NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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3:25 p.m.

REGULAR SESSION

SENATOR JOSEPH A. GRIFFO, Acting President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT GRIFFO: The Senate will come to order.

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

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

ACTING PRESIDENT GRIFFO: Today's invocation will be offered by the Reverend Peter G. Young, of the Mother Teresa Community here in Albany.

Father Young.

REVEREND YOUNG: Thank you, Senator.

Let us pray.

Dear God, we thank You for this beautiful May day. And we thank You too because You have given us a marvelous example of charity in the call to us to love one another.

Send down your blessing on these Senators who generously devote themselves to helping our New York State citizens.

O God, You are the builder of all

things, and You have placed on us the obligation of toil. Grant that the work we begin may serve to better our lives in New York State and, through Your goodness, contribute to the spread of the call to be Your people.

Amen.

ACTING PRESIDENT GRIFFO: Thank you, Father.

Reading of the Journal.

THE SECRETARY: In Senate, Friday, May 4th, the Senate met pursuant to adjournment. The Journal of Thursday, May 3rd, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

The Secretary will read.

THE SECRETARY: On page 31, Senator Griffo moves to discharge, from the Committee on Finance, Assembly Bill Number 9242 and substitute it for the identical

Senate Bill Number 6415, Third Reading
Calendar 586.
ACTING PRESIDENT GRIFFO:
Substitution so ordered.
Messages from the Governor.
Reports of standing committees.
Reports of select committees.
Communications and reports from
state officers.
Motions and resolutions.
Senator Libous.
SENATOR LIBOUS: Mr. President,
would you please call on Senator Carlucci.
ACTING PRESIDENT GRIFFO: Senator
Carlucci.
SENATOR CARLUCCI: Mr. President,
on behalf of Senator Klein, I move that the
following bills be discharged from their
respective committees and be recommitted with
instructions to strike the enacting clause:
Senate Numbers 535, 695, and 6184.
ACTING PRESIDENT GRIFFO: So
ordered.
Senator Libous.
SENATOR LIBOUS: Mr. President, on

behalf of Senator Maziarz, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Print 6612.

ACTING PRESIDENT GRIFFO: So ordered.

Senator Libous.

SENATOR LIBOUS: Mr. President, on behalf of Senator Johnson, on page 20 I offer the following amendments to Calendar Number 355, Senate Print Number 3262B, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Libous.

SENATOR LIBOUS: Mr. President, on behalf of Senator Golden, on page 15 I offer the following amendments to Calendar Number 129, Senate Print 4263A, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Libous.

SENATOR LIBOUS: On page 21, Mr. President, on behalf of Senator Zeldin I offer the following amendments to Calendar Number 358, Senate Print Number 5634D, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Libous.

SENATOR LIBOUS: And, Mr. President, on behalf of Senator Robach, on page 30 I offer the following amendments to Calendar Number 571, Senate Print 486A, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Libous.

SENATOR LIBOUS: Mr. President, I believe there's a resolution at the desk by Senator Sampson, Number 4416. Could you have the title read and move for its immediate adoption.

ACTING PRESIDENT GRIFFO: The

Secretary will read.

THE SECRETARY: Legislative Resolution Number 4416, by Senator Sampson, mourning the death of Gregory Jackson, distinguished Brownsville citizen and devoted member of the Brooklyn community.

ACTING PRESIDENT GRIFFO: All in favor of the resolution signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Libous.

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

ACTING PRESIDENT GRIFFO: The Secretary will read.

SENATOR BRESLIN: Point of order.

ACTING PRESIDENT GRIFFO: Senator Breslin, what is your point of order?

SENATOR BRESLIN: Mr. President, I rise for a point of order.

I have a privileged resolution at the desk that the Secretary failed to read, and I would request that it be read.

ACTING PRESIDENT GRIFFO: Senator Breslin, we are not on motions and resolutions at this point in time. We've been called for the reading of the noncontroversial calendar.

So we would later ask if we want to presently return to motions and resolutions, with consent.

SENATOR BRESLIN: Mr. President, I believe I was up, standing, waiting to be called upon.

ACTING PRESIDENT GRIFFO: Senator Breslin, with all due respect, Senator Libous -- I was looking out before the audience --

SENATOR LIBOUS: Mr. President. Mr. President, that might have been my fault.

I believe that if Senator Breslin would like to return to motions and resolutions, I'd be happy to do that at this time.

ACTING PRESIDENT GRIFFO: Without objection, we shall return to motions and resolutions.

Senator Breslin.

SENATOR BRESLIN: I believe that there's two privileged resolutions at the desk. I ask that the reading be waived and I be heard on the resolutions.

ACTING PRESIDENT GRIFFO: Senator Breslin, we've looked at the resolutions before. And in order for these resolutions to be deemed privileged and to be brought before the body, they would need the consent of the Temporary President.

Has that been obtained?

SENATOR BRESLIN: Could you repeat that, please?

SENATOR LIBOUS: Mr. President -- Mr. President, could you get some order in the chamber? There are a lot of conversations going on. Staff members should leave the chamber. Members should take their seats.

I believe that Senator Breslin has the floor, and it's difficult for me, who is right next to Senator Breslin, to even hear him with all of the chatter that goes on in the chamber. The chamber is a place where members are allowed to speak if called on by the chair. Nobody else should be speaking at that time.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Libous.

Thank you, Senator Breslin.

I appreciate the order in the chamber.

Senator Breslin, upon review of your point, we deem that the resolutions are not considered privileged because they must receive the consent of the Temporary President in order to be brought before the house as a privileged resolution. So they are not in order.

SENATOR BRESLIN: I would appeal the ruling of the chair.

ACTING PRESIDENT GRIFFO: Okay, there's a request for an appeal of the ruling of the chair. All those --

SENATOR BRESLIN: I request to be heard on the appeal.

ACTING PRESIDENT GRIFFO: You may be heard, Senator Breslin.

SENATOR BRESLIN: Mr. President, the resolutions I'm offering today establish plans setting forth an itemized list of grantees for certain school districts across the state.

The proposed allocations of school district money, commonly referred to as bullet aid, conform fully to the provisions of Senate Rule 9, Section 11, relating to conference allocations for community projects and local assistance.

The first resolution would allocate the remaining $5 million for bullet aid for the years 2011 and 2012 that was mysteriously absent from the resolution this house passed just last week.

The second would allocate the full $20 million for fiscal year 2012-2013 in an equitable manner to all Senators' districts, regardless of party, pursuant to State Senate rules and the formula for school aid distribution.

Pursuant to the Deputy Majority Leader's declaration and the urgency of the proposed and much-needed aid to school districts throughout the state, I insist that the resolution be read and considered for adoption.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Breslin.

The question is on overruling the ruling of the chair. All those in favor signify by saying aye.

(Response of "Aye.")

SENATOR BRESLIN: We request a show of hands, Mr. President.

ACTING PRESIDENT GRIFFO: A show of hands has been requested and so designated.

(Senators raised their hands.)

ACTING PRESIDENT GRIFFO: Announce the results.

THE SECRETARY: Ayes, 23.

ACTING PRESIDENT GRIFFO: The ruling of the chair stands.

Senator Libous.

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

ACTING PRESIDENT GRIFFO: The Secretary will read the noncontroversial calendar.

THE SECRETARY: Calendar Number 322, by Senator Ranzenhofer, Senate Print 3220, an act to amend the Correction Law.

ACTING PRESIDENT GRIFFO: Read the

last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Rivera to explain his vote.

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

This is a bill much like ones that we've voted on in weeks past and sessions past that deals with sex offenders but yet does not make the distinction by levels.

There is another bill on the agenda today that does something different; however, it has the same problem.

As I've stated many times on the floor, I certainly believe that it is our responsibility to secure citizens from predators. But when we establish rules -- bills like this, when we try to establish laws of this kind which are so broad and do not have the distinctions that are already established in law, when someone is a sex offender and has served

their time, then we create a law that is too broad and that certainly I believe has more of a punitive effect.

Which, again, as I've stated, can certainly be warranted for certain people that are considered sex offenders, but certainly not Level 1's.

Since this does not have that distinction, I'll be voting in the negative.

Thank you, Mr. President.

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

Announce the results.

THE SECRETARY: In relation to Calendar Number 322, those recorded in the negative are Senators Hassell-Thompson, Krueger, Montgomery, Parker, Perkins and Rivera.

Ayes, 54. Nays, 6.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 385, by Senator DeFrancisco, Senate Print 2856A, an act to amend the Public Health Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 120th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 433, by Senator Skelos, Senate Print 1828, an act to amend the Correction Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Rivera to explain his vote.

SENATOR RIVERA: Thank you, Mr. President.

This is the second bill that we're going to deal with today that deals with sex offenders.

This one in particular, what it would do is it would eliminate, for all intents and purposes, the levels that I was just speaking about. To me, this is probably -- this is extremely egregious because it does not make the distinction between someone that is a predator and someone who is not.

It would make a person a sex offender, regardless of the level, actually regardless of the offense. There would be no levels anymore. So this person, anybody who was convicted of a sex offense, would have to register for the rest of their lives.

Now, while I think that certainly predators that are Level 3's currently need to have this -- we need to make sure that we know where they are, we certainly should restrict where they work or where they can go -- when we're talking about a Level 1 sex offender, that distinction -- there is a reason why that distinction exists.

This law would again make it too broad a definition. I believe that we should be very careful about how we establish these levels on all the bills that deal with sex offenses. I

will be voting in the negative on this piece of legislation.

Thank you, Mr. President.

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

Announce the results.

THE SECRETARY: In relation to Calendar Number 433, those recorded in the negative are Senators Dilan, Duane, Hassell-Thompson, Huntley, Krueger, Montgomery, Parker, Perkins, Rivera, Serrano and Squadron.

Ayes, 49. Nays, 11.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 452, by Senator Young, Senate Print 848 --

SENATOR LIBOUS: Lay the bill aside for the day.

ACTING PRESIDENT GRIFFO: Lay it aside for the day.

THE SECRETARY: Calendar Number 492, by Senator Golden, Senate Print 638, an act to amend the Real Property Tax Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 586, substituted earlier today by Member of the Assembly Brindisi, Assembly Print 9242, an act to amend the State Finance Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 591, by Senator McDonald, Senate Print 2500, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 592, by Senator Farley, Senate Print 3244, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 2. Senators Duane and Perkins recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 593, by Senator Johnson, Senate Print 4287B, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 150th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 595, by Senator Seward, Senate Print 6705, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays, 3. Senators Duane, Perkins and Serrano recorded

in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 596, by Senator Gallivan, Senate Print 6729, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 597, by Senator Young, Senate Print 6776, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 598, by Senator Nozzolio, Senate Print 6801A, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays, 3. Senators Duane, Perkins and Serrano recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 601, by Senator Grisanti, Senate Print 6858, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the 60th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 607, by Senator Breslin, Senate Print 1642, an act to amend the Public Authorities Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Ball recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 608, by Senator Golden, Senate Print 5612, an act to amend the Public Authorities Law.

ACTING PRESIDENT GRIFFO: Read the

last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Ball recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 609, by Senator Breslin, Senate Print 6450A, an act to amend Chapter 672 of the Laws of 1993.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Ball recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number

611, by Senator Nozzolio, Senate Print 6802, an act to amend the Public Authorities Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Ball recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

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

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

SENATOR LIBOUS: There being no further business before the house, I move that we adjourn until Tuesday, May 8th, at 3:00 p.m.

ACTING PRESIDENT GRIFFO: On motion, the Senate stands adjourned until Tuesday, May 8th, at 3:00 p.m.

Senate adjourned.

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