 Krueger.

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

17 ACTING PRESIDENT GRIFFO: The
18 sponsor yields.

19 SENATOR DeFRANCISCO: Yes.

20 SENATOR KRUEGER: So this is an
21 identical resolution to the resolution that was
22 passed at some point during the 2011-2012 school
23 year here in the Senate?

24 SENATOR DeFRANCISCO: It is not
25 identical. And it's not identical because some

1 of this money was released at an earlier date.
2 This is what hasn't been released yet that was
3 dependent upon a joint resolution by the
4 Assembly.

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

8 SENATOR DeFRANCISCO: Yes.

9 ACTING PRESIDENT GRIFFO: The
10 sponsor yields.

11 SENATOR KRUEGER: Is this what we
12 would define as discretionary funds being
13 distributed to school districts?

14 SENATOR DeFRANCISCO: I'm sorry,
15 what?

16 SENATOR KRUEGER: Is this what
17 would be defined as discretionary funds being
18 allocated to school districts?

19 SENATOR DEFRANCISCO: What it is
20 is it's a listing of the funds, additional funds
21 that went to the school district at the
22 discretion of the Senate.

23 And by the way, when we passed this
24 resolution before, there were only five negative
25 votes when the listing of school districts was

1 prepared and voted on, assuming the Assembly was
2 going to do the same thing, and that was done
3 on -- when was that? In 2011.

4 SENATOR KRUEGER: Through you,
5 Mr. President, if the speaker would continue to
6 yield.

7 ACTING PRESIDENT GRIFFO: The
8 sponsor yields.

9 SENATOR DeFRANCISCO: Yes.

10 SENATOR KRUEGER: Thank you.

11 Are any of the school districts
12 lined out on pages 1 through 6 totaling
13 \$9.95 million, are any of these school districts
14 in Democratic Senators' districts?

15 SENATOR DeFRANCISCO: I don't
16 know. I just -- I think it's -- I don't think
17 so, nor were there any in Republican districts in
18 the years 2009 and 2010.

19 And by the way, as far as
20 disclosure, I've been informed that this listing
21 was on the Governor's website, it's been on the
22 Governor's website for about two months now.

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

1 SENATOR DeFRANCISCO: Yes.

2 ACTING PRESIDENT GRIFFO: The
3 sponsor yields.

4 SENATOR KRUEGER: So the argument
5 being presented is that this was money from
6 2011-2012 that was passed in the Senate but not
7 passed with a concurrent resolution in the
8 Assembly, and so it was still sitting there to be
9 spent. Is this resolution going to be passed in
10 the Assembly as well now?

11 SENATOR DeFRANCISCO: No. And as
12 I mentioned before, in this year's budget there
13 was language that allowed the Senate alone to
14 move this money so that we wouldn't have to wait
15 indefinitely for the Assembly to pass a
16 concurrent resolution.

17 SENATOR KRUEGER: Through you,
18 Mr. President --

19 SENATOR DEFRANCISCO: And by the
20 way, that there was only a few negative votes in
21 allowing this procedure to take place when the
22 budget was passed.

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

1 SENATOR DEFRANCISCO: Yes.

2 ACTING PRESIDENT GRIFFO: The
3 sponsor yields.

4 SENATOR KRUEGER: There seems to
5 be some confusion by some of us as to whether the
6 language that was in this year's budget allowing
7 what I believed at the time, when the chair of
8 Finance and I were debating the budget, the
9 language in this year's budget allowing
10 discretionary funding within the budget to be
11 lined out and passed by only one house rather
12 than two houses, I believe that violated the
13 Budget Reform Law from several years ago. And we
14 discussed that at the time.

15 But I'm still confused because I
16 believe -- and we are looking -- that the
17 Governor actually did not allow the language to
18 go forward that previous years' money could be
19 single-house-resolution passed, that only the
20 2012-2013 bullet aid money would be allowed to be
21 so processed, but that previous years' money
22 could not be moved through this new questionable
23 process of only one house passing it. So we're
24 looking for that language as I speak.

25 But I will ask the Finance chair,

1 is it his understanding that the language in this
2 year's budget bill permitting discretionary
3 dollars to be put in resolutions passed only by
4 one house applies to previous years' money as
5 well as 2012-2013 money?

6 SENATOR DeFRANCISCO: That is
7 correct.

8 SENATOR KRUEGER: That he believes
9 that that is allowed.

10 SENATOR DeFRANCISCO: That is
11 allowed. It's exactly what we put in the budget
12 this year. Because this money that was
13 reappropriated in this year's budget couldn't be
14 released. And this house was dependent upon what
15 the Assembly was going to do, and they hadn't
16 acted on the 2011-2012.

17 And we can show you the actual
18 budget language if you need it.

19 SENATOR KRUEGER: We might need
20 you to. Thank you, Mr. Sponsor.

21 Through you, Mr. President, if the
22 sponsor would continue to yield.

23 SENATOR DEFRANCISCO: I will.

24 ACTING PRESIDENT GRIFFO: The
25 sponsor yields.

1 SENATOR KRUEGER: Thank you.

2 So we've established this is
3 2011-2012 money that wasn't spent, that it's
4 discretionary money that the Senate can vote
5 through a resolution. We're still debating
6 whether or not the new rules that you don't need
7 an Assembly vote applied to previous years'
8 monies, and these are previous years' monies.

9 My unders -- oh, I'm sorry, I
10 didn't want to cut you off.

11 SENATOR DeFRANCISCO: No, go
12 ahead.

13 SENATOR KRUEGER: My understanding
14 is that discretionary monies going through this
15 house are supposed to go through a formula of
16 two-thirds the majority, one-third the minority.
17 And yet our review shows all of this goes to
18 Republican school districts.

19 Now, I suppose Senate Democrats
20 could have decided for 100 percent of the money
21 to go to Republican school districts even if we
22 had discretion over a third of it, but it doesn't
23 seem that likely.

24 So what happened to that rule that
25 there's supposed to be two-thirds/one-third

1 distribution of discretionary funds?

2 SENATOR DEFRANCISCO: These
3 monies, number one, are not totally
4 discretionary. And as far as whether the budget
5 this year allowed us to do this, we gave you the
6 language. You might want to read it before we
7 continue debating that issue.

8 But it's not discretionary, it's
9 only for certain purposes, and that money was
10 reappropriated. And it's my understanding from
11 talking to the secretary to the Budget Committee
12 that some of this funding was provided
13 administratively to Democrats. And I imagine
14 you'd have to talk to your leader to see how that
15 was distributed.

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

19 SENATOR DeFRANCISCO: Yes.

20 ACTING PRESIDENT GRIFFO: The
21 sponsor yields.

22 SENATOR KRUEGER: Thank you.

23 So we are looking at the materials
24 we were given, so thank you very much. And it
25 does seem that 2011-2012 money can go through one

1 resolution.

2 SENATOR DeFRANCISCO: It seems
3 that way because that's what the law said.

4 SENATOR KRUEGER: No, no, I was
5 questioning and I was telling you that I thought
6 that that was a bad move by both houses of the
7 Legislature allowing this budget law to be
8 notwithstanding overruled in certain sections
9 this year. Apparently this is one of the reasons
10 I should have been concerned about that.

11 \$9.95 million, is there additional
12 money remaining from 2011-2012 not in this
13 resolution that we can anticipate future
14 resolutions will have?

15 SENATOR DeFRANCISCO: There is
16 not.

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

20 ACTING PRESIDENT GRIFFO: The
21 sponsor yields.

22 SENATOR KRUEGER: How can you give
23 this money out administratively?

24 SENATOR DeFRANCISCO: Well, I'm
25 not quite sure how it was done. But I can

1 tell you this is what I was informed. And you
2 might want to check with your leader as far as
3 what those funds were from prior years, money
4 from prior years that were not spent that were
5 allocated to the leader to distribute, your
6 leader to distribute.

7 SENATOR KRUEGER: Through you,
8 Mr. President.

9 So if I'm understanding -- I'm not
10 sure if I am understanding correctly. But we're
11 being told that there is some money left over
12 from 2011-2012 for distribution to school
13 districts that requires a resolution to be passed
14 by this house. And yet I'm also being told there
15 was some money left from 2011-2012 that don't
16 have to go through a resolution before this house
17 but was done administratively, and that I should
18 ask someone.

19 I'm very confused. How can -- if
20 we can do it administratively, why are we looking
21 at this resolution at all? Why isn't this money
22 just being given out?

23 SENATOR DeFRANCISCO: This was
24 money that had not been spent before this
25 resolution requirement was made part of the

1 budget process.

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

5 SENATOR DEFRANCISCO: Yes.

6 ACTING PRESIDENT GRIFFO: The
7 sponsor yields.

8 SENATOR KRUEGER: So before we
9 passed the 2012-2013 budget, which provided
10 language allowing the Senate to move
11 discretionary funding through a one-house
12 resolution, there was another mechanism that was
13 allowed for spending 2011-2012 money not having
14 to go through resolutions in either house? What
15 was that language in the budget?

16 SENATOR DeFRANCISCO: That
17 language was not in the budget.

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

21 ACTING PRESIDENT GRIFFO: The
22 sponsor yields.

23 SENATOR DeFRANCISCO: Yes. And if
24 this administrative action was inappropriate,
25 then I think that we should really look into it

1 to see if we should have that money repaid to the
2 state for violating some provision of the budget
3 laws that are passed by the State of New York.
4 But it was funding that was readily accepted by
5 your leader.

6 SENATOR KRUEGER: My leader says
7 that's not actually a situation that occurred.

8 ACTING PRESIDENT GRIFFO: Senator
9 Krueger, are you asking a situation or are you on
10 the bill?

11 SENATOR KRUEGER: No, I'm on
12 the -- I'm not sure if this is the bill, but I
13 guess I'm on the bill for a moment.

14 ACTING PRESIDENT GRIFFO: On the
15 resolution, excuse me. On the resolution.

16 SENATOR KRUEGER: On the
17 resolution. My leader said that process did not
18 take place.

19 But I'm confused, because if the
20 Senate majority gave out money in a certain way
21 that the sponsor's representative is arguing
22 wasn't okay under the budget, I'm curious what
23 that is. And maybe I agree with him that
24 somebody is supposed to do something about that.

25 ACTING PRESIDENT GRIFFO: Senator

1 DeFrancisco.

2 SENATOR DeFRANCISCO: Yes, I will
3 take the word of your leader. I was informed,
4 maybe mistakenly, that there was monies provided
5 to the Democrat conference administratively. If
6 your leader said that that did not occur, I'll
7 certainly take his word for it.

8 But as far as any -- as far as
9 there's any angst over the fact that this money
10 was allocated in this resolution only to majority
11 districts, I would expect that you have the same
12 disgust over that process during the years, the
13 two years that the Democrats were in the
14 majority, because none of this additional funding
15 was provided to the Republican conference at that
16 time.

17 SENATOR KRUEGER: Through you, if
18 the sponsor would continue to yield.

19 SENATOR DEFRANCISCO: Yes.

20 ACTING PRESIDENT GRIFFO: The
21 sponsor yields.

22 SENATOR KRUEGER: Thank you.

23 Is this funding what we usually
24 call bullet aid funding?

25 SENATOR DeFRANCISCO: I've heard

1 it called that, yes.

2 SENATOR KRUEGER: Okay.

3 So this is \$9.95 million from
4 2011-2012. Where is the rest of the bullet aid
5 that was in the original 2011-2012 budget? Have
6 we in fact spent it through a resolution in this
7 house?

8 SENATOR DeFRANCISCO: It was
9 prior-year appropriations, is what I'm informed.

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

13 SENATOR DeFRANCISCO: Yes.

14 ACTING PRESIDENT GRIFFO: The
15 sponsor yields.

16 SENATOR KRUEGER: What was the
17 total bullet aid amount in the 2011-2012 budget
18 allocated to the Senate?

19 SENATOR DeFRANCISCO: Sixteen
20 million, which I believe approximated the bullet
21 aid that was in the budgets during the budget
22 years 2009-2010, 2010-2011.

23 SENATOR KRUEGER: Through you,
24 Mr. President.

25 SENATOR DeFRANCISCO: Yes.

1 ACTING PRESIDENT GRIFFO: The
2 sponsor yields.

3 SENATOR KRUEGER: Thank you.
4 Apparently we didn't have bullet aid in
5 2010-2011 -- no, in 2009-2010? We did not have
6 bullet aid in 2010-2011. But 2011-2012, I thank
7 the sponsor for his answer that there was
8 \$16 million in bullet aid.

9 So this is \$9.95 million. Did we
10 have another resolution at some point during
11 2011-2012 where we approved the spending of the
12 additional \$6 million, approximately?

13 SENATOR DeFRANCISCO: I'm not
14 aware of another resolution. I don't recall
15 another resolution.

16 SENATOR KRUEGER: And through you,
17 Mr. President, the sponsor has already answered
18 that he believes there's no remaining 2011-2012
19 bullet aid to come through an additional
20 resolution at some future date.

21 So there was \$16 million in the
22 budget. This resolution accounts for
23 \$9.95 million. So there's approximately
24 \$6-plus million in bullet aid from 2010-2011 that
25 did not go through a resolution. And yet how did

1 it get distributed?

2 SENATOR DeFRANCISCO: Well, when I
3 say it hasn't gone through a resolution, it went
4 through a prior resolution that the Assembly
5 never bothered passing. So at one time we did
6 vote on the entire \$16 million in a resolution
7 which the Senate passed but the Assembly did not.

8 Now, I'm not quite sure why the
9 entire \$16 million was not part of this
10 resolution and there's only the 9-point-something
11 million. But these were all publicly disclosed
12 in a prior vote that unfortunately was not passed
13 by the Assembly.

14 None of this that we're going
15 through right now would have been necessary had
16 we got, back in 2011-2012, the resolution that
17 the Assembly indicated they were going to pass
18 but for whatever reason did not pass.

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

22 SENATOR DeFRANCISCO: Yes.

23 SENATOR KRUEGER: Thank you.

24 So there was \$16 million in bullet
25 aid in the 2011-2012 budget originally intended

1 for use by the Senate. There was a previous reso
2 that was never passed by the Assembly, so in
3 theory, none of this \$16 million was spent.
4 Today we are being handed this resolution showing
5 how the Senate intends to spend approximately
6 \$9.95 million, all in Republican districts.

7 Not clear what happened to the
8 other \$6 million, although I'm being told it
9 won't show up again. Was that perhaps the
10 one-third discretionary money that was supposed
11 to be for Democratic districts that's disappeared
12 in some way, someplace?

13 SENATOR DeFRANCISCO: No. Believe
14 me, there was never any intention to provide any
15 funds to the Democrat conference, as there was
16 none when the Democrats were in control.

17 On the other hand, and to assuage
18 your concerns -- and, you know, there should be
19 concerns on everybody's part -- we could
20 certainly provide another resolution adding
21 the -- putting the additional grants that are not
22 on this one that were on the original joint
23 resolution so we have a complete list. And I
24 recommend that we do that so that there's no
25 technical violation that we might be accused of.

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

4 SENATOR DeFRANCISCO: Yes.

5 ACTING PRESIDENT GRIFFO: The
6 sponsor yields.

7 SENATOR KRUEGER: So the sponsor
8 is suggesting that perhaps now he's been informed
9 that there might be another \$6 million yet to be
10 spent --

11 SENATOR DeFRANCISCO: I didn't say
12 that.

13 SENATOR KRUEGER: Oh, I'm sorry,
14 then I misunderstood you. May I ask the sponsor
15 to explain?

16 SENATOR DeFRANCISCO: What I said
17 was there's no additional \$6 million to be
18 spent.

19 But the disclosure of what
20 districts either got or are going to get that
21 entire \$16 million, we could pass a resolution to
22 make sure that the complete list that was
23 previously voted on when we thought it was going
24 to be a resolution passed by both houses can be
25 complete.

1 And that's what I'm offering to do
2 if there's concern as to where that money was to
3 be spent or was spent.

4 SENATOR KRUEGER: Through you,
5 Mr. President. I believe I now understand. The
6 sponsor is suggesting that there was a previous
7 resolution that perhaps was, in total, more
8 approximately \$16 million --

9 SENATOR DeFRANCISCO: Correct.

10 SENATOR KRUEGER: -- but it was
11 never passed by the other house.

12 SENATOR DeFRANCISCO: Correct.

13 SENATOR KRUEGER: So in theory,
14 none of that \$16 million should have spent,
15 because you weren't entitled to spend it in last
16 year. So none of that \$16 million was spent?

17 SENATOR DeFRANCISCO: None of the
18 \$16 million was spent. From what I understand.

19 SENATOR KRUEGER: So there's
20 \$9 million today -- excuse me -- for rounding
21 purposes, \$10 million today. There's no longer
22 the other \$6 million.

23 To play devil's advocate, even
24 though I'm not particularly happy with this whole
25 scenario, why wouldn't you have a resolution

1 totaling \$16 million?

2 SENATOR DeFRANCISCO: I don't know
3 the answer to that question. I'm not quite sure
4 why that was the case.

5 But on the other hand, if that is
6 something that would complete this process, since
7 we did pass it once with both houses supposed to
8 be passing it, we could certainly have another
9 resolution to make this one complete.

10 SENATOR KRUEGER: Through you,
11 Mr. President. Can I point to page 6, the first
12 line, Solvay Union Free School District being
13 given an allocation of "A0,000."

14 I'm assuming that was probably an
15 error and would suggest the sponsor might want to
16 withdraw the resolution to correct it but also
17 perhaps to deal with the full \$16 million
18 question of the 2011-2012 money that was not
19 spent in 2011-2012 but perhaps should be spent in
20 2012-2013.

21 SENATOR DeFRANCISCO: Mine doesn't
22 have a typo on it. Let me see what you've got.

23 Well, I imagine we could -- I
24 imagine it was -- I think "A0,000" is obviously a
25 typographical error. But when we were requested

1 to read the entire resolution, the clerk did read
2 "\$40,000."

3 And I think we could make the
4 change from an A to a 4 to satisfy your concern,
5 but when it was read for a vote it was read off
6 as 40,000.

7 SENATOR KRUEGER: Through you,
8 Mr. President, may I ask an additional question.

9 SENATOR DeFRANCISCO: This isn't
10 the first time, by the way, that a typographical
11 error has occurred in the history of the State
12 Senate. But I'm glad you picked it up.

13 ACTING PRESIDENT GRIFFO: The
14 sponsor continues to yield.

15 SENATOR KRUEGER: Thank you.

16 I certainly can understand
17 typographical error. But I also think if you
18 pass a resolution that doesn't give some money to
19 somebody, they don't get the money.

20 But the sponsor said that his copy
21 didn't have the typo. So I'm wondering what else
22 might be different between the copies we received
23 and the copy the sponsor has.

24 SENATOR DeFRANCISCO: Here. Would
25 you like to read my copy?

1 SENATOR KRUEGER: Well, perhaps
2 I'd like a few minutes just --

3 SENATOR DeFRANCISCO: Sure, we
4 could read it.

5 SENATOR KRUEGER: Mr. President,
6 the dilemma may be that the sponsor is working
7 off a draft off of the original, so it shows that
8 there is an error in the copy that we were
9 distributed. But -- so there could be other
10 errors. We don't know right now.

11 SENATOR DeFRANCISCO: You could
12 certainly take the time to compare every line if
13 you choose, but I don't believe there's any other
14 errors.

15 SENATOR KRUEGER: The half-hour is
16 close to over, so I guess I would ask for
17 extended time to review the comparison of the two
18 copies, Mr. President.

19 ACTING PRESIDENT GRIFFO: The
20 rules are as they are, Senator Krueger. Right
21 now we have 30 minutes for each side. And I know
22 there are other members on this side that are
23 going to be wanting to discuss the resolution.
24 So I would ask that we comply with the rules.

25 SENATOR LIBOUS: Senator, how much

1 time do you need?

2 SENATOR KRUEGER: Give me an
3 estimate, staff. Ten minutes?

4 ACTING PRESIDENT GRIFFO: The
5 resolution under discussion, as a matter of note,
6 Senator Krueger, is the resolution that was read
7 by the Secretary. Even though we attempted many
8 times to get order in the chamber, and I'm
9 hopeful that people were being attentive to the
10 resolution that was being read, as it had been
11 requested.

12 Senator Libous.

13 SENATOR DeFRANCISCO: The fact of
14 the matter is, by the way --

15 ACTING PRESIDENT GRIFFO: Senator
16 DeFrancisco.

17 SENATOR DeFRANCISCO: Yes. The
18 fact of the matter is no matter what my draft
19 copy says, what we voted on is what you have in
20 your hand as read by the clerk.

21 So whether my copy is exactly
22 yours -- which it is, I believe, except for the A
23 substituted for the 4, the typographical error --
24 the fact of the matter is we're not voting on my
25 draft, we're voting on what you've been working

1 off.

2 ACTING PRESIDENT GRIFFO: Senator
3 Libous.

4 SENATOR LIBOUS: Was the
5 resolution handed up before the house? The
6 resolution that is handed up before the house is
7 the document that is on the floor right now. And
8 if for some reason there's a typo there, it's
9 been corrected in the debate. But the actual
10 resolution does not have that typo. So the
11 resolution is before the house.

12 SENATOR SQUADRON: Mr. President,
13 point of order.

14 ACTING PRESIDENT GRIFFO: Senator
15 Squadron, why do you rise?

16 SENATOR SQUADRON: Point of order,
17 Mr. President.

18 ACTING PRESIDENT GRIFFO: What is
19 your point of order?

20 SENATOR SQUADRON: There was a
21 reference to the typo in the resolution being
22 corrected in the debate. I'm not sure and
23 familiar under what rule of the house a typo on a
24 resolution can be corrected in a debate.

25 My impression, and I am happy to

1 be -- just in the interests of the parliamentary
2 I guess credibility, if that word is appropriate,
3 I'm happy to be corrected. But my understanding
4 is that we vote on the resolution at the desk
5 that was read by the clerk, but the pronunciation
6 of the clerk does not change the resolution. It
7 is the written resolution at the desk on which we
8 vote.

9 If there's a typo in it, then we
10 are being asked in a couple of minutes to vote on
11 a resolution with a typo in it?

12 ACTING PRESIDENT GRIFFO: No, no,
13 that is not correct. I have already indicated --
14 members, please. I have already indicated that
15 the resolution that was before the body as read
16 by the Secretary, as requested to be read in
17 full, is the resolution that we'll be voting on.

18 Senator DeFrancisco, why do you
19 rise?

20 SENATOR SQUADRON: Mr. President,
21 I -- point of order --

22 SENATOR DeFRANCISCO: You know,
23 could I --

24 ACTING PRESIDENT GRIFFO: Senator
25 Squadron, Senator DeFrancisco rose. I will take

1 his --

2 SENATOR SQUADRON: We're not done
3 with my point of order.

4 And just for clarification, is the
5 resolution -- is the resolution at the desk, does
6 it have a typo distributing, instead of \$40,000
7 to the Solvay Union Free School District, A0,000
8 dollars to the Solvay Union Free School
9 District? I have not in fact seen the resolution
10 on the desk.

11 ACTING PRESIDENT GRIFFO: Senator
12 Squadron, one minute.

13 Senator DeFrancisco, why do you
14 rise?

15 I want order in the chamber.
16 Again, please, I will take up questions one at a
17 time.

18 Senator Squadron, we are reviewing
19 your request.

20 Senator DeFrancisco has risen. I
21 will ask, what is your point of order, Senator
22 DeFrancisco?

23 SENATOR DeFRANCISCO: What I'd
24 like to point out, for all those who may be
25 insomniacs and have nothing to do at home who may

1 be watching this on the Internet, what we are
2 debating, to be very clear, one line of this
3 resolution, instead of having 4-0, comma, 0-0-0,
4 40,000, says A-0, comma, 0-0-0.

5 And what all of this point of order
6 is about is a complaint that the A was wrongly
7 put on the resolution rather than the 4. There
8 is no other typographical error. And when the
9 clerk read the resolution, he read it as \$40,000.

10 Now, I would --

11 SENATOR SQUADRON: Mr.
12 President --

13 SENATOR DeFRANCISCO: I'm still
14 speaking.

15 SENATOR SQUADRON: Would
16 Senator --

17 ACTING PRESIDENT GRIFFO: Senator
18 Squadron, Senator DeFrancisco rose to a point of
19 order. I recognized that.

20 SENATOR DeFRANCISCO: So in
21 response to his point of order, I would request
22 that somebody -- and I'd be happy to do it, to
23 satisfy Senator Squadron -- is replace the A by a
24 4 so it's exactly what the clerk read.

25 And I would hope that that major

1 action on our part will satisfy this important,
2 this very, very important point of order that we
3 have to get over at 7 o'clock this evening.

4 SENATOR SQUADRON: Mr. President,
5 on my point of order. On my point of order,
6 Mr. President.

7 What is important is having a
8 democracy and a legislative body that actually
9 allows all 62 members a voice, that allows folks
10 to review what's been being voted on, not to have
11 things snuck through in I guess not quite the
12 dark of night, because of the time of year, but
13 essentially in the dark of night.

14 SENATOR LIBOUS: Mr. President --

15 ACTING PRESIDENT GRIFFO: Senator
16 Libous, why do you rise?

17 SENATOR SQUADRON: So in addition,
18 there are rules in this house --

19 ACTING PRESIDENT GRIFFO: Senator
20 Squadron. Senator Squadron. (Gaveling.)
21 Senator Squadron.

22 SENATOR SQUADRON: Yes,
23 Mr. President.

24 ACTING PRESIDENT GRIFFO: Senator
25 Libous, why do you rise?

1 SENATOR LIBOUS: Because what
2 Senator Squadron doesn't re -- we are following
3 the rules. Any member can bring a privileged
4 resolution to the desk. And that's what happened
5 today. A privileged resolution was put before
6 the desk.

7 If the chair accepts it and the
8 resolution is read, you proceed on it. You
9 debate it like we're debating, and then you take
10 it to a vote.

11 So there were no rules broken here
12 today, Senator Squadron. There are no rules that
13 said that a privileged resolution has to be
14 handed out in mass quantity. It's before the
15 house. And those are the rules, and I would
16 challenge anybody who wants to challenge what the
17 rules say.

18 ACTING PRESIDENT GRIFFO: Senator
19 Libous, your point is well-taken. And I had
20 indicated that earlier in the procedures this
21 evening.

22 SENATOR SQUADRON: Mr.
23 President --

24 ACTING PRESIDENT GRIFFO: Senator
25 Squadron --

1 SENATOR SQUADRON: I'm on a point
2 of order, Mr. President.

3 ACTING PRESIDENT GRIFFO: Senator
4 Squadron, state your point of order.

5 Senator Sampson has also risen. Do
6 you yield to Senator Sampson or do you want to
7 continue?

8 SENATOR SQUADRON: Yes, I yield,
9 Mr. President.

10 ACTING PRESIDENT GRIFFO: Senator
11 Squadron, would you please be seated, then.

12 Senator Sampson, state your point
13 of order.

14 SENATOR SAMPSON: Thank you very
15 much, Mr. President. Just a point of
16 clarification.

17 During the debate, Senator
18 DeFrancisco, the chair, indicated that
19 administratively I received or my conference
20 received monies with respect to when you were
21 talking about the allocations of money to school
22 districts. Which I'm all in support of,
23 allocation of money to school districts. But as
24 a point of clarification and correction,
25 administratively I didn't receive one nickel, one

1 dime, or a penny. So I wanted to make that
2 correct.

3 Second of all, when we're talking
4 about dealing with a resolution that is going to
5 be put in the Senate books -- and according to
6 the budget, we're allocating monies to a school
7 district where there is an error. And is the
8 document correct?

9 And that's the point I think we're
10 trying to make. If the document is correct, the
11 resolution is correct, pointing -- and Senator
12 DeFrancisco I think would understand that, and
13 most lawyers would understand that. If there's a
14 document that has a certain amount of money
15 that's allocated and this document is incorrect,
16 then it's invalid at that point in time. And
17 also would therefore invalidate the record.

18 ACTING PRESIDENT GRIFFO: Senator
19 Sampson, your point of clarification is noted.
20 We are reviewing the document.

21 As Senator DeFrancisco indicated,
22 we also have the opportunity to amend the
23 resolution.

24 SENATOR PARKER: Mr. President.

25 ACTING PRESIDENT GRIFFO: Senator

1 Parker, why do you rise?

2 SENATOR PARKER: Point of order.

3 ACTING PRESIDENT GRIFFO: State
4 your point of order.

5 SENATOR PARKER: My understanding
6 is that there is not, in fact, a process in which
7 a resolution, privileged or not, can be edited at
8 the desk. And so I'd like to move that the
9 resolution be struck, if in fact there is a error
10 in the document, and have it reprinted and
11 brought back to the desk at a further time.

12 ACTING PRESIDENT GRIFFO: Senator
13 Parker, your point is not well-taken.

14 In accordance with the rules and
15 procedures of the house, you can amend a
16 resolution before the body. And that has not
17 been suggested at this point in time, but that
18 can be taken under consideration and put before
19 the house.

20 SENATOR PARKER: Mr. President.

21 ACTING PRESIDENT GRIFFO: Senator
22 Parker.

23 SENATOR PARKER: Point of
24 clarification.

25 ACTING PRESIDENT GRIFFO: State

1 your point.

2 SENATOR PARKER: Can I know what
3 that rule is?

4 SENATOR LIBOUS: Mr. President.

5 ACTING PRESIDENT GRIFFO: Senator
6 Libous.

7 I will give you the specific rule,
8 Senator Parker. Just give us some time to --
9 Senator Libous.

10 SENATOR LIBOUS: Mr. President,
11 there have been typos in bills that have passed
12 and resolutions that have passed this house for
13 years. They have been corrected.

14 This does not affect the substance
15 of the resolution. The clerk read the number.
16 That's the number that's in the resolution.

17 If my colleagues on the other side
18 of the aisle wish to continue the debate, they
19 can continue the debate. But we will call a time
20 limit and then we will take this to a vote. And
21 it's before the house under the Senate rules.

22 Thank you, Mr. President.

23 ACTING PRESIDENT GRIFFO: Thank
24 you, Senator Libous.

25 Senator Squadron, why do you rise?

1 SENATOR SQUADRON: Mr. President,
2 on the point of order that was standing and the
3 question from Senator Parker.

4 Before we move on and begin that
5 clock again, I'd just like to have the
6 understanding of the process by which we would
7 amend a resolution at the desk after it has been
8 read and debated.

9 SENATOR LIBOUS: Mr. President,
10 I'm --

11 ACTING PRESIDENT GRIFFO: Senator
12 Libous.

13 SENATOR LIBOUS: What is this
14 remedy? What is his point of order and his
15 remedy? I don't understand what Senator Squadron
16 is asking before the house, what -- his point of
17 order has no meaning.

18 SENATOR SQUADRON: Mr. President.

19 ACTING PRESIDENT GRIFFO: That is
20 correct, Senator Libous, you're --

21 SENATOR SQUADRON: Mr. President.
22 Mr. President, it has been suggested both by the
23 sponsor of the resolution and by the
24 Acting President of the house, by yourself, that
25 this bill will -- this resolution will be amended

1 at the desk if there's a typo. That's been
2 suggested -- it's not been suggested by --
3 Mr. President, can I please finish? Thank you.

4 It has not been suggested by
5 Senator Libous, but it has been suggested by the
6 sponsor of the resolution and by the presiding
7 officer of the house. That's why there's a point
8 of order.

9 The remedy, as I understand it, is
10 for a clarification from the presiding officer
11 that such a process is not possible.

12 ACTING PRESIDENT GRIFFO: There is
13 no amendment pending before the house at this
14 point in time, Senator Squadron. I have
15 indicated that, in accordance with rules and
16 resolutions and procedures that we follow here,
17 the opportunity to amend a resolution that's
18 before the house exists.

19 Senator Parker questioned whether
20 or not we could find the specific section. We
21 are determining -- it's a general policy of the
22 house, but we are going to try to determine
23 either under Mason's or the rules of the Senate
24 so we can provide you that information.

25 SENATOR SQUADRON: So -- but --

1 ACTING PRESIDENT GRIFFO: What you
2 have before you -- what I want to again emphasize
3 is you are -- you are -- the resolution before
4 this body has been read by the Secretary.
5 Regardless of any indicators that have been
6 mentioned here relative to documents that may
7 be -- or drafts before your desk.

8 We are discussing, we are debating
9 the resolution before the house as presented, as
10 requested. And it was read in its entirety.

11 So your point is not well-taken,
12 Senator Squadron.

13 SENATOR SQUADRON: Mr. President,
14 as a point --

15 ACTING PRESIDENT GRIFFO: Please,
16 Senator Squadron --

17 SENATOR SQUADRON: As a point of
18 clarification --

19 ACTING PRESIDENT GRIFFO: What is
20 your point of clarification?

21 SENATOR SQUADRON: It sounds as if
22 my point of order is not yet ripe. Since no such
23 amendment has been made, the resolution as we
24 have it on our desks is the one that's before
25 us. If there is an attempt to amend it, I assume

1 that will be put before the house and at that
2 point the point of order will be appropriate.

3 So with that clarification, I will
4 sit down. Thank you, Mr. President.

5 ACTING PRESIDENT GRIFFO: Senator
6 Libous.

7 SENATOR LIBOUS: Mr. President,
8 we're not amending the resolution, we're
9 correcting it for the record. The resolution is
10 before the house. It has been corrected. It has
11 been read by the clerk. And we will hand up --
12 Senator DeFrancisco has a resolution that he will
13 hand up that is corrected.

14 SENATOR SQUADRON: Mr. President,
15 point of order.

16 ACTING PRESIDENT GRIFFO: Senator
17 Squadron, what is your point of order?

18 SENATOR SQUADRON: By what process
19 and under what rules of the house can such
20 resolutions be corrected in the way that Senator
21 Libous has just described?

22 ACTING PRESIDENT GRIFFO: Senator
23 Squadron, I'm going to reiterate that the
24 official reading is the official document.
25 Accordingly, any clerical error can be

1 corrected. So --

2 SENATOR LIBOUS: It's been
3 corrected. It's before the house, corrected. It
4 is not an amendment, it is the document before
5 the house.

6 ACTING PRESIDENT GRIFFO:
7 Correct. It is the formal document before the
8 house.

9 I'm going to ask one member at a
10 time to rise. Senator Parker, why do you rise?

11 SENATOR PARKER: Thank you,
12 Mr. President. Point of clarification.

13 ACTING PRESIDENT GRIFFO: State
14 your point of clarification.

15 SENATOR PARKER: My point of
16 clarification is the following. What is the
17 actual control that is in place to know what is
18 in fact the actual thing, legislation,
19 resolution, that the house is voting on?

20 Is it in fact the resolution that's
21 been handed up and what we are supposed to have a
22 copy of on our desk? Or is it just the arbitrary
23 word of our clerk? Which we of course trust but
24 is not necessarily, may or may not necessarily be
25 consistent with what the actual document is.

1 ACTING PRESIDENT GRIFFO: The
2 resolution as read by the Secretary is what we
3 are discussing, as it was read to all of the
4 members. The clerical error --

5 SENATOR LIBOUS: Mr. President.

6 ACTING PRESIDENT GRIFFO: Senator
7 Libous.

8 SENATOR LIBOUS: Again, in all due
9 respect to some of my colleagues here, the
10 resolution is before the house. The typo has
11 been corrected. The resolution was read by the
12 clerk. That is what's before the house. And
13 it's very close to time to take this for a vote.

14 SENATOR PARKER: Point of
15 clarification.

16 ACTING PRESIDENT GRIFFO: Senator
17 Parker, I've given you the answer on that.

18 SENATOR PARKER: Right.

19 ACTING PRESIDENT GRIFFO: And
20 Mason's allows -- Mason's gives us the
21 opportunity for any clerical errors, as long as
22 the document has been read and put before the
23 house officially, as it has been -- what is your
24 point -- Senator Squadron.

25 SENATOR PARKER: I yield.

1 SENATOR SQUADRON: Mr. President,
2 point of clarification.

3 Can we have the citation in
4 Mason's, please. It's not the rules of the
5 house, it's Mason's. And so we would like to be
6 able to review it.

7 ACTING PRESIDENT GRIFFO: I'm
8 going to allow Senator Flanagan to speak on the
9 resolution.

10 SENATOR SQUADRON: Mr.
11 President --

12 ACTING PRESIDENT GRIFFO: Mason's
13 is not binding on this body, it is only
14 advisory. And I'm trying to give you guidance
15 here. I've already answered the question several
16 times. What you are discussing is -- it's the
17 resolution that has been read and is before the
18 body. That is all that's of significance at this
19 point this time.

20 SENATOR SQUADRON: Mr. President,
21 you cited Mason's, and I'm simply asking for the
22 citation so that we can follow along.

23 ACTING PRESIDENT GRIFFO: Section
24 405, Senator Squadron, Mason's. Thank you.

25 Senator Flanagan is recognized.

1 SENATOR SQUADRON: Mr. President,
2 I still have the floor.

3 ACTING PRESIDENT GRIFFO: No, you
4 do not, Senator Squadron. Senator Squadron, I
5 have ruled on your point of order. I have
6 recognized Senator Flanagan --

7 SENATOR LIBOUS: Mr. President,
8 you ruled on the point of order. He does not
9 have the floor.

10 ACTING PRESIDENT GRIFFO: I
11 agree --

12 SENATOR LIBOUS: He is out of
13 line. You are running the house, and I think
14 you --

15 ACTING PRESIDENT GRIFFO: I am
16 running the house, Senator Libous.

17 SENATOR LIBOUS: -- I believe you
18 called on Senator Flanagan.

19 ACTING PRESIDENT GRIFFO: Senator
20 Squadron, I indicated that I've answered your
21 point of order. Please be seated.

22 Senator Flanagan, please take the
23 floor.

24 SENATOR SQUADRON: Mr. President,
25 I'd like to appeal -- I appeal the ruling of the

1 chair.

2 ACTING PRESIDENT GRIFFO:

3 (Gaveling.) Senator Flanagan.

4 SENATOR SQUADRON: I'd like to
5 appeal the ruling of the chair.

6 ACTING PRESIDENT GRIFFO: As a
7 point of information, Senator Squadron, there's
8 no opportunity to appeal the ruling of a point of
9 information.

10 SENATOR SQUADRON: You said "I
11 ruled on your point of order." I am now
12 appealing the ruling of the chair,
13 Mr. President.

14 ACTING PRESIDENT GRIFFO: I
15 provided you information on a question you rose.
16 How can you try to override a point of
17 information?

18 SENATOR SQUADRON: Mr. President,
19 to be clear, I am not able --

20 ACTING PRESIDENT GRIFFO: Senator
21 Squadron, you're out of order.

22 SENATOR SQUADRON: I'm not able to
23 appeal the ruling of the chair?

24 ACTING PRESIDENT GRIFFO: Senator
25 Flanagan, please take the floor. Senator

1 Flanagan.

2 SENATOR SQUADRON: Mr. President,
3 just to be clear, I am not able to appeal the
4 ruling of the chair?

5 ACTING PRESIDENT GRIFFO: Senator
6 Flanagan.

7 SENATOR LIBOUS: Mr. President,
8 before Senator Flanagan takes the floor, I
9 believe that he can appeal the ruling of the
10 chair and we can take it to a vote.

11 SENATOR SQUADRON: Thank you,
12 Senator Libous.

13 ACTING PRESIDENT GRIFFO: All
14 those in favor of overruling a point of
15 information given by the chair please signify by
16 saying aye.

17 (Response of "Aye.")

18 ACTING PRESIDENT GRIFFO:
19 Opposed?

20 (Response of "Nay.")

21 ACTING PRESIDENT GRIFFO: The nays
22 have it.

23 Senator Flanagan.

24 SENATOR SQUADRON: Show of hands.

25 MULTIPLE SENATORS: Show of hands.

1 ACTING PRESIDENT GRIFFO: A show
2 of hands has been requested and so ordered.

3 The Secretary will announce the
4 results.

5 THE SECRETARY: Ayes, 24.

6 ACTING PRESIDENT GRIFFO: The
7 ruling of the chair stands.

8 Senator Libous.

9 SENATOR LIBOUS: Mr. President, a
10 clerical error was pointed out. The clerical
11 error has been fixed in the document that's at
12 the desk. The stenographer has the right
13 information that was read by the clerk. We would
14 now like to move ahead to clean up any debate or
15 to take this to a vote.

16 ACTING PRESIDENT GRIFFO: Senator
17 Flanagan.

18 SENATOR FLANAGAN: No, thank you.

19 ACTING PRESIDENT GRIFFO: Senator
20 Flanagan yields.

21 Any further discussion?

22 Senator Diaz. We have three
23 minutes left on debate.

24 SENATOR DIAZ: I would like to ask
25 some questions to Senator DeFrancisco.

1 ACTING PRESIDENT GRIFFO: Senator
2 DeFrancisco, do you yield?

3 SENATOR DeFRANCISCO: Yes.

4 SENATOR DIAZ: Senator
5 DeFrancisco, when the distribution of this
6 \$9 million was done, any specific criteria was
7 used to give money to these districts?

8 SENATOR DeFRANCISCO: I think the
9 main criteria was trying to provide additional
10 funding to those districts that the formula is
11 not perfect, the formula is not perfect to try to
12 provide more funding for those districts where
13 the formula did not provide sufficient funding
14 for the needs of that district.

15 SENATOR DIAZ: I represent --
16 Mr. President, would Senator DeFrancisco yield
17 for another question.

18 ACTING PRESIDENT GRIFFO: The
19 Senator yields, Senator Diaz.

20 SENATOR DIAZ: Senator
21 DeFrancisco, I represent one of the poorest if
22 not the poorest school district in the state.
23 And I see that the Lockport City School District
24 got \$425,000, close to half a million dollars out
25 of the \$9 million. Then I see that Niagara Falls

1 got \$275,000. Sachem Central School District has
2 \$250,000. And I see -- I don't see nothing for
3 the city, for the poor districts.

4 So this is something upstate
5 against the downstate or --

6 SENATOR DeFRANCISCO: Long
7 Island's downstate.

8 SENATOR DIAZ: -- or Long Island
9 against downstate? Or what's going on here? How
10 come none of the poor districts, really poor
11 districts have been assigned any money here?

12 SENATOR DeFRANCISCO: Well, the
13 reason there was supposed to be a joint
14 resolution is because the understanding was that
15 the Assembly was going to take care of certain
16 districts. And what they ended up doing is using
17 their money, their funding, the bullet aid money
18 for Teacher Centers in New York City. Because as
19 you know, the Assembly majority is substantially
20 concentrated in New York City.

21 None of the Assembly money provided
22 funding for upstate districts. So the point was
23 that this was going to try to get a balance. And
24 that's the way it was done.

25 Secondly, and now that I'm up, I

1 want to express to Senator Sampson, I did
2 indicate before you were here that if Senator
3 Sampson said that there was no money gone
4 administratively, I take his word for it. I must
5 have misunderstood what I was informed. And I
6 want to make sure that's again clear on the
7 record.

8 ACTING PRESIDENT GRIFFO: Senator
9 Diaz.

10 SENATOR DIAZ: Will Senator
11 DeFrancisco yield for one more question?

12 ACTING PRESIDENT GRIFFO: The
13 Senator yields.

14 SENATOR DeFRANCISCO: Yes, I will.

15 SENATOR DIAZ: Senator
16 DeFrancisco, don't you feel remorse?

17 SENATOR DeFRANCISCO: I feel as
18 much remorse now as you felt when you delivered
19 all your school aid discretionary funds to
20 your --

21 SENATOR DIAZ: When was that?

22 SENATOR DeFRANCISCO: -- districts
23 when --

24 SENATOR DIAZ: When was that?

25 SENATOR DeFRANCISCO: -- when you

1 were in the majority. That's how much remorse I
2 feel.

3 SENATOR DIAZ: Would he still
4 yield for another question.

5 ACTING PRESIDENT GRIFFO: Senator
6 DeFrancisco, do you yield to an additional
7 question from Senator Diaz?

8 SENATOR DeFRANCISCO: Yes.

9 ACTING PRESIDENT GRIFFO: Senator
10 Diaz.

11 SENATOR DIAZ: I remember that
12 time, Senator DeFrancisco, that you're talking
13 about. And I remember sitting on that side and I
14 remember saying -- supporting you by saying if I
15 were not a minister, I would -- the way you have
16 treated us before for so many years, giving us
17 nothing for 42 years, from the time that I was
18 here for ten years -- ten years -- eight years,
19 from before that, I said if I were not a
20 minister, I would say later for you. But because
21 I'm a minister, I would ask my conference to be
22 part of it. So we took care of you, we were part
23 of that.

24 And now, Senator DeFrancisco,
25 you're telling me you feel no remorse telling the

1 people, telling the poor districts in this state,
2 you have no remorse saying that you could give
3 \$425,000 to one district, out of \$9 million you
4 could give \$425,000 to one district, and poor
5 districts like mine and like many others here,
6 zero?

7 SENATOR DeFRANCISCO: Senator, I
8 don't doubt that you as an ordained minister or
9 as a man with integrity argued on behalf of this
10 side of the aisle when you were in the majority.
11 But I can guarantee you that none of the minority
12 districts, when we were in the minority, received
13 any of this aid.

14 Secondly, as I mentioned before,
15 there is another house. And the other house
16 distributes money in a certain fashion. And when
17 the other house was in control -- when the
18 Democrats were control of the other house and you
19 were in control of this house, clearly the
20 preference was to New York City. And I don't --
21 I will debate anybody on that point.

22 So the fact of the matter now is
23 there is balance based on the house being -- each
24 house being controlled by a different party. So
25 I --

1 SENATOR DIAZ: Last question, if
2 he'll yield.

3 ACTING PRESIDENT GRIFFO: Senator
4 DeFrancisco, have you completed your answer?

5 SENATOR DeFRANCISCO: Yeah, I
6 have.

7 SENATOR DIAZ: So you are telling
8 me --

9 ACTING PRESIDENT GRIFFO: Senator
10 Diaz -- Senator Diaz, just so that you know that
11 we are approaching the end of time. So please --

12 SENATOR DIAZ: I said last
13 question. Didn't I say that?

14 SENATOR DeFRANCISCO: You said
15 that before, too.

16 SENATOR DIAZ: No, I didn't say
17 that before. No, I didn't say that. I say now,
18 last question.

19 ACTING PRESIDENT GRIFFO: Senator
20 Diaz's last question.

21 SENATOR DIAZ: So you are telling
22 me that we have not nothing to look for in this
23 chamber because there is the other house that
24 will do whatever they want and we as a body, as a
25 body, as Senators, 62 Senators, we have nothing

1 to look for here --

2 SENATOR DeFRANCISCO: You have a
3 lot to look forward to. We have a house that
4 operates usually in a very professional way,
5 barring some dispute like we have today on
6 procedure.

7 And secondly, in prior years there
8 have been many dollars that have gone to New York
9 City. And you know we do have New York City
10 representatives on this side of the aisle as
11 well.

12 So -- but the decision-making
13 process is by the majority, just like it was, the
14 decision-making, on behalf of the majority when
15 you were in the majority. And that's the answer
16 to your last question.

17 SENATOR DIAZ: On the resolution.

18 ACTING PRESIDENT GRIFFO: Excuse
19 me, Senator Diaz?

20 SENATOR DIAZ: On the resolution.

21 ACTING PRESIDENT GRIFFO: Senator
22 Diaz, in accordance with Rule 9-3D, we have
23 completed time. I will give you a couple of
24 minutes, okay?

25 SENATOR DIAZ: Thank you, I

1 appreciate that. You've always been my friend.

2 You've always been part of -- so . . .

3 We are -- we are going through very
4 difficult times in the State of New York. The
5 Governor, Governor Cuomo, has killed every member
6 item that we could use to help our districts. We
7 cannot provide money to buy Smart Boards or to
8 help any school district because Governor Cuomo
9 decided that there would be no member items. So
10 we're going through very difficult times.

11 And now to see that suddenly,
12 suddenly \$9 million appears out of the
13 discretionary funds for certain people, and for
14 us there is nothing -- and Governor Cuomo, if
15 you're listening to me, people -- you should be
16 ashamed. People should be ashamed to do what
17 they're doing.

18 I mean, member items is the thing
19 that help us help our communities. See those
20 \$9 million? Those are assigned to different
21 Senators as a member item, discretionary funds.
22 So for us there is nothing. And then they
23 criticize us and we got to go back to our
24 districts and tell them we cannot even buy a
25 Smart Board to a school in our poor districts

1 because that side has all the money and they say,
2 Oh, we're in power now, and because we are in
3 power, later for you, Senator Diaz, and later for
4 the children in the poor districts of the City of
5 New York.

6 Ah, God bless you all. Enjoy your
7 power. What is this?

8 ACTING PRESIDENT GRIFFO: Thank
9 you, Senator Diaz.

10 SENATOR DIAZ: Oh. Oh. Senator
11 Grisanti is the one that got the \$450,000.
12 Senator Grisanti, you must be campaigning. That
13 must be good for you in your campaign.

14 ACTING PRESIDENT GRIFFO: Senator
15 Diaz.

16 SENATOR DIAZ: Thank you very
17 much.

18 ACTING PRESIDENT GRIFFO: Thank
19 you.

20 SENATOR DIAZ: Did you see what
21 you're doing?

22 ACTING PRESIDENT GRIFFO: Thank
23 you.

24 SENATOR DIAZ: Did you see what
25 you people are doing?

1 ACTING PRESIDENT GRIFFO: Senator
2 Diaz, thank you.

3 SENATOR DIAZ: Shame, shame on
4 you.

5 ACTING PRESIDENT GRIFFO: In
6 accordance with Rule 9, Section 3D, the time is
7 expired on the minority side of the debate.
8 Senator Flanagan, I asked if you
9 wanted to be heard from this side. Do you want
10 to be heard?

11 SENATOR FLANAGAN: Yes, I do.

12 ACTING PRESIDENT GRIFFO: Senator
13 Flanagan, I recognize you.

14 SENATOR FLANAGAN: Thank you,
15 Mr. President.

16 Senator Diaz, I listened very
17 carefully to your comments and everyone else's.
18 And I think we need to come back to a couple of
19 basic things. If you look -- and I'm not going
20 to apologize for any of this.

21 If you look at the budget process,
22 it's ultimately about compromise. There's a lot
23 of haggling back and forth, internally in one
24 house, with another house, and with the
25 Executive. But at the end of the day we come up

1 with a budget that reflects some type of
2 compromise. Maybe everyone walks away a little
3 bit unhappy, but it is a budget that gets out,
4 that gets passed and gets signed into law.

5 In the context of what we're
6 talking about today, it can't be looked at in
7 isolation. If you go back to last year, there
8 was a \$16 million allocation that was essentially
9 there for the Senate. There was a \$16 million
10 allocation for the New York State Assembly. So
11 no one should walk out thinking there was some
12 largesse provided to the Senate that was not
13 granted to the Assembly as well.

14 The priorities of the Assembly at
15 that time were not to go to specific school
16 districts that you had wished. And I believe I'm
17 correct in recalling that not only last year but
18 this year, you voted against the budget.

19 Now, in last year's budget we
20 allocated money. And because of the commitment
21 that was not honored by the New York State
22 Assembly, money that was supposed to be going out
23 the door, part of a handshake that has been a
24 tradition of this Legislature for well over
25 200 years, we had to change how we were doing

1 things to try and get money to schools who had
2 been promised that they were going to get that
3 money.

4 Now, you mentioned the City of
5 Lockport. I don't want to speak for you, but I
6 am going to tell you that I have actually been to
7 the City of Lockport. I was there this year with
8 Senator Maziarz. Based on your comments, I'm
9 going to suggest that you perhaps really don't
10 know much about the City of Lockport and the City
11 of Lockport School District. The City of
12 Lockport --

13 ACTING PRESIDENT GRIFFO: Senator
14 Diaz, Senator Flanagan has the floor.

15 SENATOR DIAZ: {Inaudible.}

16 ACTING PRESIDENT GRIFFO: Senator
17 Diaz -- Senator Diaz, the Senator has not
18 yielded. He has the floor.

19 SENATOR DIAZ: Point of privilege.

20 ACTING PRESIDENT GRIFFO: You
21 cannot have a point of personal -- there is no
22 point of personal --

23 SENATOR FLANAGAN: Senator Griffo.
24 Senator Griffo --

25 Senator Diaz -- Senator Diaz --

1 ACTING PRESIDENT GRIFFO: Senator
2 Diaz, please. With all decorum and respect,
3 would you please hold it for a moment.

4 SENATOR DIAZ: I understand,
5 Mr. President --

6 ACTING PRESIDENT GRIFFO: Senator
7 Diaz, please.

8 SENATOR DIAZ: He called my
9 name --

10 ACTING PRESIDENT GRIFFO: The
11 member has the floor. He has not impugned you in
12 any way. You cannot rise to a point of personal
13 privilege. You have not been impugned. Your
14 name has been mentioned. You have not been
15 impugned.

16 Senator Flanagan, do you want to
17 continue --

18 SENATOR FLANAGAN: I do, and let
19 me --

20 ACTING PRESIDENT GRIFFO: -- or do
21 you want to yield?

22 SENATOR FLANAGAN: Senator Diaz, I
23 don't want to create any misimpression. If I
24 offended you in any way, I apologize. I withdraw
25 the comment that I made.

1 My point is this. I have been to
2 the City of Lockport. I know the needs of that
3 district, having looked at their combined wealth
4 ratio, their enrollment, their free and reduced
5 lunch. And when Senator Maziarz advocates for
6 that school district, it's because the formula
7 didn't really work for them. He worked hard to
8 get money for that district.

9 Now, looking at the budget, part of
10 this year's budget, we reappropriated money that
11 wasn't spent last year. So it should come as no
12 surprise to anyone in this chamber and anyone out
13 in the public that this money has not been
14 around. It's been around for over a year. It
15 was reappropriated as part of this year's
16 budget. Everyone in this chamber was well aware
17 of that.

18 And in this year's budget, which
19 you voted against and you talked about the needs
20 of very poor school districts, let me recount for
21 you that Rochester got a million dollars, Buffalo
22 got a million dollars, Syracuse got a million
23 dollars, Yonkers got a million dollars,
24 after-school programs for New York City got
25 \$1.5 million. That was recognition of need in

1 those areas, and you mentioned the City of
2 New York that you represent.

3 So if you are flabbergasted by some
4 of the action being taken, I in turn am
5 flabbergasted by your reaction, because you voted
6 against funding \$1.5 million.

7 Now, in this resolution there are
8 pots of money that end up being discretionary to
9 plug holes, as Senator DeFrancisco said. It is
10 out there for the public to see. It is for
11 educational purposes, largely related to school
12 districts, potentially for libraries. So we have
13 done a yeomanlike effort, Assembly, Senate,
14 Democrat and Republican, to deal with some of
15 these issues. And right there, there is money
16 for the City of New York.

17 Thank you, Senator Griffo.

18 SENATOR DIAZ: Mr. President.

19 ACTING PRESIDENT GRIFFO: Senator
20 Diaz.

21 SENATOR DIAZ: Again, I have to
22 say that Senator Flanagan had it all wrong, with
23 all due respect. Every single school district in
24 the state needs money. I'm not referring about
25 the budget. I voted against the budget because

1 it cut the money for my district and for the poor
2 people. That's why I voted against it.

3 I'm not questioning that. I'm
4 questioning what they took out -- they took us --
5 they took -- the Governor took away our member
6 items because we have no way to assign money to
7 our schools in our districts. The way you're
8 doing it now, now, suddenly, there was no member
9 items --

10 ACTING PRESIDENT GRIFFO: Senator
11 Diaz.

12 SENATOR DIAZ: Suddenly, suddenly
13 \$9 million appears --

14 ACTING PRESIDENT GRIFFO: Senator
15 Diaz, you had the opportunity. I've given you
16 some discretion here. Please.

17 SENATOR DIAZ: Are we --

18 ACTING PRESIDENT GRIFFO: Please,
19 Senator Diaz.

20 SENATOR DIAZ: Mr. President,
21 we're dealing with something very sentimental --

22 ACTING PRESIDENT GRIFFO: You've
23 had --

24 SENATOR DIAZ: -- very important.
25 I understand, Mr. President --

1 ACTING PRESIDENT GRIFFO: I
2 understand that. I understand that, Senator
3 Diaz.

4 SENATOR DIAZ: Mr. President --

5 ACTING PRESIDENT GRIFFO: I'm
6 given you latitude and flexibility.

7 SENATOR DIAZ: Mr. President,
8 please allow me two more minutes. Allow me two
9 more minutes. Two more minutes.

10 ACTING PRESIDENT GRIFFO: No,
11 Senator Diaz, I've given you time. Please.

12 SENATOR DIAZ: Mr. President --

13 ACTING PRESIDENT GRIFFO: Please
14 conclude your comments.

15 SENATOR DIAZ: Yes, thank you.

16 ACTING PRESIDENT GRIFFO: Right
17 now. Please, right now.

18 SENATOR DIAZ: Thank you. Thank
19 you. Thank you. We're dealing with something
20 very important and very tragic here. Very
21 tragic. I mean --

22 ACTING PRESIDENT GRIFFO: Senator
23 Diaz, I've given you the opportunity. You're out
24 of order. I'm going to call the roll on the
25 resolution.

1 SENATOR DIAZ: I'm always out of
2 order. I was out of order when you voted for gay
3 marriage. I'm always out of order.

4 ACTING PRESIDENT GRIFFO:
5 (Gaveling.) The Secretary will call the roll on
6 the resolution.

7 SENATOR DIAZ: Come on, stop
8 this --

9 ACTING PRESIDENT GRIFFO: The
10 Secretary will call the roll on the resolution.

11 SENATOR DIAZ: I'm always out of
12 order.

13 ACTING PRESIDENT GRIFFO:
14 Senator -- Senator Diaz, there is civility and
15 decorum in this chamber. You are not observing
16 that right now. Please observe some civility and
17 decorum.

18 SENATOR DIAZ: -- you want
19 civility and decorum --

20 ACTING PRESIDENT GRIFFO: Show us
21 some respect, Senator Diaz, please.

22 SENATOR DIAZ: {Inaudible.}

23 ACTING PRESIDENT GRIFFO: The
24 Secretary will call the roll on the resolution.

25 Members, take your seats.

1 (The Secretary called the roll.)

2 ACTING PRESIDENT GRIFFO: Senator
3 Krueger, do you wish to explain your vote?

4 SENATOR KRUEGER: Thank you,
5 Mr. President, I do. I rise to explain my vote.

6 ACTING PRESIDENT GRIFFO: Senator
7 Krueger, before you begin the explanation, we
8 will be strictly enforcing the two-minute
9 vote-explanation rule.

10 Senator Krueger.

11 SENATOR KRUEGER: Fine, thank you.

12 Despite my concerns about the
13 process and even the dollar amounts in total
14 being reappropriated, I will vote for this bill
15 because I don't see why we should be penalizing
16 school districts who have an anticipation of
17 bullet aid.

18 I'm still curious where the other
19 \$6 million went or is, because I can't imagine us
20 not wanting to spend it somewhere.

21 And just for the record, because I
22 didn't want to cause a new set of chaos, just on
23 the record, I certainly hope that somehow
24 Hammondsoort Central School District, which I
25 don't believe exists, so it won't be able to get

1 money from this resolution, can be assured
2 through some future process that perhaps it was
3 Hammondsport Central School District who was
4 hoping to get money -- but they're not in this
5 resolution, so my understanding is they would not
6 be eligible.

7 But I'll be voting yes on a still,
8 I think, error-filled resolution.

9 Thank you, Mr. President.

10 ACTING PRESIDENT GRIFFO: Senator
11 Krueger to be recorded in the affirmative.

12 Senator Breslin to explain his
13 vote.

14 SENATOR BRESLIN: Thank you very
15 much, Mr. President.

16 I think it's a sad day for the
17 New York State Senate to have a privileged
18 resolution brought up in the dark of night, a
19 privileged resolution that's ordinarily, by
20 custom, shared with both sides, discussed,
21 printed out. And then the process went downhill
22 from there.

23 Including, if we all have a copy of
24 a bill, it's a copy of an original. We have a
25 copy of an original. And when we have the clerk

1 read and insert something for the Solvay Union
2 Free School District, and then use Mason's, which
3 says clerical errors -- clerical errors doesn't
4 include the substance of \$40,000 versus an A. I
5 mean, that means that you can -- we can have
6 something on our desks that says "Three Little
7 Pigs" and you can read something else up there,
8 and because you read it, it's correct.

9 I think it's shameful, the
10 process. Shameful. And that doesn't even go to
11 the substance of approximately 170 school
12 districts throughout this state, and not one
13 Democratic school district. Please.

14 ACTING PRESIDENT GRIFFO: Senator
15 Breslin, are you being classified in the
16 negative?

17 SENATOR BRESLIN: No. Because I
18 want to protect school districts, even if they're
19 not my own, I'm voting aye. Grudgingly voting
20 aye.

21 ACTING PRESIDENT GRIFFO: Senator
22 Breslin to be recorded in the affirmative.

23 Senator Smith to explain his vote.

24 SENATOR SMITH: Yes, thank you
25 very much, Mr. President.

1 And I too, Mr. President, I have
2 exercised as much cordiality as I could to my
3 colleagues on both sides of the aisle. And I
4 think this is really unfortunate, the action that
5 was chosen today.

6 And Senator Breslin is correct, the
7 resolution substantively is wrong. Which means
8 that we are now voting on a wrong document. We
9 may have to and obviously will confer with the
10 leader. We may have to require a formal
11 investigation into the allocation and
12 appropriation of this money through the
13 Comptroller's office, who has to release it, but
14 that's for another fight.

15 But I will tell you, Mr. President,
16 this is not necessary. Senator DeFrancisco made
17 a very wise suggestion. He said that perhaps we
18 should just put the whole \$16 million in one
19 document and have it voted on. And I think that
20 was the way to go.

21 I'm not sure what the rush is.
22 We're not opposed to voting yes for money.
23 Senator Diaz simply just said, like anyone else
24 did during the debate, that it was a challenge.
25 We're not going to vote against this. We think

1 all the money that needs to go upstate is fine.
2 We recognize the Assembly is sort of the
3 downstate representative; maybe they'll cover our
4 districts.

5 All we're saying is just give us
6 the courtesy of professional Senators to let us
7 read a document in time so we can vote on it.
8 All this could have been avoided.

9 I clearly understand the direction
10 in which you're going. I served as president of
11 this house. We did bullet aid as well. But we
12 always gave you the opportunity to read the
13 document and review it as a courtesy.

14 I'm voting yes, Mr. President. But
15 all I'm saying is in the future this doesn't have
16 to happen. This was unnecessary. It's totally
17 disrespectful to our members.

18 And then at some point you made a
19 statement that our leader actually received money
20 which was only for the sake of causing some
21 challenges on this side of the aisle. But we're
22 all supportive of our leader, we're behind him.
23 And it's in one place.

24 So I would ask, going forward,
25 going forward, we don't have to do this. We

1 don't have to do this. Just give us the
2 respect. We're elected just like every single
3 one of you. And that's all we're asking, to give
4 us our due respect.

5 Thank you, Mr. President.

6 ACTING PRESIDENT GRIFFO: Senator
7 Smith to be recorded in the affirmative.

8 Senator Diaz to explain his vote.

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

11 Again, I am not objecting to give
12 money to school districts. I'm for it. That's
13 not my point here. My point here is in the way,
14 in the abusive and arbitrary way in which this is
15 done. And cutting member items to some of us,
16 and suddenly other people have member items.
17 That's what I'm objecting of.

18 I'm for it, I'm voting for it.
19 That's -- because that's -- I'm not here to
20 prevent school districts to get money. On the
21 contrary, I want them to get more money. It's
22 the way, it's the abusive way in which this has
23 been done. It's the arbitrary way and in the way
24 that we all, we the Democratic colleagues on this
25 side, have been left out, we have no money

1 needed. At least something could have been done
2 to share this \$9 million with us. But that's
3 what I'm saying here.

4 So enjoy, congratulations to all
5 the districts. But that -- that was never my
6 concern. My concern, again -- and again, I'm
7 saying I'm voting yes because this is money for
8 school districts that they need it. But we have
9 been left out.

10 Thank you.

11 ACTING PRESIDENT GRIFFO: Senator
12 Diaz to be recorded in the affirmative.

13 Senator Stavisky to explain her
14 vote.

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

17 I sat and listened to the debate,
18 and I said to myself this is a sham. It's
19 disgraceful.

20 I remember at the end of March,
21 Senator Krueger and I asked Senator DeFrancisco a
22 number of questions about the budget,
23 particularly in terms of bullet aid. We asked
24 questions, I think it was a \$20 million
25 allocation for bullet aid in the 2012 budget.

1 I'm going to vote no tonight, very
2 reluctantly, because I think the school districts
3 do need the money. But if this is a \$9 million
4 appropriation and \$16 million was allocated,
5 where's the money? I didn't hear an explanation.

6 Secondly, when we debated the
7 budget bill, we talked about the Budget Reform
8 Act of 2007. And this is why we need true budget
9 reform. Is this going to happen with the 2012
10 allocation, the 20.5 I think was the number, the
11 \$20 million bullet-aid allocation in the budget?
12 I voted for that. I voted for each budget bill.

13 But I can't sit here tonight and
14 listen to the fact that there is no explanation
15 of where that other monies are going. I think we
16 ought to take a step back, review it, and pass a
17 proper allocation, a proper budget resolution.

18 I vote no.

19 ACTING PRESIDENT GRIFFO: Senator
20 Stavisky to be recorded in the negative.

21 Senator Espallat to explain his
22 vote.

23 SENATOR ESPAILLAT: Yes,
24 Mr. President.

25 I believe this is much more than a

1 typo. In fact, it was a last-minute effort to
2 skip out of here, present a resolution that was
3 not read in detail, was not discussed, an attempt
4 not to discuss a resolution involving millions of
5 dollars. Not a resolution honoring a family
6 somewhere or a veteran somewhere or a special
7 date in the state, but a resolution involving
8 millions of dollars.

9 This was a last-minute, the last
10 item on the agenda, an attempt to skip out of
11 here without fully discussing a resolution that
12 included millions of dollars -- in a Legislature
13 that has seen the disappearance of discretionary
14 money. In a Legislature that has seen the
15 Governor veto reappropriations.

16 A highly unfair action, a one-sided
17 action, if you may, that strikes right at the
18 heart of what many New Yorkers have been
19 complaining about, transparency, fairness and
20 transparency in government.

21 There was an attempt to hijack here
22 some dollars, in the night, without a full
23 discussion, in an environment of a bad economy,
24 where the Executive of the state is cutting
25 reappropriations on both sides of the aisle and

1 where discretionary money that usually goes to
2 good purposes is being denied to many people
3 across the districts.

4 This was a vile attempt to do an
5 act of unfairness, of one-sided unfairness to
6 take money to one side of the state and deny even
7 the discussion of the other side. It strikes
8 right at the heart of what New Yorkers, the
9 voters that we will have to face in November --

10 ACTING PRESIDENT GRIFFO: Senator
11 Espaillat.

12 SENATOR ESPAILLAT: -- are
13 concerned about, transparency in this house.

14 ACTING PRESIDENT GRIFFO: Senator
15 Espaillat, how do you vote? Senator Espaillat,
16 how do you vote?

17 SENATOR ESPAILLAT: And I will be
18 voting -- for that purpose, because of that
19 reason, I will be voting no on this bill. On
20 this resolution.

21 ACTING PRESIDENT GRIFFO: Senator
22 Espaillat to be recorded in the negative.

23 Senator Parker to explain his vote.

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

1 ACTING PRESIDENT GRIFFO: Senator
2 Parker to explain his vote.

3 SENATOR PARKER: I'll be voting no
4 on this resolution.

5 I really want to urge many of my
6 colleagues, even the ones who said they were
7 going to vote for this, to vote no. There's no
8 reason to vote for this bill. They have the
9 votes. It's going to pass anyway. Why should we
10 allow ourselves to continue to be victims after
11 victims after victims of what I've seen, a
12 deteriorating small "D" democracy in this body.

13 When I first got here 10 years ago,
14 everybody told me how horrible it was and how we
15 didn't get anything. And they were right, we
16 didn't get anything. You know, we could hardly
17 get computers, you couldn't get furniture, you
18 couldn't get hardly a pad of -- I remember Eric
19 Schneiderman and Senator Tom Duane, you know,
20 fighting to get paper for their offices.
21 Paperclips. But at least you could speak on the
22 floor then.

23 Now we have seen a deteriorating
24 environment in this place where the minority is
25 not even allowed to speak. It's a tyranny of the

1 majority. That's not right. It's not correct.

2 And then, to add insult to injury,
3 in your haste to obfuscate the issue, as Senator
4 Espaillat -- I almost called him Congressman
5 Espaillat -- indicated was to, you know, get out
6 of here in the middle of the night, do this
7 thing -- and you made a mistake. Instead of
8 pulling the thing back and doing it straight and
9 getting the thing straight, you're going to try
10 to fix it at the desk, where in fact there's no
11 precedent for that and there's certainly no rule
12 for that.

13 But we'll talk about that another
14 day. Game recognize game, as we say in
15 Brooklyn.

16 And you have the votes. There's no
17 reason to do this. As Senator Malcolm Smith
18 indicated, we're better than this. And we have
19 to be better than this.

20 As relates to the substance of the
21 matter, I'm voting no because there's no money in
22 here for New York City or for Brooklyn. And
23 Senator Marty Golden, I'm ashamed that you're
24 going to vote for this thing with no money going
25 to our great borough, to the People's Republic of

1 Brooklyn.

2 And don't tell me about Assembly
3 money coming to New York City, because your
4 Republican colleague, you know, the 63rd Senator,
5 Mayor Bloomberg, controls --

6 ACTING PRESIDENT GRIFFO: Senator
7 Parker, how do you vote?

8 SENATOR PARKER: -- controls the
9 money there, and that money doesn't come to our
10 district either. If you take \$1.5 million and
11 divide it between 1.2 million kids, it's a little
12 over a dollar a child.

13 ACTING PRESIDENT GRIFFO: Senator
14 Parker --

15 SENATOR PARKER: Not nearly
16 enough. I vote no, Mr. President.

17 ACTING PRESIDENT GRIFFO: Senator
18 Parker votes no.

19 Senator Zeldin to explain his vote.

20 SENATOR ZELDIN: So first off, my
21 personal opinion, as we do our budgets and I see
22 the school aid formulas and look at the amount of
23 enrollment and attendance on Long Island, for
24 example, and myself trying to represent the Third
25 Senate District, always fighting for our share of

1 school district, in last year's budget it was
2 fairer, it was fairer that the Third Senate
3 District was getting some of these funds.

4 But the fact of the matter, when
5 you look at the enrollment and attendance numbers
6 on Long Island, more of the money was going to
7 New York City. But I voted for the budget.

8 Now, I represent school districts
9 that really need this money. Central Islip
10 School District, when you vote against this
11 \$40,000, this is a school district where the
12 average grade in a classroom has over -- they
13 have over 40 kids in a class.

14 You know, when you talk about
15 foreclosure rates across the entire country and
16 low-income, high-need school districts, Brentwood
17 in Central Islip has the highest foreclosure rate
18 in the entire state. We have real problems, and
19 we need this money. So voting against the
20 education, the real victims in here are the kids
21 when you vote no.

22 So instead of being insulted or
23 saying it's a sham and saying we're hijacking
24 dollars -- our job is to represent our
25 districts. And I'm fighting as hard as I can for

1 the Third Senate District. And just on behalf of
2 the residents of my district, I'm upset that you
3 wouldn't be prouder that we are, in a balanced
4 fashion, Assembly and Senate, doing everything we
5 can to protect the kids. Because that's what
6 this is about. It's not about power, it's about
7 the children. And the children need this money.

8 And that is why I encourage all of
9 you to vote yes, because this is going to do very
10 real good things for school districts that
11 desperately need it.

12 I vote aye.

13 ACTING PRESIDENT GRIFFO: Senator
14 Zeldin to be recorded in the affirmative.

15 Is there any other Senator?
16 Senator Squadron to explain his vote.

17 SENATOR SQUADRON: Senator Zeldin,
18 thank you. And I know that you have 300,000
19 constituents and lots of kids and students who
20 you worry about. I do too, in Manhattan and
21 Brooklyn. My colleagues on this side of the
22 aisle do too. Senator Diaz does in the Bronx.
23 Senator Hassell-Thompson does in the Bronx and
24 Westchester County. Senator Breslin does here in
25 the Capital District. And those children are not

1 getting any help today.

2 So please understand that this is a
3 state with 19 million people, not slightly under
4 half that. It's a state with 62 elected
5 representatives -- let me say again, elected
6 representatives in the State Senate, not the 32
7 that make up a bare majority. And that's an
8 important distinction that has been lost tonight
9 and is lost too often in this house.

10 Senator DeFrancisco made a comment
11 earlier in the debate that there was a small
12 question of the words in what we were voting on,
13 that we were then considering the rules of the
14 house on. I do believe the rules of the house
15 matter. I believe the laws of the state matter.
16 I believe all 19 million people in the state
17 matter.

18 That's what a democracy is. A
19 democracy is a system of laws in which the people
20 get to choose their government, not a system in
21 which a small segment or some portion are the
22 only ones with a voice. That's what we're seeing
23 today. It's a shameful night in the State
24 Senate. It was a shameful attempt by the
25 majority. I hope in the future we see better.

1 I will vote yes on this resolution
2 because I do support Senator Zeldin's children
3 and students and those on the other side of the
4 aisle, and I wish the same courtesy was afforded
5 the children in my district and on this side of
6 the aisle.

7 Thank you, Mr. President.

8 ACTING PRESIDENT GRIFFO: Senator
9 Squadron to be recorded in the affirmative.
10 Senator Ranzenhofer to explain his
11 vote.

12 SENATOR RANZENHOFER: Yes, thank
13 you. I'd like to pick up on a point that was
14 raised by Senator Zeldin.

15 Last year when we passed the
16 budget, some of my districts and some of my
17 colleagues' districts had the highest per-pupil
18 cut throughout the state. They were treated much
19 worse than the school districts on the Democratic
20 side. When we added some additional money back,
21 the children in my district still did not fare as
22 the children did in your districts.

23 This is an attempt to equalize.
24 And even with this attempt to equalize, you're
25 still opposing a school district which doesn't

1 even come close to the school districts that you
2 have in your districts.

3 So when you talk about equity and
4 fairness and you put the whole thing in
5 perspective, this is a very small piece of the
6 budget last year.

7 The New York City school districts
8 still made out better, better, even with this
9 correction. And you still don't want to help the
10 entire -- all the children throughout the state.

11 So this doesn't treat school
12 districts on this side of the aisle better. It
13 doesn't even come close. Doesn't even come
14 close. This tries to rectify an unfair budget
15 from last year to make a just a little bit
16 better. Just a little bit better. Not nearly as
17 well as your school districts did in last year's
18 budget.

19 So when I'm talking about the
20 school districts in Genesee County or
21 Wyoming County or Erie County, this just makes a
22 situation from last year a little bit better, not
23 nearly doing as well as the children in your
24 school districts.

25 When you talk about fairness, when

1 you talk about equity, this is it. I vote yes.

2 Thank you, Mr. President.

3 ACTING PRESIDENT GRIFFO: Senator
4 Ranzenhofer to be recorded in the affirmative.

5 Senator Sampson to explain his
6 vote.

7 SENATOR SAMPSON: Thank you very
8 much, Mr. President. Just to pivot off what
9 Senator Ranzenhofer was talking about.

10 Senator Ranzenhofer, I understand
11 you talk about last year's budget, you talk about
12 how it was unfair. But last year your side of
13 the aisle negotiated the budget.

14 When you're talking about equity
15 and fairness, we're talking about equity and
16 fairness for all the children here in New York
17 State. Because the children in your district and
18 my district are reflective of the entire state.

19 And that's what we should be
20 concerned about, providing the educational level
21 so our children in the state can compete with
22 other states and other countries. And that's
23 what it comes down to.

24 Everybody wants their fair share.
25 And there's no issue about that. I want my fair

1 share just like you want your fair share. But if
2 you're talking about equity and fairness, let's
3 talk about it across the board for everybody.
4 There's children in my district that want
5 Smart Boards. Because they are, they are the
6 future for all of us. Not your district, my
7 district, but every single one in this district.
8 And that's what we're talking about here today.

9 You talk about 16 million,
10 10 million. Sixteen million is not here. But I
11 think the bottom line that's here is this. We're
12 all in support of putting money into education
13 because we know the benefit of education for our
14 children and the standards in which we want all
15 our children to live by. That's all we're asking
16 for today.

17 You know, this resolution or
18 whatever you call it talking about educational
19 funding, there is a clerical mistake or
20 correction. It could have been done differently,
21 and that's what we're saying.

22 You know, as Senator Parker said,
23 game respects game. And I understand that you're
24 in the majority. And I remember when you were in
25 the minority and you squawked how we just treated

1 you unfairly or whatever it was. You know what,
2 life is very circular. You're on that side of
3 the aisle, we're on this side of the aisle.
4 Today. Nobody knows what tomorrow brings for any
5 of us.

6 So collectively, as 62 Senators, we
7 represent the entire state, so we should be
8 concerned about children in my district just like
9 I'm concerned about children in Senator Johnson's
10 district. Because they are reflective of all our
11 districts in the State of New York and the
12 competition that we need to have not only here in
13 the state but throughout the entire country and
14 throughout the entire world.

15 And I vote yes on this resolution.
16 Thank you very much.

17 ACTING PRESIDENT GRIFFO: Senator
18 Sampson to be recorded in the affirmative.

19 Is there any other Senator to
20 explain their -- Senator Stewart-Cousins.

21 SENATOR STEWART-COUSINS: I don't
22 know how many times I've stood on this floor
23 talking about the City of Yonkers and the dire
24 straits that that school district faces
25 annually. I listened to the debate about who's

1 got more this time and who's got less, and
2 New York City is taken care of by the Assembly
3 and the Senate takes care of upstate and
4 Long Island.

5 And then there's these places in
6 between that apparently don't get taken care of
7 at all, and that's where I am. I'm in that
8 place, apparently, where unless we take very
9 seriously what happens with our children in these
10 classrooms, what happens with the formula that
11 doesn't work for most of us -- which is why we're
12 all trying to scramble -- that hasn't assessed
13 really where the needs are, we're always going to
14 play this game, who's on top and who's on the
15 bottom. And guess who loses? The kids.

16 I'm going to go back to my
17 district, people may never even know that this
18 vote happened. But we will still have a
19 deficit. And it's not just Yonkers, it's
20 Greenburgh, it's a lot of little things, little
21 districts -- Elmsford -- that you'll never hear
22 of, that because we're not on top didn't appear
23 on this paper.

24 But because I understand what
25 education means and how important it is and how

1 all of us are suffering one way or another, I
2 won't vote against what you're doing. But I will
3 not allow us to pretend that when we allocate
4 based on who's on top, stepping on or ignoring or
5 hoping somebody else handles someone on the
6 bottom, we bring down the caliber of what we do
7 here.

8 Thank you.

9 ACTING PRESIDENT GRIFFO: How do
10 you vote, Senator Stewart-Cousins?

11 Senator Stewart-Cousins to be
12 recorded in the affirmative.

13 Is there any other Senator to
14 explain their votes?

15 Senator DeFrancisco.

16 SENATOR DeFRANCISCO: Yes, I just
17 want to address the procedure. And everyone can
18 argue the substance. And I know my city got a
19 million dollars, the other cities like Yonkers
20 got a million dollars exclusive of what are here.

21 You know, there's certain things
22 that happen in the budget negotiations that try
23 to do the best we can. The formula doesn't work
24 always. And I believe, between the Assembly and
25 the Senate, we made it better than the formula.

1 And it always can be corrected.

2 But as to the procedure, the
3 resolution dealing with all of these projects
4 actually was passed June 24th of last year, under
5 the agreement with the Assembly that they would
6 pass the same thing. Because what we do depends
7 upon what they do to make this equalization as
8 best we can do. For whatever reason, they chose
9 not to.

10 The reason we're doing it again
11 today is because the Assembly didn't do it and we
12 had to get a provision in the budget this year to
13 allow us to do this alone because the Assembly
14 did not do what they said they would do.

15 So, Senator Stavisky, with respect
16 to your question, the \$20 million that you
17 referred to we haven't even talked about yet.
18 There is no resolution for this year yet.

19 This is simply a repeat
20 performance, although it wasn't as vocal back on
21 June 24th, repeat performance of what we did on
22 June 24th of last year.

23 Thank you, Mr. President. I vote
24 eye.

25 ACTING PRESIDENT GRIFFO: Senator

1 DeFrancisco to be recorded in the affirmative.

2 Announce the results.

3 THE SECRETARY: Those recorded in
4 the negative are Senators Adams, Addabbo,
5 Espaillat, Gianaris, Montgomery, Parker, Peralta,
6 Perkins, Rivera, Squadron, and Stavisky.

7 Ayes, 47. Nays, 11.

8 ACTING PRESIDENT GRIFFO: The
9 resolution is adopted.

10 Senator Libous.

11 SENATOR LIBOUS: Mr. President, I
12 move that we adjourn until Wednesday, May 2nd, at
13 11:00 a.m.

14 ACTING PRESIDENT GRIFFO: The
15 Senate stands adjourned, on motion, until
16 Wednesday, May 2nd, at 11:00 a.m.

17 Senate adjourned.

18 (Whereupon, at 7:57 p.m., the Senate
19 adjourned.)

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