

1 NEW YORK STATE SENATE

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4 THE STENOGRAPHIC RECORD

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9 ALBANY, NEW YORK

10 March 19, 2013

11 3:04 p.m.

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13
14 REGULAR SESSION

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18 SENATOR JOSEPH 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 recited
8 the Pledge of Allegiance to the Flag.)

9 ACTING PRESIDENT GRIFFO: Today's
10 invocation will be offered by Imam Ohi Ahmed
11 Chowdhury, of Parkchester Jame Masjid, in the
12 Bronx.

13 IMAM CHOWDHURY: (Chanting in
14 Bangla.)

15 Good afternoon, everybody. I just
16 recited the Chapter 55, Verses 1 to 9 from the
17 Holy Quran. Now I'm telling them in English.

18 The most beneficent, He has made
19 known the Quran. He has created the human. He
20 has taught him an intellectual speech. The sun
21 and moon are made punctual, and the stars and
22 the trees are both prostrate. And the sky He
23 has uplifted, and He has set up the measure that
24 you exceed not the measure. So observe the
25 measure with justice, not fall short thereof.

1 May Allah bless all of us and make
2 safe our country. May Allah guide us all in the
3 right path.

4 Thank you, everybody.

5 ACTING PRESIDENT GRIFFO: Thank
6 you, Imam.

7 The reading of the Journal.

8 THE SECRETARY: In Senate, Monday,
9 March 18th, the Senate met pursuant to
10 adjournment. The Journal of Sunday, March 17th,
11 was read and approved. On motion, Senate
12 adjourned.

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

15 Presentation of petitions.

16 Messages from the Assembly.

17 The Secretary will read.

18 THE SECRETARY: On page 10,
19 Senator Maziarz moves to discharge, from the
20 Committee on Consumer Protection, Assembly Bill
21 Number 581 and substitute it for the identical
22 Senate Bill Number 2339, Third Reading Calendar
23 107.

24 ACTING PRESIDENT GRIFFO:
25 Substitution so ordered.

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 Could I have some order in the
8 house, please.

9 Senator Libous.

10 SENATOR LIBOUS: Thank you,
11 Mr. President.

12 Mr. President, may we please adopt
13 the Resolution Calendar at this time, with the
14 exception of Resolutions 906 and 875.

15 ACTING PRESIDENT GRIFFO: All in
16 favor of adopting the Resolution Calendar, with
17 the exception of Resolutions 906 and 875, please
18 signify by saying aye.

19 (Response of "Aye.")

20 ACTING PRESIDENT GRIFFO: Those
21 opposed?

22 (No response.)

23 ACTING PRESIDENT GRIFFO: The
24 Resolution Calendar is adopted.

25 Senator Libous.

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

3 I believe there's a previously
4 adopted resolution by Senator Diaz, Number 739,
5 at the desk. I ask that it be read in its
6 entirety and call on Senator Diaz.

7 ACTING PRESIDENT GRIFFO: The
8 Secretary will read.

9 THE SECRETARY: Legislative
10 Resolution Number 739, by Senator Diaz,
11 celebrating March 26, 2013, as Bangladesh Day.

12 "WHEREAS, March 26th is the national
13 independence day of Bangladesh. This day is
14 celebrated in Bangladesh and also all around the
15 world in honor of its country's declaration of
16 independence from Pakistan in the late hours of
17 March 25, 1971, and the start of the Bangladesh
18 Liberation War; and

19 "WHEREAS, This day is also a
20 memorial to the deaths of thousands of students,
21 civilians, political leaders, and unarmed Bengali
22 people. The Bangladesh Liberation War started
23 between West and East Pakistan; and

24 "WHEREAS, West Pakistan believed
25 they were far superior to those in East

1 Pakistan. They gave East Pakistan no privileges;
2 they had a bad economy, and no rights; and

3 "WHEREAS, The first election in the
4 history of Pakistan was held on December 7,
5 1970. There were 300 seats in the parliament;
6 East Pakistan won 160 seats and West Pakistan won
7 81 seats. Instead of handing over the power to
8 the winning party, they imposed martial law on
9 East Pakistan; and

10 "WHEREAS, East Pakistani leader
11 Mr. Sheikh Mujibur Rahman urged the Bengali
12 people to turn their homes into resisting forts.
13 He said: 'Our struggle is for our freedom. Our
14 struggle is for our independence.' This speech
15 is what mainly inspired the nation to fight for
16 freedom; and

17 "WHEREAS, The West Pakistani army
18 sent a military plan known as Operation
19 Searchlight. It was planned to curb the
20 Bengali's movement by taking control of major
21 cities and eliminating all opposition, political
22 or military; and

23 "WHEREAS, On March 26, 1971, Ziaur
24 Rahman broadcast a message that the Independent
25 People's Republic of Bangladesh has been

1 established; and

2 "WHEREAS, At this point, March 26,
3 1971, the Bangladesh Liberation War had broken
4 out in the whole country. This was the day the
5 Bengali people stood up to the Pakistani army;
6 and

7 "WHEREAS, After a nine-month-long
8 war, the Pakistani army finally surrendered
9 unconditionally. Many lives were lost, but
10 Bangladesh as a country gained its freedom, its
11 independence; now, therefore, be it

12 "RESOLVED, That this Legislative
13 Body pause in its deliberations to celebrate
14 Bangladesh Day."

15 ACTING PRESIDENT GRIFFO: Senator
16 Diaz.

17 SENATOR DIAZ: Thank you,
18 Mr. President.

19 Senator Griffo, as you know, I'm
20 always happy to see you there. When you are
21 presiding, this chamber always has taste,
22 different taste.

23 Mr. President, ladies and gentlemen,
24 good afternoon. I would like to start by
25 thanking the distinguished leader of the Senate

1 Majority, the Honorable Senator Dean Skelos, the
2 Secretary of the Senate, Mr. Frank Patience, and
3 all the members of this body for granting me the
4 opportunity and the honor of being the sponsor of
5 this resolution today.

6 Today I am proud. I am a proud
7 Puerto Rican that last week was proud of being a
8 Garifuna. Today this Puerto Rican is proud.
9 This Puerto Rican, again, was proud last week to
10 be a Garifuna. As you remember, ladies and
11 gentlemen, last week I brought more than
12 100 people to this chamber to celebrate Garifuna
13 Heritage Month in the State of New York.

14 And today, this Puerto Rican is
15 proud to be a Bangladeshi and to be able to
16 sponsor this resolution celebrating Bangladesh
17 Day for the second time here in the New York
18 State Senate.

19 As you can see, ladies and
20 gentlemen, today I am joined in the Senate
21 gallery by more than 150 Bangladeshi people who
22 traveled from New York City to Albany to witness
23 this special day. They are there, and they are
24 on this side, and I welcome them to Albany and to
25 this chamber.

1 Here in the Senate chamber we are
2 joined by the leaders of the Bangladesh
3 delegation: Mr. Zakir Khan, Mr. Mohammed
4 Mujumder, Mrs. Farida Yeasmin, Mr. Kamal Ahmed,
5 Mr. John Uddin, and Imam Ohi Ahmed Chowdhury, who
6 gave the invocation today.

7 Mr. President, ladies and gentlemen,
8 you should know that March 26th is the Bangladesh
9 National Independence Day. This day is
10 celebrated in Bangladesh and also all around the
11 world in honor of its country's declaration of
12 independence from Pakistan.

13 You should also know, ladies and
14 gentlemen, that today we commemorate and remember
15 the thousands of people who lost their lives in
16 the Bangladesh Liberation War, a war that started
17 on March 26, 1971. This was the day the
18 Bangladeshi people stood up to the Pakistani
19 army.

20 It is important, Mr. President and
21 ladies and gentlemen, it is important to know
22 that the first election in the history of
23 Pakistan was held on December 7, 1970. And I
24 repeat, December 7, 1970. And I would like to
25 repeat again December 7th, because December 7th

1 is a very important date, not only for the
2 Bangladeshi community, but also in the history of
3 the United States of America and personally for
4 me and my family.

5 As I said before, December 7th, the
6 people of Bangladesh celebrated their first
7 election. On December 7, 1941, the United States
8 of America was attacked by the Imperial Forces of
9 Japan at Pearl Harbor. And on December 7, 1954,
10 my mother passed away. So December 7th is a very
11 important day to remember, to my family, to the
12 Bangladeshi people, and to the United States of
13 America.

14 So on December 7, 1970, Pakistan
15 held their first election. There were 300 seats
16 in the parliament. East Pakistan won 160 seats,
17 and West Pakistan won 81 seats. But instead of
18 handing over the power to the winning party, they
19 imposed martial law on East Pakistan.

20 The leader of East Pakistan,
21 Mr. Sheikh Mujibur Rahman, urged the Bengali
22 people to turn their homes into resisting forts.
23 He inspired the nation to fight for freedom with
24 the following words: "Our struggle is for our
25 freedom. Our struggle is for our independence."

1 Mr. President and ladies and
2 gentlemen, by March 26, 1971, the Bangladesh
3 Liberation War had broken out in the whole
4 country, and this was the day that the Bengali
5 people stood up to the Pakistani army.

6 Also on this important date,
7 March 26, 1971, Ziaur Rahman proclaimed to all
8 Bangladeshi people that the Independent People's
9 Republic of Bangladesh had been established.
10 After nine long months of war, the Pakistani army
11 finally surrendered unconditionally. And
12 although many lives were lost, Bangladesh as a
13 country gained its freedom and independence.

14 Once again, I want to acknowledge
15 the delegation of the Bangladesh community in the
16 balcony who came from the City of New York to
17 Albany. And I would also like to express my
18 appreciation and thanks to Mr. Zakir Khan,
19 Mr. Mohammed Mujumder, Mrs. Farida Yeasmin,
20 Mr. Kamal Ahmed, Mr. John Uddin, and Imam Ohi
21 Ahmed Chowdhury.

22 In closing, Mr. President, again I
23 would like to thank Senator Dean Skelos and the
24 Secretary of the Senate, Mr. Frank Patience, for
25 allowing me this great honor of celebrating this

1 event in the New York State Senate.

2 To my colleagues, members of the
3 Senate and staff, I am inviting you to join us at
4 a Bangladesh reception at 5 p.m., or following
5 this session, in the Albany Room.

6 To the guests from the Bangladesh
7 community who have joined us here today:
8 "As-salamu Alaikum! Dhanno-baad!"

9 Mr. President, I am Senator Reverend
10 Ruben Diaz, and this is what you should know.
11 Thank you very much.

12 (Applause from gallery.)

13 ACTING PRESIDENT GRIFFO: Thank
14 you, Senator Diaz.

15 It's normally the tradition to
16 applaud the guests, but I guess they're standing
17 for Senator Diaz today.

18 (Laughter.)

19 ACTING PRESIDENT GRIFFO: So on
20 behalf of the State Senate, we would like to
21 welcome all of you and to extend our best
22 wishes.

23 And I'm going to call on Senator
24 Peralta also to speak.

25 Senator Peralta.

1 SENATOR PERALTA: Thank you,
2 Mr. President. As-salamu Alaikum.

3 In the waning hours of March 25,
4 1971, Bangladesh declared itself a sovereign
5 nation forever independent from Pakistan rule.
6 Today we celebrate the 42nd anniversary of
7 Bangladesh independence, in honor of the
8 sacrifice of the many thousands who lost their
9 lives in the Bangladesh Liberation War.

10 We also pay tribute to the
11 invaluable contributions made by Bangladeshis and
12 Bangladeshi Americans to this state, this nation,
13 and the world at large. From politics and the
14 economy to science and technology, Americans of
15 Bangladeshi heritage have enriched our lives and
16 our country. They have strengthened our
17 neighborhoods and our economy through their
18 valuable contributions and customs.

19 I am extremely fortunate to have one
20 of the world's largest and most active
21 Bangladeshi communities outside of Bangladesh
22 right in the heart of my district in Queens,
23 Jackson Heights, the United Nations of all Senate
24 districts.

25 By way of this resolution, we extend

1 our best wishes to our Bangladeshi American
2 friends throughout New York City and across the
3 state in advance of this historic day. I would
4 like to welcome you to the Senate chamber, my
5 friends, and I hope you enjoy your visit.

6 Thank you.

7 (Applause from gallery.)

8 ACTING PRESIDENT GRIFFO: Senator
9 Stavisky.

10 SENATOR STAVISKY: Thank you,
11 Mr. President.

12 And for those of you from Queens who
13 do not live in Senator Peralta's district, you
14 probably live in my district, because I represent
15 parts of Jackson Heights and Elmhurst.

16 And I too want to welcome you to
17 Albany and to watch us in the days of putting
18 together a budget, the peaceful existence that
19 hopefully will come to South Asia, and that we
20 have a peaceful budget and peace in the Asian
21 part of our world. So again, welcome to Albany
22 and thank you for coming.

23 (Applause from gallery.)

24 ACTING PRESIDENT GRIFFO: Thank
25 you.

1 Senator Dilan.

2 SENATOR DILAN: Thank you,
3 Mr. President.

4 I'd just like to first thank
5 Senator Diaz for this resolution and congratulate
6 the Bangladesh community in the Bronx, in Queens,
7 and in my district, Brooklyn, and all over the
8 City and the State of New York.

9 And I'd just like to thank you for
10 the contribution you make to our society.

11 Thank you.

12 (Applause from gallery.)

13 ACTING PRESIDENT GRIFFO: Senator
14 Adams.

15 SENATOR ADAMS: Thank you.

16 I too want to thank Senator Diaz for
17 the opportunity. Every time we invite new groups
18 to this chamber, it allows you to see the
19 inclusiveness of New York State government. This
20 is your house, as well as any other part of the
21 State Capitol.

22 So we welcome you. I represent the
23 Borough of Brooklyn, the 20th Senatorial
24 District. We have a large Bangladeshi community
25 in my borough, so we do welcome you. And I look

1 forward to seeing you this afternoon at the
2 reception.

3 Again, thank you, Senator Diaz.
4 (Applause from gallery.)

5 ACTING PRESIDENT GRIFFO: Again,
6 this resolution was adopted on March 7, 2013.

7 We want to extend again the warm
8 hospitality of the Senate to all of our guests
9 here today, and we extend our best wishes to all
10 of you. Thank you.

11 (Applause.)

12 ACTING PRESIDENT GRIFFO: Senator
13 Libous.

14 SENATOR LIBOUS: Mr. President, I
15 believe there's a resolution at the desk by
16 Senator Hassell-Thompson, Number 906. Could we
17 please have the title read and call on
18 Senator Hassell-Thompson.

19 ACTING PRESIDENT GRIFFO: The
20 Secretary will read.

21 THE SECRETARY: Legislative
22 Resolution Number 906, by Senator
23 Hassell-Thompson, commending the Westchester
24 Alumnae Chapter of Delta Sigma Theta Sorority
25 upon the occasion of celebrating its more than

1 50 years of public service.

2 ACTING PRESIDENT GRIFFO: Senator
3 Hassell-Thompson.

4 SENATOR HASSELL-THOMPSON: Thank
5 you, Mr. President.

6 For over 50 years the women of the
7 Westchester Chapter of the Delta Sigma Theta
8 Sorority have used their collective strengths and
9 talents to promote academic excellence, provide
10 scholarships, and develop unique programs
11 tailored to the needs of Westchester County's
12 diverse communities.

13 New York State has been home to many
14 notable Deltas, including civil rights heroine
15 Dorothy Height; the first African-American woman
16 elected to Congress, former United States
17 Representative Shirley Chisholm; New York State
18 Assembly Deputy Speaker Earlene Hooper; New York
19 State Assemblywoman Annette Robinson; Queens
20 Borough President Helen Marshall; and the
21 Honorable Jacqueline A. Berrien, chairwoman of
22 the United States Equal Employment Opportunity
23 Commission.

24 The Westchester Alumnae Chapter of
25 Delta Sigma Theta has proven to women across

1 Westchester County and the State of New York how
2 a strong --

3 SENATOR GIANARIS: Mr. President,
4 can we please have some order so people can hear
5 Senator Hassell-Thompson.

6 ACTING PRESIDENT GRIFFO: I'm going
7 to ask for some order in the chamber.

8 I know we have a number of the
9 guests leaving the galleries; we had an extensive
10 amount of guests here. So if you could please
11 just leave quietly, we can allow Senator
12 Hassell-Thompson to continue to speak.

13 Senator Hassell-Thompson.

14 SENATOR HASSELL-THOMPSON: Should I
15 start all over?

16 (Laughter.)

17 SENATOR HASSELL-THOMPSON: The
18 Westchester Alumnae Chapter of Delta Sigma Theta
19 has proven to women across Westchester County and
20 the State of New York how a strong united
21 presence can be used to positively impact and
22 change public policy.

23 Thank you for this resolution,
24 Mr. President.

25 ACTING PRESIDENT GRIFFO: Thank

1 you, Senator Hassell-Thompson.

2 The question is on the resolution.

3 All in favor signify by saying aye.

4 (Response of "Aye.")

5 ACTING PRESIDENT GRIFFO: Opposed?

6 (No response.)

7 ACTING PRESIDENT GRIFFO: The
8 resolution is adopted.

9 Senator Libous.

10 SENATOR LIBOUS: Thank you,
11 Mr. President. Is that your Good Joes' flower,
12 Mr. President?

13 ACTING PRESIDENT GRIFFO: Happy
14 St. Joseph's Day also.

15 SENATOR LIBOUS: We have another
16 resolution, Number 875, at the desk by Senator
17 Serrano. Could you read the title and call on
18 the good Senator, please.

19 ACTING PRESIDENT GRIFFO: The
20 Secretary will read.

21 THE SECRETARY: Legislative
22 Resolution Number 875, by Senator Serrano,
23 memorializing Governor Andrew M. Cuomo to declare
24 8:30 p.m. to 9:30 p.m. on Saturday, March 23,
25 2013, as Earth Hour in the State of New York.

1 ACTING PRESIDENT GRIFFO: Senator
2 Serrano.

3 SENATOR SERRANO: Thank you very
4 much, Mr. President.

5 And I want to thank my colleagues
6 for their support of this resolution year
7 after year. It is in support of Earth Hour.

8 Earth Hour is an environmental
9 action that we do every year. This year we're
10 doing it, as mentioned, on March 23rd at 8:30,
11 where we turn off our lights for one hour.

12 And this is something that is a
13 global initiative, and it is having a tremendous
14 effect and it's really taking on a lot of
15 esteem. And it takes place with over 150
16 countries participating. Over 7,000 cities and
17 towns are involved. It started in Sidney,
18 Australia, in 2007. This year in Australia they
19 expect over a third of households to
20 participate.

21 It's one of the easiest ways that we
22 can send a very strong message that we care about
23 the environmental and carbon footprint that we
24 have in our society and in our cities. In New
25 York City, for instance, many major landmarks

1 will go dark for that one hour. The Empire State
2 Building turns off its lights; many of the iconic
3 buildings on the Manhattan skyline do go dark for
4 that one hour.

5 And it does have a good effect. For
6 instance, in the City of New Brunswick last year
7 we saw over 480,000 households turn off their
8 lights, which was equal to saving about
9 24 megawatts of electricity. So it is a major
10 impact, it is a good step, and it's something
11 that we should all participate in.

12 Earth Hour, again, it's this
13 Saturday, March 23rd, 8:30 p.m. Hopefully we'll
14 be done voting on the budget by then, but if not,
15 maybe we could flick off the lights for one
16 hour.

17 Thank you.

18 ACTING PRESIDENT GRIFFO: Thank
19 you, Senator Serrano.

20 The question is on the resolution.
21 All in favor signify by saying aye.

22 (Response of "Aye.")

23 ACTING PRESIDENT GRIFFO: Opposed?

24 (No response.)

25 ACTING PRESIDENT GRIFFO: The

1 resolution is adopted.

2 Senator Libous.

3 SENATOR LIBOUS: Mr. President, I
4 want to go back and just open Number 875 for
5 cosponsorship, and Resolution 739 by Senator
6 Diaz. If anybody wishes not to be on either one
7 of those two resolutions, to let the desk know.
8 Otherwise, we will put your name on.

9 ACTING PRESIDENT GRIFFO: So noted
10 and so ordered.

11 Senator Libous.

12 SENATOR LIBOUS: I believe at this
13 time we can take up the reading of the
14 noncontroversial calendar.

15 ACTING PRESIDENT GRIFFO: Thank
16 you, Senator Libous. The Secretary will read.

17 THE SECRETARY: Calendar Number
18 107, substituted earlier by Member of the
19 Assembly Dinowitz, Assembly Print 581, an act to
20 amend the General Business Law.

21 ACTING PRESIDENT GRIFFO: Read the
22 last section.

23 THE SECRETARY: Section 2. This
24 act shall take effect on the same date and in the
25 same manner as Chapter 383 of the Laws of 2012.

1 ACTING PRESIDENT GRIFFO: Call the
2 roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 61.

5 ACTING PRESIDENT GRIFFO: The bill
6 is passed.

7 THE SECRETARY: Calendar Number
8 112, by Senator Grisanti, Senate Print 548B, an
9 act to amend the Environmental Conservation Law.

10 ACTING PRESIDENT GRIFFO: Read the
11 last section.

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

14 ACTING PRESIDENT GRIFFO: Call the
15 roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 61.

18 ACTING PRESIDENT GRIFFO: The bill
19 is passed.

20 THE SECRETARY: Calendar Number
21 114, by Senator Little, Senate Print 1365, an act
22 to amend the Environmental Conservation Law.

23 ACTING PRESIDENT GRIFFO: Read the
24 last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT GRIFFO: Call the
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 62.

6 ACTING PRESIDENT GRIFFO: The bill
7 is passed.

8 THE SECRETARY: Calendar Number
9 152, by Senator Ritchie, Senate Print 3693, an
10 act to amend the Agriculture and Markets Law.

11 ACTING PRESIDENT GRIFFO: Read the
12 last section.

13 SENATOR GIANARIS: Lay it aside.

14 ACTING PRESIDENT GRIFFO: Lay the
15 bill aside.

16 THE SECRETARY: Calendar Number
17 183, by Senator Lanza, Senate Print 3846, an act
18 to amend Chapter 395 of the Laws of 1978.

19 ACTING PRESIDENT GRIFFO: Read the
20 last section.

21 THE SECRETARY: Section 2. This
22 act shall take effect April 1, 2013.

23 ACTING PRESIDENT GRIFFO: Call the
24 roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 60. Nays,
2 2. Senators Maziarz and O'Mara recorded in the
3 negative.

4 ACTING PRESIDENT GRIFFO: The bill
5 is passed.

6 THE SECRETARY: Calendar Number
7 200, by Senator Adams, Senate Print 3005, an act
8 to amend the Military Law.

9 ACTING PRESIDENT GRIFFO: Read the
10 last section.

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

13 ACTING PRESIDENT GRIFFO: Call the
14 roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes, 62.

17 ACTING PRESIDENT GRIFFO: The bill
18 is passed.

19 THE SECRETARY: Calendar Number
20 201, by Senator DeFrancisco, Senate Print 3036,
21 an act to amend the Military Law.

22 ACTING PRESIDENT GRIFFO: Read the
23 last section.

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

1 ACTING PRESIDENT GRIFFO: Call the
2 roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 62.

5 ACTING PRESIDENT GRIFFO: The bill
6 is passed.

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

9 SENATOR LIBOUS: Mr. President,
10 could we have the reading of the controversial
11 calendar at this time.

12 ACTING PRESIDENT GRIFFO: The
13 Secretary will ring the bell.

14 The Secretary will read.

15 THE SECRETARY: Calendar Number
16 152, by Senator Ritchie, Senate Print 3693, an
17 act to amend the Agriculture and Markets Law.

18 SENATOR KRUEGER: Explanation.

19 ACTING PRESIDENT GRIFFO: Senator
20 Krueger has requested an explanation,
21 Senator Ritchie.

22 SENATOR RITCHIE: This bill amends
23 the Agriculture and Markets Law by adding a new
24 section which specifies land used in
25 silvopasturing shall be limited to up to 10

1 fenced-in acres for large livestock and up to
2 5 fenced-in acres for small livestock.

3 This measure defines silvopasturing
4 to mean the intentional combination of trees,
5 forages, and livestock managed as a single
6 integrated practice for the collective benefit of
7 each, including the planting of appropriate
8 grasses and legume forages among trees for sound
9 grazing and livestock husbandry.

10 And this bill passed unanimously the
11 last two years.

12 ACTING PRESIDENT GRIFFO: Senator
13 Krueger.

14 SENATOR KRUEGER: Thank you,
15 Mr. President. If the sponsor would please
16 yield, through you.

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

19 SENATOR RITCHIE: Yes,
20 Mr. President.

21 ACTING PRESIDENT GRIFFO: Senator
22 Ritchie yields.

23 SENATOR KRUEGER: Thank you.

24 So in the Assembly this bill is
25 going through Ways and Means, but it's not going

1 through Finance in this house. Do you know why?

2 SENATOR RITCHIE: It amends the
3 Ag and Markets Law.

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

7 ACTING PRESIDENT GRIFFO: Senator
8 Ritchie, do you yield?

9 SENATOR RITCHIE: Yes,
10 Mr. President.

11 ACTING PRESIDENT GRIFFO: The
12 Senator yields.

13 SENATOR KRUEGER: Thank you.

14 So under this legislation, can the
15 sponsor estimate for me how much of the assessed
16 value of silvopastured land would decrease per
17 acre, what would be the average loss of assessed
18 value per acre?

19 SENATOR RITCHIE: I cannot
20 specifically, Senator.

21 But I will say that the land that is
22 included under silvopasturing would already be
23 included under the ag assessment whether you had
24 livestock separately or whether you had
25 woodlands. So what happens is you would be

1 eligible for the exemption under either. But
2 once you run livestock into the woodland, you
3 automatically are denied the assessment.

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

7 SENATOR RITCHIE: Yes,
8 Mr. President.

9 ACTING PRESIDENT GRIFFO: Senator
10 Ritchie yields.

11 SENATOR KRUEGER: So just to repeat
12 what I believe I heard the sponsor say, currently
13 you might have farmland that's assessed under
14 farmland assessment, and you might have woodland
15 under forest land assessment. But if this bill
16 passed, would you be eligible for tax reductions
17 under both categories on the same acre of land?

18 SENATOR RITCHIE: Currently you're
19 eligible for livestock and you're also eligible,
20 if it's under 50 acres, for woodland. And so
21 this would just in combination include both of
22 them, when right now you're eligible for
23 livestock or you're eligible for woodland but as
24 soon as you put livestock into the woodland,
25 you're not eligible for the exemption anymore.

1 So both categories are already
2 eligible, but once they're combined, they're no
3 longer eligible.

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

7 ACTING PRESIDENT GRIFFO: Senator
8 Ritchie, do you yield?

9 SENATOR RITCHIE: Yes.

10 ACTING PRESIDENT GRIFFO: Senator
11 Ritchie yields.

12 SENATOR KRUEGER: So again, from my
13 understanding, you might be one now, you might be
14 another now, but if you allowed your livestock to
15 wander your forest land you couldn't be eligible
16 for either. But if this bill becomes law, can
17 you be eligible for both at the same time for the
18 same acre of land?

19 SENATOR RITCHIE: Okay, if you had
20 livestock and you were eligible and you were
21 eligible under woodland, if in fact you had
22 livestock now combined with the woodland, you
23 would still be eligible for the same assessment
24 that you would be if they were separately.

25 SENATOR KRUEGER: Through you,

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

3 SENATOR RITCHIE: Yes,
4 Mr. President.

5 ACTING PRESIDENT GRIFFO: Senator
6 Ritchie yields.

7 SENATOR KRUEGER: Okay. So in a
8 question I asked off of the floor -- not of the
9 sponsor, but one of the groups supporting -- they
10 told me that they believed it would be a reduced
11 property tax payment because of a broader number
12 of acres under a lower assessment, but that cost
13 could be transferred to other property taxpayers
14 in the area.

15 Does the sponsor agree that this
16 will translate into lower property tax payments
17 on some number of acres of land compared to under
18 current law?

19 SENATOR RITCHIE: I would say not
20 necessarily, because they're already eligible
21 under the ag assessment for the livestock,
22 they're already eligible for the woodland under
23 the ag assessment. All we're doing is clarifying
24 that if both are contained, then they would still
25 be eligible for that same ag assessment.

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

4 SENATOR RITCHIE: Yes,
5 Mr. President.

6 ACTING PRESIDENT GRIFFO: The
7 sponsor yields.

8 SENATOR KRUEGER: Thank you.

9 So perhaps if the sponsor could help
10 me understand, under existing law, farm woodland,
11 which is part of the land qualified for an ag
12 assessment, provided, however, that such
13 farmland -- excuse me. Let me read it again.
14 And I am referencing which section of law?
15 Section 301, paragraph 4, section D.

16 Because I'm not trying to trick the
17 sponsor, I'm trying to make sure I actually even
18 say it right.

19 So under current law, farmland,
20 which is part of land qualified for an
21 agricultural assessment -- provided, however,
22 that such farmland attributable to any separately
23 described and assessed parcel shall not exceed 50
24 acres.

25 So if we passed this law, would you

1 be allowed to exceed 50 acres for assessed-at-
2 a-lower-rate-of-taxation woodlands?

3 SENATOR RITCHIE: It would be
4 limited under the Ag and Markets Law to under
5 50 acres.

6 SENATOR KRUEGER: So through you,
7 Mr. President, if the sponsor would continue to
8 yield.

9 SENATOR RITCHIE: Yes.

10 ACTING PRESIDENT GRIFFO: The
11 sponsor yields.

12 SENATOR KRUEGER: Thank you.

13 So again, just for me to stay in
14 order, because I have a series of questions. So
15 my understanding from the sponsor is you would
16 still have to stay within the 50-acre limit; it
17 would allow you to keep property under the lower
18 assessment of either farmland or woodland if
19 you're also having animals on the woodland.
20 Okay.

21 Do you, under this bill, have to
22 actually be a farmer in the sense that you have
23 woodlands, they're assessed as woodlands, but now
24 you've decided that you just have some animals
25 that you would like to graze on your woodland?

1 Do you have to meet the existing standard for
2 selling a certain amount of product per year,
3 having X amount of your income come from farm
4 activity? Or does it exempt from you that and
5 allow a broader universe of people to take the
6 assessment on property where they're not
7 technically farming now?

8 SENATOR RITCHIE: The same rules
9 under the ag assessment still apply. You still
10 have to have the minimum of \$10,000 in gross
11 sales in order to qualify.

12 And your other question on the
13 50 acres, the only way that it would be above 50
14 acres is if you met the livestock portion that
15 says that you could have one large livestock per
16 I think it's 10 acres. So you could go over the
17 50 acres as long as you met the livestock portion
18 that's already in statute.

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

22 SENATOR RITCHIE: Yes,
23 Mr. President.

24 ACTING PRESIDENT GRIFFO: The
25 sponsor yields.

1 SENATOR KRUEGER: I thank the
2 sponsor for the clarification, because I think
3 that is getting at the concern I have about this
4 bill. It will -- I'll phrase it as a question.
5 Excuse me, Mr. President.

6 If I understood the sponsor's answer
7 correctly, this bill would allow you to have more
8 than 50 acres under the category for lower
9 assessment. And so that in fact it would
10 increase the number of acres over time that could
11 be assessed at a lower rate, translating into
12 lower property tax revenue for that locality over
13 an extended period of time; is that correct?

14 ACTING PRESIDENT GRIFFO: Senator
15 Ritchie.

16 SENATOR RITCHIE: And I would say
17 that over the 50 acres, if you had livestock on
18 there and you met the requirements under the ag
19 assessment, you would already be eligible for
20 that same reduction.

21 ACTING PRESIDENT GRIFFO: Senator
22 Krueger.

23 SENATOR KRUEGER: I'm trying to
24 stay on the logic of the above and below
25 50 acres. And again, current law does include up

1 to 50 acres of farm woodland in the definition of
2 land use in agriculture production.

3 ACTING PRESIDENT GRIFFO: Senator
4 Krueger, are you on the bill now?

5 SENATOR KRUEGER: No, I'm sorry,
6 I'm asking a question. It's just I'm trying to
7 repeat what I think I've learned, because it's
8 complex.

9 ACTING PRESIDENT GRIFFO: Okay.

10 SENATOR KRUEGER: Thank you,
11 Mr. President.

12 I'm sure the sponsor knows what I'm
13 saying without my saying, but I don't necessarily
14 know what I'm saying without saying it out loud.

15 So again, to repeat, under current
16 law it includes up to 50 acres of farm woodland
17 in the definition of land used in agricultural
18 production. And I still have a concern about
19 circumventing that 50 acres and expanding the
20 type of property that might be assessed at the
21 lower rate.

22 But my understanding is New York's
23 Real Property Tax Law Section 480-A provides
24 requirements to qualify for a forest land
25 exemption, and that law has certain eligibility

1 requirements pertaining to the use of the forest
2 land, the quantity of trees required to produce
3 merchantable forest crops, et cetera.

4 Would this bill -- I got to the
5 question now, Mr. President. Would this bill
6 undermine that law by allowing people to qualify
7 for the agriculture assessment instead of the
8 forest land exemption which has more stringent
9 requirements? So are we moving, with this law,
10 from one more stringent set of tests for a lower
11 assessment to a system where there's less
12 stringent tests for a lower assessment?

13 ACTING PRESIDENT GRIFFO: Senator
14 Ritchie.

15 SENATOR RITCHIE: In response, I
16 would just say that the ag assessments were put
17 in place to protect and promote farmland
18 availability. And that's what this is about,
19 trying to help farmers be more profitable.

20 And so 50 acres and under, if it was
21 woodland, it would already qualify. And if you
22 had livestock, you would be able to get the same
23 ag assessment if you were over 50 acres.

24 So technically all we're changing
25 here is the fact that they're able to graze their

1 animals in managed woodland in order to help make
2 the farmers more profitable.

3 This is already in the ag assessment
4 rules; the two preceding years you have to have
5 at least \$10,000 in profitable sales, you have to
6 have a minimum amount of animals per acre. That
7 all stays in place. So this just changes the
8 fact that you were eligible for an exemption
9 under woodland and you were eligible for an
10 exemption under the livestock portion. By
11 combining both, you're now still eligible.

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

15 SENATOR RITCHIE: Yes,
16 Mr. President.

17 ACTING PRESIDENT GRIFFO: The
18 sponsor yields.

19 SENATOR KRUEGER: Thank you.

20 Is the sponsor familiar with a
21 decision from the Department of Tax and Finance,
22 I believe in 2010, that actually said under
23 current law you could not define silvopasturing
24 as an activity for a lower farm tax assessment?

25 SENATOR RITCHIE: I am. And it

1 actually says in here that they believe that
2 legislation needs to be put in place to put
3 silvopasturing in the statute. And that's why
4 we're doing this, that's why Assemblyman Magee
5 has sponsored it, and that's I think why it's
6 passed unanimously the last two years in this
7 body.

8 SENATOR KRUEGER: Thank you,
9 Mr. President. If the sponsor would continue to
10 yield.

11 SENATOR RITCHIE: Yes,
12 Mr. President.

13 ACTING PRESIDENT GRIFFO: The
14 sponsor yields.

15 SENATOR KRUEGER: Thank you.

16 See, I don't know if everyone in
17 here loves tax policy as much as Senator Ritchie
18 and I do. So I know we're enjoying this, but I
19 don't know about everyone else. Somebody doesn't
20 look like they're that happy.

21 ACTING PRESIDENT GRIFFO: Senator
22 Krueger, your question?

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

25 So a farm assessment for farmland is

1 just one of the lower tax rates you can get for
2 farming. There's also the Farm School Tax
3 Credit, in addition to the Agricultural
4 Assessment Program. Now, under the Agricultural
5 Assessment Program, acres of land used for
6 farming purposes can get lower assessments, which
7 means lower property tax payments at the local
8 level.

9 Under the Farm School Tax Credit, we
10 the State of New York end up making good on lost
11 revenue to the localities. I believe that costs
12 us at the state level about \$34 million predicted
13 for fiscal year 2013-2014, according to Tax and
14 Finance.

15 How much of an increase does the
16 sponsor think we might see in costs to the State
17 of New York through expanded use of the Farm
18 School Tax Credit if this were to become law?

19 ACTING PRESIDENT GRIFFO: Senator
20 Ritchie.

21 SENATOR RITCHIE: And I would say
22 once again that's minimal, because the property
23 already in an ag district, it's already eligible
24 for an ag assessment, whether it's for livestock
25 or woodland.

1 So this is not expanding the scope
2 of the property that it would be open to. This
3 actually is property that has to be in use for
4 the two previous years, it has to have \$10,000 in
5 gross sales, and it has to have a minimum amount
6 of livestock on the property.

7 And so I guess this comes down to a
8 philosophical question on whether farmers and
9 farmland should have reduced tax assessments.
10 And I guess we go back to the same question or
11 conversation that you and I had that we're trying
12 to encourage more people to stay in farming,
13 we're trying to make sure that we have the
14 availability of products not only across New York
15 State but in New York City.

16 And considering that the average
17 farmer is 57 years old, I think the state better
18 do something to encourage people to continue in
19 farming or we're going to have a bigger problem
20 than looking at the minimal amount of assessment
21 that this is going to cost.

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

24 ACTING PRESIDENT GRIFFO: Senator
25 Krueger on the bill.

1 SENATOR KRUEGER: I want to thank
2 the sponsor very much for her answers to my
3 questions. And yes, she and I have had
4 conversations about how important it is to keep
5 people on their farms and to support agriculture
6 in New York State and to make sure that there is
7 not only more fresh food being grown in this
8 state but it's also being distributed throughout
9 the state to be sold to people upstate and
10 downstate. So I have no disagreement there.

11 My concern with this bill is that it
12 may lend itself -- and I'm not sure, and I don't
13 think it's your intention -- that it may lend
14 itself to, rather than an additional advantage to
15 small farmers, it may lend itself to large
16 forestry companies who are not really in the
17 farming business per se trying to figure out how
18 to maximize or decrease their tax burdens at the
19 local level by somehow having some animals owned
20 by somebody run around much larger areas of the
21 forests.

22 And while I'm not even opposed to
23 animals and forestry sharing acres, particularly
24 if it's a win/win, I am concerned that going
25 beyond the 50-acre maximum and allowing the

1 potential for this kind of tax exemption, slash,
2 tax credit -- because there are two different
3 categories here -- can translate into a
4 significant tax burden on the state and the
5 localities because, when somebody doesn't pay the
6 tax, somebody else picks it up.

7 And so I do think it's very
8 important to think through who are the winners
9 and who are the losers, so to speak, when you're
10 lowering tax assessments or providing tax
11 credits.

12 Having said that, I take the sponsor
13 in good faith that this was intended for small
14 farmers. It was not intended to expand it
15 massively beyond the 50-acre limit that currently
16 exists in the law. And that if we're wrong and
17 at some point in the future we see that
18 businesses are redefining their business models
19 and their tax accounting in order to maximize
20 lower taxes rather than maximize expansion of
21 farms, that we can both agree we would take a
22 look at it again.

23 And so with that, I will be voting
24 yes. Thank you, Mr. President.

25 ACTING PRESIDENT GRIFFO: Thank

1 you, Senator Krueger.

2 Seeing and hearing no other Senator
3 wishing to be heard, debate is closed and the
4 Secretary will ring the bell.

5 SENATOR LIBOUS: Mr. President, if
6 I could -- just while we're waiting for members
7 to come to the chamber -- make a comment.

8 There's committee meetings going on
9 right now, and certainly Rule 10 does apply for
10 those members who are in committee meetings and
11 will not be in the chamber to vote.

12 If their staffs are listening, they
13 have to fill out the form and give it to the desk
14 at some point today so that their votes will be
15 not construed as absent. Okay?

16 ACTING PRESIDENT GRIFFO: Thank
17 you, Senator Libous.

18 SENATOR LIBOUS: So if you're in a
19 committee meeting, Rule 10 will apply, but you
20 still have to fill out the form. If you're not
21 in a committee meeting, you need to get into the
22 chamber or you're going to be absent.

23 ACTING PRESIDENT GRIFFO: Rule 10
24 has been invoked and will be applied. Please
25 come to the desk or have staff come to the desk

1 so that you may be signed in accordingly and
2 appropriately.

3 Senator Libous, Senator Farley has
4 requested unanimous consent to be recognized for
5 purposes of an announcement.

6 SENATOR LIBOUS: With unanimous
7 consent, Mr. President.

8 ACTING PRESIDENT GRIFFO: Without
9 objection, Senator Farley.

10 Can I have some order, please, in
11 the chamber.

12 SENATOR FARLEY: Thank you.

13 Incidentally, I am here to vote, but
14 a number of members are going to have to sign
15 because the General Government conference
16 committee just met and closed. We were the first
17 one to close. The budget is on its way, as far
18 as that's concerned.

19 (Scattered applause.)

20 SENATOR FARLEY: I just -- but of
21 course, a number of our members are not here yet.

22 ACTING PRESIDENT GRIFFO: Senator
23 Farley, we have invoked and are applying
24 Rule 10. All the members should notify the desk,
25 by their staffs, at least, so they can be

1 appropriately placed in the proper paperwork.

2 The Secretary will read the last
3 section.

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

6 ACTING PRESIDENT GRIFFO: Call the
7 roll.

8 (The Secretary called the roll.)

9 ACTING PRESIDENT GRIFFO: Announce
10 the results.

11 THE SECRETARY: Ayes, 63.

12 ACTING PRESIDENT GRIFFO: The bill
13 is passed.

14 Senator Libous.

15 SENATOR LIBOUS: Thank you,
16 Mr. President.

17 ACTING PRESIDENT GRIFFO: Can I
18 have some order, please, in the chamber. I'm
19 sure Senator Libous has an important series of
20 announcements.

21 SENATOR LIBOUS: I do have an
22 important announcement, Mr. President.

23 Is there any further business at the
24 desk at this time?

25 ACTING PRESIDENT GRIFFO: There is

1 no further business that comes before the desk at
2 this time.

3 SENATOR LIBOUS: There being no
4 further business, Mr. President, I move that we
5 adjourn until Wednesday, tomorrow, March 20th, at
6 3:00 p.m.

7 ACTING PRESIDENT GRIFFO: Senator
8 Libous.

9 SENATOR LIBOUS: Mr. President, the
10 script may be incorrect. Could you give me a
11 minute to verify it?

12 ACTING PRESIDENT GRIFFO: Sure.

13 SENATOR LIBOUS: Mr. President, I'm
14 impressed that all of the members are staying in
15 the chamber because they absolutely want to know
16 what time session is tomorrow. That's great.

17 ACTING PRESIDENT GRIFFO: Senator
18 Hassell-Thompson, why do you rise?

19 SENATOR HASSELL-THOMPSON: Point of
20 order.

21 ACTING PRESIDENT GRIFFO: Senator
22 Hassell-Thompson, state your point of order.

23 SENATOR HASSELL-THOMPSON: Thank
24 you. Mr. President, was the opportunity offered
25 to the members of the Senate to sign onto my

1 resolution? I didn't hear that.

2 SENATOR LIBOUS: If I may answer
3 the Senator.

4 ACTING PRESIDENT GRIFFO: Senator
5 Libous, you may respond.

6 SENATOR LIBOUS: No, I don't
7 believe so. Mr. President, we did it for Senator
8 Serrano and Senator Diaz. Would Senator
9 Hassell-Thompson like to --

10 SENATOR HASSELL-THOMPSON: Thank
11 you.

12 SENATOR LIBOUS: So then the
13 resolution by Senator Hassell-Thompson, which
14 would be Number --

15 ACTING PRESIDENT GRIFFO: 906, I
16 believe.

17 SENATOR LIBOUS: -- 906 would be
18 open for cosponsorship. And as the rule goes, if
19 members choose not to be on it, let the desk
20 know.

21 ACTING PRESIDENT GRIFFO: So noted.

22 SENATOR HASSELL-THOMPSON: Thank
23 you, Mr. President.

24 ACTING PRESIDENT GRIFFO: Thank
25 you, Senator Hassell-Thompson.

1 SENATOR LIBOUS: Mr. President.

2 ACTING PRESIDENT GRIFFO: Senator
3 Libous.

4 SENATOR LIBOUS: Mr. President,
5 it's a good thing that we held off. Tomorrow --

6 ACTING PRESIDENT GRIFFO: We are
7 about to entertain your motion.

8 SENATOR LIBOUS: I can't make the
9 announcement yet. Would you call on Senator
10 Maziarz, because he has a very important
11 announcement.

12 ACTING PRESIDENT GRIFFO: The chair
13 recognizes Senator Maziarz.

14 SENATOR MAZIARZ: Thank you very
15 much, Mr. President. There's going to be --

16 ACTING PRESIDENT GRIFFO: Can I
17 have some order, please, in the chamber.

18 SENATOR MAZIARZ: There is going to
19 be a meeting of the Environment, Agriculture and
20 Housing budget subcommittee at 4:30 p.m. in
21 Hearing Room B.

22 ACTING PRESIDENT GRIFFO: So noted.

23 SENATOR MAZIARZ: Would you
24 recognize Senator Libous now, please.

25 ACTING PRESIDENT GRIFFO: Senator

1 Libous.

2 SENATOR LIBOUS: Do you recognize
3 me?

4 (Laughter.)

5 SENATOR LIBOUS: Okay,
6 Mr. President, there being no further business
7 before the house, I move that we adjourn until
8 Wednesday, March 20th, at 11:00 a.m.

9 ACTING PRESIDENT GRIFFO: On
10 motion, the Senate stands adjourned until
11 Wednesday, March 20th, at 11:00 a.m.

12 Senate adjourned.

13 (Whereupon, the Senate adjourned at
14 4:00 p.m.)

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