NEW YORK STATE SENATE THE STENOGRAPHIC RECORD ALBANY, NEW YORK May 7, 2012 3:25 p.m. REGULAR SESSION SENATOR JOSEPH A. GRIFFO, Acting President FRANCIS W. PATIENCE, Secretary 

1 PROCEEDINGS 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 Allegiance to our Flag. 6 7 (Whereupon, the assemblage 8 recited the Pledge of Allegiance to the Flag.) 9 ACTING PRESIDENT GRIFFO: 10 Today's invocation will be offered by the Reverend Peter G. Young, of the Mother Teresa 11 12 Community here in Albany. 13 Father Young. 14 REVEREND YOUNG: Thank you, 15 Senator. 16 Let us pray. 17 Dear God, we thank You for this 18 beautiful May day. And we thank You too 19 because You have given us a marvelous example 20 of charity in the call to us to love one 21 another. 22 Send down your blessing on these 23 Senators who generously devote themselves to helping our New York State citizens. 24 25 O God, You are the builder of all

things, and You have placed on us the 1 2 obligation of toil. Grant that the work we begin may serve to better our lives in 3 4 New York State and, through Your goodness, 5 contribute to the spread of the call to be Your people. 6 7 Amen. 8 ACTING PRESIDENT GRIFFO: Thank 9 you, Father. 10 Reading of the Journal. THE SECRETARY: 11 In Senate, 12 Friday, May 4th, the Senate met pursuant to adjournment. The Journal of Thursday, 13 May 3rd, was read and approved. On motion, 14 15 Senate adjourned. 16 ACTING PRESIDENT GRIFFO: Without objection, the Journal stands approved 17 18 as read. 19 Presentation of petitions. 20 Messages from the Assembly. 21 The Secretary will read. 22 THE SECRETARY: On page 31, 23 Senator Griffo moves to discharge, from the Committee on Finance, Assembly Bill Number 24 25 9242 and substitute it for the identical

Senate Bill Number 6415, Third Reading 1 Calendar 586. 2 3 ACTING PRESIDENT GRIFFO: Substitution so ordered. 4 5 Messages from the Governor. Reports of standing committees. 6 7 Reports of select committees. 8 Communications and reports from state officers. 9 10 Motions and resolutions. Senator Libous. 11 12 SENATOR LIBOUS: Mr. President, would you please call on Senator Carlucci. 13 ACTING PRESIDENT GRIFFO: Senator 14 15 Carlucci. 16 SENATOR CARLUCCI: Mr. President, on behalf of Senator Klein, I move that the 17 18 following bills be discharged from their 19 respective committees and be recommitted with 20 instructions to strike the enacting clause: 21 Senate Numbers 535, 695, and 6184. 22 ACTING PRESIDENT GRIFFO: So 23 ordered. Senator Libous. 24 25 SENATOR LIBOUS: Mr. President, on

behalf of Senator Maziarz, I move that the 1 2 following bill be discharged from its respective committee and be recommitted with instructions to 3 4 strike the enacting clause: Senate Print 6612. 5 ACTING PRESIDENT GRIFFO: So ordered. 6 7 Senator Libous. 8 SENATOR LIBOUS: Mr. President, on 9 behalf of Senator Johnson, on page 20 I offer the 10 following amendments to Calendar Number 355, Senate Print Number 3262B, and ask that said bill 11 12 retain its place on the Third Reading Calendar. 13 ACTING PRESIDENT GRIFFO: The amendments are received, and the bill shall 14 15 retain its place on third reading. 16 Senator Libous. SENATOR LIBOUS: Mr. President, on 17 18 behalf of Senator Golden, on page 15 I offer the following amendments to Calendar Number 129, 19 20 Senate Print 4263A, and ask that said bill retain its place on the Third Reading Calendar. 21 ACTING PRESIDENT GRIFFO: 22 The amendments are received, and the bill shall 23 retain its place on third reading. 24 25 Senator Libous.

1 SENATOR LIBOUS: On page 21, 2 Mr. President, on behalf of Senator Zeldin I offer the following amendments to Calendar 3 4 Number 358, Senate Print Number 5634D, and ask 5 that said bill retain its place on the Third Reading Calendar. 6 7 ACTING PRESIDENT GRIFFO: The amendments are received, and the bill shall 8 9 retain its place on third reading. 10 Senator Libous. SENATOR LIBOUS: 11 And, Mr. President, on behalf of Senator Robach, on 12 page 30 I offer the following amendments to 13 Calendar Number 571, Senate Print 486A, and ask 14 15 that said bill retain its place on the Third Reading Calendar. 16 ACTING PRESIDENT GRIFFO: 17 The 18 amendments are received, and the bill shall retain its place on third reading. 19 20 Senator Libous. 21 SENATOR LIBOUS: Mr. President, I believe there's a resolution at the desk by 22 23 Senator Sampson, Number 4416. Could you have the title read and move for its immediate adoption. 24 25 ACTING PRESIDENT GRIFFO: The

Secretary will read. 1 2 THE SECRETARY: Legislative 3 Resolution Number 4416, by Senator Sampson, mourning the death of Gregory Jackson, 4 5 distinguished Brownsville citizen and devoted member of the Brooklyn community. 6 7 ACTING PRESIDENT GRIFFO: All in 8 favor of the resolution signify by saying aye. 9 (Response of "Aye.") 10 ACTING PRESIDENT GRIFFO: Opposed? 11 12 (No response.) 13 ACTING PRESIDENT GRIFFO: The resolution is adopted. 14 15 Senator Libous. 16 SENATOR LIBOUS: Mr. President, could we have the reading of the noncontroversial 17 18 calendar, please. ACTING PRESIDENT GRIFFO: 19 The 20 Secretary will read. SENATOR BRESLIN: Point of order. 21 22 ACTING PRESIDENT GRIFFO: Senator Breslin, what is your point of order? 23 24 SENATOR BRESLIN: Mr. President, I 25 rise for a point of order.

I have a privileged resolution at 1 2 the desk that the Secretary failed to read, and I would request that it be read. 3 4 ACTING PRESIDENT GRIFFO: Senator 5 Breslin, we are not on motions and resolutions at this point in time. We've been called for the 6 7 reading of the noncontroversial calendar. 8 So we would later ask if we want to 9 presently return to motions and resolutions, with 10 consent. SENATOR BRESLIN: Mr. President, I 11 12 believe I was up, standing, waiting to be called 13 upon. ACTING PRESIDENT GRIFFO: 14 Senator 15 Breslin, with all due respect, Senator Libous --I was looking out before the audience --16 SENATOR LIBOUS: Mr. President. 17 18 Mr. President, that might have been my fault. I believe that if Senator Breslin 19 20 would like to return to motions and resolutions, I'd be happy to do that at this time. 21 ACTING PRESIDENT GRIFFO: 22 Without 23 objection, we shall return to motions and resolutions. 24 25 Senator Breslin.

1 SENATOR BRESLIN: I believe that 2 there's two privileged resolutions at the desk. I ask that the reading be waived and I be heard 3 on the resolutions. 4 5 ACTING PRESIDENT GRIFFO: Senator Breslin, we've looked at the resolutions before. 6 7 And in order for these resolutions to be deemed privileged and to be brought before the body, 8 they would need the consent of the Temporary 9 10 President. Has that been obtained? 11 12 SENATOR BRESLIN: Could you repeat that, please? 13 14 SENATOR LIBOUS: Mr. President --15 Mr. President, could you get some order in the chamber? There are a lot of conversations going 16 Staff members should leave the chamber. 17 on. 18 Members should take their seats. I believe that Senator Breslin has 19 20 the floor, and it's difficult for me, who is right next to Senator Breslin, to even hear him 21 with all of the chatter that goes on in the 22 chamber. The chamber is a place where members 23 are allowed to speak if called on by the chair. 24 25 Nobody else should be speaking at that time.

Thank you, Mr. President. 1 2 ACTING PRESIDENT GRIFFO: Thank 3 you, Senator Libous. 4 Thank you, Senator Breslin. 5 I appreciate the order in the chamber. 6 7 Senator Breslin, upon review of 8 your point, we deem that the resolutions are not 9 considered privileged because they must receive 10 the consent of the Temporary President in order to be brought before the house as a privileged 11 12 resolution. So they are not in order. 13 SENATOR BRESLIN: I would appeal the ruling of the chair. 14 15 ACTING PRESIDENT GRIFFO: Okay, there's a request for an appeal of the ruling of 16 the chair. All those --17 18 SENATOR BRESLIN: I request to be heard on the appeal. 19 20 ACTING PRESIDENT GRIFFO: You may be heard, Senator Breslin. 21 22 SENATOR BRESLIN: Mr. President, the resolutions I'm offering today establish 23 plans setting forth an itemized list of grantees 24 for certain school districts across the state. 25

The proposed allocations of school 1 2 district money, commonly referred to as bullet aid, conform fully to the provisions of 3 Senate Rule 9, Section 11, relating to conference 4 5 allocations for community projects and local assistance. 6 7 The first resolution would allocate 8 the remaining \$5 million for bullet aid for the 9 years 2011 and 2012 that was mysteriously absent 10 from the resolution this house passed just last week. 11 The second would allocate the full 12 \$20 million for fiscal year 2012-2013 in an 13 equitable manner to all Senators' districts, 14 15 regardless of party, pursuant to State Senate rules and the formula for school aid 16 distribution. 17 18 Pursuant to the Deputy Majority Leader's declaration and the urgency of the 19 20 proposed and much-needed aid to school districts 21 throughout the state, I insist that the 22 resolution be read and considered for adoption. Thank you, Mr. President. 23 ACTING PRESIDENT GRIFFO: Thank 24 25 you, Senator Breslin.

1 The question is on overruling the 2 ruling of the chair. All those in favor signify 3 by saying aye. (Response of "Aye.") 4 5 SENATOR BRESLIN: We request a show of hands, Mr. President. 6 7 ACTING PRESIDENT GRIFFO: A show 8 of hands has been requested and so designated. 9 (Senators raised their hands.) 10 ACTING PRESIDENT GRIFFO: Announce the results. 11 12 THE SECRETARY: Ayes, 23. 13 ACTING PRESIDENT GRIFFO: The ruling of the chair stands. 14 15 Senator Libous. 16 SENATOR LIBOUS: Mr. President, could we have the reading of the noncontroversial 17 18 calendar at this time. ACTING PRESIDENT GRIFFO: 19 The 20 Secretary will read the noncontroversial 21 calendar. 22 THE SECRETARY: Calendar Number 322, by Senator Ranzenhofer, Senate Print 3220, 23 an act to amend the Correction Law. 24 25 ACTING PRESIDENT GRIFFO: Read the

last section. 1 2 THE SECRETARY: Section 2. This act shall take effect on the first of November. 3 4 ACTING PRESIDENT GRIFFO: Call the 5 roll. (The Secretary called the roll.) 6 7 ACTING PRESIDENT GRIFFO: Senator 8 Rivera to explain his vote. 9 SENATOR RIVERA: Thank you, 10 Mr. President, to explain my vote. This is a bill much like ones that 11 12 we've voted on in weeks past and sessions past that deals with sex offenders but yet does not 13 make the distinction by levels. 14 15 There is another bill on the agenda today that does something different; however, it 16 has the same problem. 17 18 As I've stated many times on the floor, I certainly believe that it is our 19 20 responsibility to secure citizens from predators. But when we establish rules -- bills 21 22 like this, when we try to establish laws of this kind which are so broad and do not have the 23 distinctions that are already established in law, 24 25 when someone is a sex offender and has served

their time, then we create a law that is too 1 broad and that certainly I believe has more of a 2 punitive effect. 3 4 Which, again, as I've stated, can 5 certainly be warranted for certain people that are considered sex offenders, but certainly not 6 7 Level 1's. 8 Since this does not have that 9 distinction, I'll be voting in the negative. 10 Thank you, Mr. President. ACTING PRESIDENT GRIFFO: 11 Senator Rivera to be recorded in the negative. 12 13 Announce the results. THE SECRETARY: In relation to 14 Calendar Number 322, those recorded in the 15 negative are Senators Hassell-Thompson, Krueger, 16 Montgomery, Parker, Perkins and Rivera. 17 18 Ayes, 54. Nays, 6. ACTING PRESIDENT GRIFFO: The bill 19 20 is passed. 21 THE SECRETARY: Calendar Number 385, by Senator DeFrancisco, Senate Print 2856A, 22 an act to amend the Public Health Law. 23 ACTING PRESIDENT GRIFFO: Read the 24 25 last section.

1 THE SECRETARY: Section 3. This 2 act shall take effect on the 120th day. 3 ACTING PRESIDENT GRIFFO: Call the roll. 4 5 (The Secretary called the roll.) б THE SECRETARY: Ayes, 60. 7 ACTING PRESIDENT GRIFFO: The bill 8 is passed. 9 THE SECRETARY: Calendar Number 10 433, by Senator Skelos, Senate Print 1828, an act to amend the Correction Law. 11 12 ACTING PRESIDENT GRIFFO: Read the last section. 13 THE SECRETARY: Section 4. This 14 15 act shall take effect immediately. 16 ACTING PRESIDENT GRIFFO: Call the roll. 17 18 (The Secretary called the roll.) ACTING PRESIDENT GRIFFO: Senator 19 20 Rivera to explain his vote. 21 SENATOR RIVERA: Thank you, Mr. President. 22 This is the second bill that we're 23 going to deal with today that deals with sex 24 offenders. 25

This one in particular, what it 1 2 would do is it would eliminate, for all intents and purposes, the levels that I was just speaking 3 4 about. To me, this is probably -- this is 5 extremely egregious because it does not make the distinction between someone that is a predator 6 7 and someone who is not. 8 It would make a person a sex 9 offender, regardless of the level, actually 10 regardless of the offense. There would be no levels anymore. So this person, anybody who was 11 convicted of a sex offense, would have to 12 register for the rest of their lives. 13 Now, while I think that certainly 14 15 predators that are Level 3's currently need to have this -- we need to make sure that we know 16 where they are, we certainly should restrict 17 where they work or where they can go -- when 18 we're talking about a Level 1 sex offender, that 19 20 distinction -- there is a reason why that 21 distinction exists. This law would again make it too 22 broad a definition. I believe that we should be 23 very careful about how we establish these levels 24 25 on all the bills that deal with sex offenses. Ι

1 will be voting in the negative on this piece of 2 legislation. Thank you, Mr. President. 3 ACTING PRESIDENT GRIFFO: 4 Senator 5 Rivera to be recorded in the negative. Announce the results. 6 7 THE SECRETARY: In relation to 8 Calendar Number 433, those recorded in the negative are Senators Dilan, Duane, 9 10 Hassell-Thompson, Huntley, Krueger, Montgomery, Parker, Perkins, Rivera, Serrano and Squadron. 11 12 Ayes, 49. Nays, 11. 13 ACTING PRESIDENT GRIFFO: The bill 14 is passed. 15 THE SECRETARY: Calendar Number 16 452, by Senator Young, Senate Print 848 --17 SENATOR LIBOUS: Lay the bill 18 aside for the day. ACTING PRESIDENT GRIFFO: Lay it 19 20 aside for the day. 21 THE SECRETARY: Calendar Number 492, by Senator Golden, Senate Print 638, an act 22 to amend the Real Property Tax Law. 23 ACTING PRESIDENT GRIFFO: Read the 24 25 last section.

1 THE SECRETARY: Section 3. This 2 act shall take effect immediately. 3 ACTING PRESIDENT GRIFFO: Call the roll. 4 5 (The Secretary called the roll.) THE SECRETARY: Ayes, 60. 6 7 ACTING PRESIDENT GRIFFO: The bill 8 is passed. 9 THE SECRETARY: Calendar Number 10 586, substituted earlier today by Member of the Assembly Brindisi, Assembly Print 9242, an act to 11 amend the State Finance Law. 12 ACTING PRESIDENT GRIFFO: Read the 13 last section. 14 15 THE SECRETARY: Section 2. This 16 act shall take effect immediately. 17 ACTING PRESIDENT GRIFFO: Call the 18 roll. (The Secretary called the roll.) 19 20 THE SECRETARY: Ayes, 60. 21 ACTING PRESIDENT GRIFFO: The bill 22 is passed. THE SECRETARY: Calendar Number 23 591, by Senator McDonald, Senate Print 2500, an 24 25 act to amend the Environmental Conservation Law.

1 ACTING PRESIDENT GRIFFO: Read the last section. 2 3 THE SECRETARY: Section 2. This act shall take effect immediately. 4 5 ACTING PRESIDENT GRIFFO: Call the 6 roll. 7 (The Secretary called the roll.) 8 THE SECRETARY: Ayes, 60. 9 ACTING PRESIDENT GRIFFO: The bill 10 is passed. THE SECRETARY: Calendar Number 11 592, by Senator Farley, Senate Print 3244, an act 12 to amend the Environmental Conservation Law. 13 ACTING PRESIDENT GRIFFO: Read the 14 15 last section. 16 THE SECRETARY: Section 2. This act shall take effect immediately. 17 18 ACTING PRESIDENT GRIFFO: Call the roll. 19 20 (The Secretary called the roll.) 21 THE SECRETARY: Ayes, 58. Nays, 22 2. Senators Duane and Perkins recorded in the 23 negative. 24 ACTING PRESIDENT GRIFFO: The bill is passed. 25

1 THE SECRETARY: Calendar Number 2 593, by Senator Johnson, Senate Print 4287B, an act to amend the Environmental Conservation Law. 3 4 ACTING PRESIDENT GRIFFO: Read the 5 last section. THE SECRETARY: Section 2. This 6 7 act shall take effect on the 150th day. 8 ACTING PRESIDENT GRIFFO: Call the 9 roll. 10 (The Secretary called the roll.) THE SECRETARY: 11 Ayes, 60. 12 ACTING PRESIDENT GRIFFO: The bill is passed. 13 THE SECRETARY: Calendar Number 14 15 595, by Senator Seward, Senate Print 6705, an act 16 to amend the Environmental Conservation Law. 17 ACTING PRESIDENT GRIFFO: Read the 18 last section. THE SECRETARY: Section 2. This 19 20 act shall take effect immediately. 21 ACTING PRESIDENT GRIFFO: Call the 22 roll. (The Secretary called the roll.) 23 THE SECRETARY: Ayes, 57. Nays, 24 25 3. Senators Duane, Perkins and Serrano recorded

in the negative. 1 2 ACTING PRESIDENT GRIFFO: The bill 3 is passed. THE SECRETARY: Calendar Number 4 596, by Senator Gallivan, Senate Print 6729, an 5 act to amend the Environmental Conservation Law. 6 7 ACTING PRESIDENT GRIFFO: Read the 8 last section. 9 THE SECRETARY: Section 2. This 10 act shall take effect on the 180th day. 11 ACTING PRESIDENT GRIFFO: Call the roll. 12 13 (The Secretary called the roll.) THE SECRETARY: Ayes, 60. 14 15 ACTING PRESIDENT GRIFFO: The bill 16 is passed. 17 THE SECRETARY: Calendar Number 18 597, by Senator Young, Senate Print 6776, an act to amend the Environmental Conservation Law. 19 20 ACTING PRESIDENT GRIFFO: Read the 21 last section. THE SECRETARY: Section 2. This 22 23 act shall take effect immediately. 24 ACTING PRESIDENT GRIFFO: Call the 25 roll.

(The Secretary called the roll.) 1 2 THE SECRETARY: Ayes, 60. 3 ACTING PRESIDENT GRIFFO: The bill 4 is passed. 5 THE SECRETARY: Calendar Number 598, by Senator Nozzolio, Senate Print 6801A, an б 7 act to amend the Environmental Conservation Law. 8 ACTING PRESIDENT GRIFFO: Read the 9 last section. 10 THE SECRETARY: Section 2. This act shall take effect immediately. 11 12 ACTING PRESIDENT GRIFFO: Call the 13 roll. (The Secretary called the roll.) 14 15 THE SECRETARY: Ayes, 57. Nays, 3. Senators Duane, Perkins and Serrano recorded 16 in the negative. 17 18 ACTING PRESIDENT GRIFFO: The bill is passed. 19 20 THE SECRETARY: Calendar Number 601, by Senator Grisanti, Senate Print 6858, an 21 22 act to amend the Environmental Conservation Law. 23 ACTING PRESIDENT GRIFFO: Read the last section. 24 25 THE SECRETARY: Section 2. This

act shall take effect on the 60th day. 1 2 ACTING PRESIDENT GRIFFO: Call the 3 roll. 4 (The Secretary called the roll.) 5 THE SECRETARY: Ayes, 60. ACTING PRESIDENT GRIFFO: The bill 6 7 is passed. 8 THE SECRETARY: Calendar Number 9 607, by Senator Breslin, Senate Print 1642, an act to amend the Public Authorities Law. 10 ACTING PRESIDENT GRIFFO: Read the 11 last section. 12 13 THE SECRETARY: Section 4. This act shall take effect immediately. 14 15 ACTING PRESIDENT GRIFFO: Call the 16 roll. (The Secretary called the roll.) 17 18 THE SECRETARY: Ayes, 59. Nays, 1. Senator Ball recorded in the negative. 19 20 ACTING PRESIDENT GRIFFO: The bill 21 is passed. 22 THE SECRETARY: Calendar Number 608, by Senator Golden, Senate Print 5612, an act 23 to amend the Public Authorities Law. 24 25 ACTING PRESIDENT GRIFFO: Read the

last section. 1 2 THE SECRETARY: Section 4. This 3 act shall take effect immediately. 4 ACTING PRESIDENT GRIFFO: Call the 5 roll. (The Secretary called the roll.) 6 7 THE SECRETARY: Ayes, 59. Nays, 8 1. Senator Ball recorded in the negative. 9 ACTING PRESIDENT GRIFFO: The bill 10 is passed. THE SECRETARY: Calendar Number 11 609, by Senator Breslin, Senate Print 6450A, an 12 act to amend Chapter 672 of the Laws of 1993. 13 ACTING PRESIDENT GRIFFO: Read the 14 15 last section. 16 THE SECRETARY: Section 2. This act shall take effect immediately. 17 18 ACTING PRESIDENT GRIFFO: Call the roll. 19 20 (The Secretary called the roll.) 21 THE SECRETARY: Ayes, 59. Nays, 22 1. Senator Ball recorded in the negative. 23 ACTING PRESIDENT GRIFFO: The bill is passed. 24 25 THE SECRETARY: Calendar Number

611, by Senator Nozzolio, Senate Print 6802, an 1 act to amend the Public Authorities Law. 2 ACTING PRESIDENT GRIFFO: Read the 3 last section. 4 5 THE SECRETARY: Section 4. This act shall take effect immediately. 6 7 ACTING PRESIDENT GRIFFO: Call the 8 roll. 9 (The Secretary called the roll.) 10 THE SECRETARY: Ayes, 59. Nays, 1. Senator Ball recorded in the negative. 11 12 ACTING PRESIDENT GRIFFO: The bill 13 is passed. Senator Libous, that completes the 14 15 noncontroversial reading of the calendar. 16 SENATOR LIBOUS: Mr. President, is there any further business at the desk? 17 18 ACTING PRESIDENT GRIFFO: There is no further business before the desk. 19 20 SENATOR LIBOUS: There being no further business before the house, I move that we 21 adjourn until Tuesday, May 8th, at 3:00 p.m. 22 ACTING PRESIDENT GRIFFO: 23 On motion, the Senate stands adjourned until 24 25 Tuesday, May 8th, at 3:00 p.m.

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1		Senate adjourned.
2		(Whereupon, at 3:44 p.m., the Senate
3	adjourned.)	
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