

1 NEW YORK STATE SENATE

2
3
4 THE STENOGRAPHIC RECORD

5
6
7
8
9 ALBANY, NEW YORK

10 May 6, 2013

11 3:40 p.m.

12
13
14 REGULAR SESSION

15
16
17
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: In the
10 absence of clergy, I ask all to bow their heads
11 in a moment of silent reflection and prayer.

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, Friday,
17 May 3rd, the Senate met pursuant to adjournment.
18 The Journal of Thursday, May 2nd, was read and
19 approved. On motion, Senate adjourned.

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

22 Presentation of petitions.

23 Messages from the Assembly.

24 The Secretary will read.

25 THE SECRETARY: On page 32,

1 Senator Griffo moves to discharge, from the
2 Committee on Banks, Assembly Bill Number 5057
3 and substitute it for the identical Senate Bill
4 Number 4278, Third Reading Calendar 429.

5 ACTING PRESIDENT GRIFFO: The
6 substitution is so ordered.

7 Messages from the Governor.

8 Reports of standing committees.

9 Senator Libous.

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

12 Is there a report of the
13 Judiciary Committee at the desk?

14 ACTING PRESIDENT GRIFFO: There is
15 a report of the Judiciary Committee at the desk.

16 The Secretary will read.

17 THE SECRETARY: Senator Bonacic,
18 from the Committee on Judiciary, reports the
19 following nomination:

20 As a judge of the Court of Appeals,
21 the Honorable Sheila Abdus-Salaam.

22 ACTING PRESIDENT GRIFFO: Senator
23 Bonacic.

24 SENATOR BONACIC: Thank you,
25 Mr. President.

1 Last week the Judiciary Committee
2 met and considered the nomination of Sheila
3 Abdus-Salaam as a judge of the Court of Appeals
4 for a term commencing April 29th of this year
5 and expiring April 28, 2027.

6 Pursuant to the provisions of
7 Section 2 of Article 6 of the Constitution and
8 the provisions of Section 68 of the
9 Judiciary Law, the Judiciary Committee has
10 reported the nomination to the floor with
11 unanimous approval.

12 Judge Salaam is in the gallery
13 today.

14 I want to thank Governor Cuomo for
15 sending us an exemplary nominee. This person
16 has a wide breadth of experience both as a
17 practicing attorney for 14 years and as a judge
18 for 20 years, having ruled on over 211 cases.
19 She has demonstrated clarity in her
20 decision-making, fidelity to the law, and is
21 committed to an independent judiciary.

22 This nominee is defined by her
23 qualifications, her merit and her integrity.
24 And today the State of New York is making
25 history. So I wholeheartedly support her

1 nomination, and I would ask this entire body to
2 approve it unanimously.

3 Senator Libous, I ask you to go to
4 Senator Perkins. Judge Salaam lives in his
5 district in New York City.

6 And I thank you, Mr. President.

7 ACTING PRESIDENT GRIFFO: Thank
8 you, Senator Bonacic.

9 Senator Perkins.

10 SENATOR PERKINS: Thank you very
11 much.

12 And thank you, Mr. Chairman, for
13 your eloquence and your graciousness in not only
14 recognizing me now, but even in the committee,
15 that enables me to be a part of this historic
16 moment in a very special way; that is, in terms
17 of nominating her to the committee. And of
18 course the committee unanimously -- once in a
19 while doesn't quite do it so unanimously, but in
20 this case, without a doubt, recognizing her as an
21 outstanding person.

22 But I'm going to be brief because,
23 you know, those of us in Harlem have known her
24 beyond the 21 years that she has served on the
25 bench. And even during the struggles that she

1 went through to get to the bench, she was
2 supported by us. And we knew that at some point
3 she would arrive at her dream, but little did we
4 know that it was to make history.

5 And so we're happy that that journey
6 has led us to a place where she has joined the
7 ranks of the history-makers for our state. We
8 want to thank our Governor for his support of
9 her.

10 We want to thank the committee and
11 your leadership at the committee for reporting
12 her out. I want to obviously urge my --

13 ACTING PRESIDENT GRIFFO: Senator
14 Libous.

15 SENATOR LIBOUS: Mr. President, if
16 the Senator could indulge me for a minute.

17 Could I ask the Sergeant-at-Arms to
18 keep the doors closed. This is a very important
19 nomination. And if members that are in their
20 seats get in their seats. And if staff could
21 also behave themselves.

22 Thank you, Mr. President. Thank
23 you, Senator Perkins.

24 ACTING PRESIDENT GRIFFO: Thank
25 you, Senator Libous.

1 Sergeants will adhere to the doors,
2 please, and keep them closed. Members will keep
3 their seats. And we ask for order in the
4 chamber.

5 Senator Perkins, you may continue.

6 SENATOR PERKINS: Thank you very
7 much.

8 I just want to conclude again by
9 thanking the Governor. This is a great day for
10 the community of Harlem. This is a great day for
11 our city. It's a great day for our state. It's
12 a great day for our nation. I'm glad to be a
13 part of this historic moment.

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

16 Senator Hoylman.

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

19 As a member of the Judiciary
20 Committee, it is an honor to say a few words
21 about the ascension of Justice Sheila
22 Abdus-Salaam to the Court of Appeals today.

23 First, I wanted to note the historic
24 nature. It took 166 years, but thanks to
25 Governor Cuomo and my colleagues on both sides of

1 the aisle, we will now have an African-American
2 woman on New York's highest court.

3 I have been impressed, like so many
4 of my fellow Senators, on so many aspects of the
5 justice's background, experience and
6 temperament. I think her background will serve
7 her extremely well. Her journey from a large
8 working-class family in Washington, D.C., to top
9 schools in New York City was made possible not
10 because somebody handed it to her but because she
11 worked for it.

12 Because of her upbringing,
13 Mr. President, Justice Salaam will forever have a
14 bond and a deep understanding of the issues
15 facing working New Yorkers. She will have their
16 backs.

17 She will also serve as an
18 inspiration, Mr. President, to future generations
19 of young people in the law and elsewhere -- maybe
20 some who might have thought they couldn't get
21 ahead because of their gender or their skin
22 color.

23 And it is an extraordinary testament
24 to the justice's commitment to public service
25 that out of an Ivy League law school she chose to

1 begin her legal career by representing low-income
2 clients at Brooklyn Legal Services when she
3 probably could have just as easily taken a
4 high-paying job with a Wall Street law firm.

5 In addition, Justice Salaam's
6 impressive opinions and letters of support would
7 show her to be fair-minded, with just the right
8 legal temperament.

9 I want to point out the fact that
10 she rose up the legal ranks all the way from
11 being a civil court judge in New York County to
12 our state's highest court. Mr. President, that
13 is not a typical path. And again, it is a
14 testament to the justice's determination, hard
15 work, and commitment to the judicial system.

16 These 21 years of judicial
17 experience will serve the justice well, but the
18 real beneficiaries, Mr. President, will be the
19 litigants in her courtroom and all people of this
20 great state. I vote aye.

21 Thank you, Mr. President.

22 ACTING PRESIDENT GRIFFO: Senator
23 Nozzolio.

24 SENATOR NOZZOLIO: Thank you,
25 Mr. President.

1 Mr. President and my colleagues, I
2 rise in support of this nomination and thank
3 Governor Cuomo for recognizing the talents, the
4 determination and the expertise of the nominee.

5 This is a day that may be historic
6 in the sense that in the few months that he has
7 been here, I think this will be the first time
8 that I agree with Senator Hoylman on anything.
9 As a member of the Codes Committee, he and I have
10 had a number of interesting discussions.

11 But I stand with all seriousness in
12 full recommendation for and accommodation for
13 what he has put forward. That Senator Hoylman is
14 absolutely right, that this is an outstanding
15 appointment, an outstanding jurist.

16 And I rise to add the fact that in
17 the brief time that I've had exposure to the
18 nominee, it's apparent certainly that this is the
19 beauty of America, recognizing an American dream
20 where hard work, where determination, grace and
21 style combine to put together an individual who
22 is truly outstanding and that individual's
23 outstanding work is so recognized.

24 Her opinions have throughout
25 reflected a thoughtful analysis, and combined

1 with her knowledge of the law that produces an
2 opinion to direct our judicial system in a way
3 that I believe we may not always agree with the
4 ultimate decision, but there is certainly no
5 argument in the process and the analysis, the
6 intelligent review that the nominee has provided
7 to the opinions before her that she has had to
8 decide.

9 There's also, Mr. President and my
10 colleagues, a confidence in knowing that this
11 nominee has that type of bedrock that you may not
12 agree with a decision, but there is no way that
13 you could question her intelligence, her approach
14 to the law, her respect for the law, her respect
15 for the legislative component of making the law.

16 And for all those reasons and many,
17 many others, this nominee is truly a wonderful
18 one that I rise with great pride in thanking her
19 for realizing this American dream and for being
20 such a thoughtful jurist and one that I hope will
21 be an outstanding member of the Court of Appeals
22 in a long, long-standing career on that very
23 important court.

24 Thank you, Mr. President.

25 ACTING PRESIDENT GRIFFO: Thank

1 you, Senator Nozzolio.

2 Senator Espaillat.

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

5 As a resident of New York County and
6 a neighbor of the village of Harlem, I stand in
7 support of this nomination. And I want to
8 congratulate the Governor for putting forward the
9 name of this very excellent judge, Sheila
10 Abdus-Salaam, who not only has exceptional
11 qualities and has a very broad and experienced
12 background with regards to judicial decisions,
13 but is someone that I think has the judicial
14 temperament for this great Court of Appeals.

15 I think during her hearings at the
16 Judiciary Committee, her serenity brought to that
17 meeting I think her spirit. And we can all agree
18 that she is a judge that will be fair to all
19 New Yorkers.

20 So I am happy to stand here in
21 support of her nomination and be part of this
22 very important moment for all New Yorkers as we
23 make history and elevate her to the New York
24 Court of Appeals.

25 Thank you, Mr. President.

1 ACTING PRESIDENT GRIFFO: Senator
2 Breslin.

3 SENATOR BRESLIN: Thank you,
4 Mr. President. I also rise to confirm the chorus
5 of praise for Judge Salaam.

6 And Senator Espaillat, even though
7 you talk about the village of Harlem, or
8 Senator Perkins talked about Judge Salaam being
9 from their district -- I'm from Albany, but I'm
10 part of the State of New York. And we are
11 viewing today, at least during my 15 years on the
12 Senate Judiciary Committee, in my opinion the
13 finest candidate we have seen, someone who has
14 the complete package, if you will.

15 From her humble beginnings through
16 her educational process to her years in private
17 practice and her years on the bench, couple that
18 with the clarity of thought that's expressed in
19 her writings. When you read a decision of Judge
20 Salaam, they are so easy to understand -- unlike
21 some of the other decisions I read
22 periodically -- but so easy to understand. And
23 her devotion to the rule of law, her ability to
24 analyze an issue, come to a conclusion and decide
25 a case shows a distinct quality.

1 So with everyone else I think in
2 this chamber, I salute the Governor in choosing
3 Judge Salaam, and I look forward to her service
4 on the Court of Appeals for many years to come.

5 Thank you, Mr. President.

6 ACTING PRESIDENT GRIFFO: Thank
7 you, Senator Breslin.

8 Senator Farley.

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

11 I rise to say that the judge called
12 me and I told her that I enthusiastically
13 supported her.

14 As somebody who's a lawyer and a law
15 professor that used to serve on the
16 Judiciary Committee and have been involved for
17 37 years in the confirmation of judges to the
18 Court of Appeals, I was absolutely impressed by
19 my colleagues that served on that
20 Judiciary Committee that were effusive in their
21 praise of you, Judge.

22 And it is with enthusiasm that I
23 vote for your confirmation.

24 ACTING PRESIDENT GRIFFO: Thank
25 you, Senator Farley.

1 Senator Diaz.

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

4 You know, Mr. President, the last
5 time that I stood up in here to vote for a judge,
6 I voted no. And I was a little bit disappointed
7 with the Governor because this is an issue too
8 important for the State of New York. And when
9 the Governor nominates a person to become judge,
10 especially to the Court of Appeals, it should be
11 the best. Regardless if the person is white,
12 black, Hispanic, it should be the best.

13 And the Bible says that we should
14 give -- to pay everyone what's due to everyone.
15 Honor when honor is due, praise when praise is
16 due. And today I'm -- I'm giving honor to the
17 Governor today. Because as you can see, all my
18 colleagues -- white, black, Hispanic -- they're
19 all standing here today praising Judge Sheila
20 Abdus-Salaam.

21 Because she's not here because she's
22 black, she's not here because she's Hispanic or
23 because she's white; she's here because she's the
24 best. And being Afro-American is a little more
25 better for me and for us, but she's not here

1 because of that.

2 And the Governor, every time that
3 the Governor sends us people to be confirmed
4 should be like that. Don't send me a Hispanic
5 and ask me to vote for a Hispanic because I'm a
6 Hispanic and send me somebody that doesn't
7 qualify. Send me somebody that everyone here
8 feels proud of. White, black, and Hispanic, that
9 everyone would say "I'm glad to support this
10 nomination."

11 And I see everyone here today
12 supporting Sheila Abdus-Salaam because she is the
13 best, because she's well-qualified to be
14 appointed to the Court of Appeals.

15 And I'm -- as a Puerto Rican, as a
16 black Puerto Rican with kinky hair and broken
17 English, I am honored and proud to support
18 Judge Sheila Abdus-Salaam for her qualifications,
19 for her experience, because she is the best.

20 And Governor Cuomo, this time I
21 congratulate you. Thank you, Governor Cuomo,
22 today for sending us Sheila Abdus-Salaam.

23 Thank you, Mr. President.

24 ACTING PRESIDENT GRIFFO: Senator
25 Little.

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

3 As a member of the Judiciary
4 Committee, I am honored to join with my
5 colleagues today in confirming the nomination of
6 Judge Salaam.

7 I just have had the opportunity to
8 do many -- to read many of her court cases or
9 readings. And I can only say that she is so
10 impressive, not only by her background and her
11 education, but by her decision-making and her
12 independence that she showed in these decisions.

13 While I'm not an attorney -- I doubt
14 that I would ever appear before her and hope that
15 I would never appear before her, but I certainly
16 am positive that whoever does appear before her
17 will get an absolutely fair hearing.

18 So congratulations to the Governor
19 on this appointment. Congratulations to
20 Judge Abdus-Salaam.

21 Thank you.

22 ACTING PRESIDENT GRIFFO: Senator
23 Kennedy.

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

1 I too rise in support of
2 Judge Sheila Abdus-Salaam. I congratulate the
3 Governor on having the vision for putting forward
4 such a wonderful, experienced nomination to this
5 Senate today.

6 It's very easy to be supportive of
7 this nomination. Judge, your history is helping
8 us to make history. And tomorrow in this Senate
9 we will be celebrating Women of Distinction from
10 all across New York State. Well, today we have
11 the honor of celebrating a woman of distinction
12 for all of us, no matter where we're from.

13 And all the way from Buffalo,
14 New York, I can tell you that it's an incredible
15 honor and pleasure to be supportive of the
16 Governor's nomination today, the first
17 African-American woman in the history of the
18 state to be appointed to the Court of Appeals.

19 That's something that is worth being
20 proud of, that is something worth celebrating,
21 and absolutely that is something worth
22 supporting. And I do so with all great respect
23 for you, Judge, and the work that brought you to
24 this level.

25 And with that, I vote aye.

1 ACTING PRESIDENT GRIFFO: Thank
2 you, Senator Kennedy.

3 Senator Krueger.

4 SENATOR KRUEGER: Thank you.

5 I rise to congratulate the judge on
6 her confirmation, very soon. I am very honored
7 to be among the majority if not the entirety of
8 the New York State Senate who is about to vote
9 for her.

10 But I also just want to recognize --
11 Senator Diaz and I don't always agree on the
12 floor of the Senate, but I would like to echo his
13 comments today and also thank the Governor for
14 giving us such an excellent nominee to serve on
15 our highest court.

16 The State of New York is rightly
17 proud of our court system and particularly proud
18 of the excellent judges who represent us and
19 serve all 19.5 million New Yorkers on our highest
20 court. And I know that our newest appointee,
21 Judge Abdus-Salaam, will do us all very proud.

22 Thank you, Mr. President.

23 ACTING PRESIDENT GRIFFO: Senator
24 Stewart-Cousins.

25 SENATOR STEWART-COUSINS: Thank

1 you, Mr. President.

2 I rise to echo the comments of my
3 colleagues and certainly to congratulate the
4 Governor.

5 I had an opportunity to meet
6 Justice Abdus-Salaam. She came to see me,
7 although I'm not sitting on the Judiciary
8 Committee. But she wanted to make sure that I
9 absolutely knew who she was, where she had been,
10 and where she knows she's going.

11 In this the highest court, in this
12 historic moment, bringing with her all of the
13 hopes and the aspirations, the dreams, everything
14 that so many have hoped to see, she realizes is
15 really riding on her shoulders. And yet she
16 knows she's standing on the shoulders of so many
17 who created a pathway for her.

18 I am so honored to be able to vote
19 for you. I am so honored to be in a chamber and
20 serving at a time where we can continue to
21 shatter glass ceilings and continue to go onward
22 and upward so that everyone understands that
23 there is indeed opportunity and, if you work
24 hard, you can actually get something done.

25 Congratulations.

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

3 Senator DeFrancisco.

4 SENATOR DeFRANCISCO: Yes, I also
5 rise to support the nomination of Judge Sheila
6 Abdus-Salaam.

7 And I don't -- I mentioned this to
8 her during the confirmation hearing, that she's
9 got huge shoes to fill. Judge Theodore Jones was
10 a personal favorite of mine. Never knew the man
11 before his name was brought up for nomination,
12 and I met with him actually in New York City for
13 the first time.

14 And I read a lot of his decisions.
15 A man of class, a man of courage, some of his
16 decisions that were made, and an individual who
17 always relied on the rule of law and made the
18 right decisions for the right reasons. And she's
19 going to fill his shoes, and I'm sure she will do
20 a wonderful job.

21 Now, I'm not standing here in
22 support because this is an historic day, believe
23 me, although that's a wonderful thing. And I'm
24 not standing here to support you because you've
25 got the workers of New York's backs. I'm not

1 standing for that reason or not.

2 I'm standing here because I believe
3 you'll have the back of that lady with the scales
4 with a blindfold on. Because that's all your
5 allegiance could be and has to be and will be,
6 and I know that from your prior record.

7 In addition, I did read all the
8 decisions I could get my hands on. And as was
9 said before, there's a clarity of reasoning. You
10 can understand your decisions. And lower courts'
11 lawyers have to understand them. The logic was
12 impeccable. Some I disagreed with, but I
13 don't -- no one agrees with me all the time;
14 right?

15 MULTIPLE SENATORS: Right.

16 (Laughter.)

17 SENATOR DeFRANCISCO: In any
18 event -- in any event, having practiced in the
19 courts, 90 percent of which was litigation, for
20 over 40 years, I know how important a judge like
21 you is in the highest court.

22 And I'm very happy that the Governor
23 did in fact appoint you, and I'm very happy that
24 this is going to be a unanimous confirmation.
25 And hopefully it will set the stage for future

1 nominations of the caliber and quality of yours.

2 So congratulations. I will
3 definitely vote aye on this nominee.

4 ACTING PRESIDENT GRIFFO: Thank
5 you, Senator DeFrancisco.

6 The question is on the nomination of
7 Judge Sheila Abdus-Salaam to the New York State
8 Court of Appeals. All in favor signify by saying
9 aye.

10 (Response of "Aye.")

11 ACTING PRESIDENT GRIFFO: Opposed,
12 nay.

13 (No response.)

14 ACTING PRESIDENT GRIFFO: Judge
15 Sheila Abdus-Salaam is hereby confirmed as a
16 justice to the New York State Court of Appeals.

17 Congratulations.

18 (Extended standing ovation).

19 ACTING PRESIDENT GRIFFO: Our
20 congratulations and best wishes to you.

21 Senator Libous.

22 SENATOR LIBOUS: Mr. President, if
23 we can proceed with reports of select committees
24 at this time.

25 ACTING PRESIDENT GRIFFO: Reports

1 of select committees.

2 Communications and reports from
3 state officers.

4 Motions and resolutions.

5 Senator Libous.

6 SENATOR LIBOUS: If you would call
7 on Senator Gianaris at this time.

8 ACTING PRESIDENT GRIFFO: Senator
9 Gianaris.

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

12 On behalf of Senator Hoylman, I move
13 that the following bill be discharged from its
14 respective committee and be recommitted with
15 instructions to strike the enacting clause:
16 Senate Bill 4840.

17 ACTING PRESIDENT GRIFFO: So
18 ordered.

19 Senator Libous.

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

22 On behalf of Senator Grisanti, I
23 wish to call up his bill, Senate Print 1721A,
24 recalled from the Assembly, which is now at the
25 desk.

1 ACTING PRESIDENT GRIFFO: The
2 Secretary will read.

3 THE SECRETARY: Calendar Number
4 384, by Senator Grisanti, Senate Print 1721A, an
5 act to amend the Penal Law.

6 SENATOR LIBOUS: Mr. President, I
7 now move to reconsider the vote by which this
8 bill was passed.

9 ACTING PRESIDENT GRIFFO: Call the
10 roll on reconsideration.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 57.

13 SENATOR LIBOUS: Mr. President, I
14 now offer up the following amendments.

15 ACTING PRESIDENT GRIFFO: The
16 amendments are received.

17 SENATOR LIBOUS: Mr. President, on
18 behalf of Senator LaValle, I move that the
19 following bill be discharged from its respective
20 committee and be recommitted with instructions to
21 strike the enacting clause. That would be Senate
22 Print 4105.

23 ACTING PRESIDENT GRIFFO: So
24 ordered.

25 SENATOR LIBOUS: On behalf of

1 Senator Gallivan, on page 15 I offer the
2 following amendments to Calendar Number 74,
3 Senate Print Number 583A, and ask that said bill
4 retain its place on the Third Reading Calendar.

5 ACTING PRESIDENT GRIFFO: So
6 ordered.

7 SENATOR LIBOUS: Mr. President, on
8 behalf of Senator Maziarz, on page 15 I offer the
9 following amendments to Calendar Number 99,
10 Senate Print Number 1186, and ask that said bill
11 retain its place on the Third Reading Calendar.

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

15 SENATOR LIBOUS: Mr. President, on
16 behalf of Senator Seward, on page 19 I offer the
17 following amendments to Calendar Number 204,
18 Senate Print Number 2890, and ask that the bill
19 retain its place on the Third Reading Calendar.

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

23 SENATOR LIBOUS: Mr. President, on
24 behalf of Senator Ranzenhofer, on page 32 I offer
25 the following amendments to Calendar Number 432,

1 Senate Print 2345, and ask that said bill retain
2 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: And last but not
7 least, on behalf of Senator Grisanti, on page 33
8 I offer the following amendments to Calendar
9 Number 443, Senate Print 2076A, and ask that said
10 bill retain its place on the Third Reading
11 Calendar.

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

15 Senator Libous.

16 SENATOR LIBOUS: Mr. President, at
17 this time I would like to call an immediate
18 meeting of the Finance Committee in Room 332 --
19 and, before everybody rushes out, then followed
20 by an immediate meeting of the Rules Committee in
21 Room 332.

22 So let me repeat myself --

23 ACTING PRESIDENT GRIFFO: Can I
24 have some order in the chamber, please.

25 Senator Libous.

1 SENATOR LIBOUS: I'll repeat
2 myself. There will be an immediate meeting of
3 the Finance Committee in Room 332, followed by a
4 meeting of the Rules Committee in Room 332.

5 And I would ask that you would have
6 the Senate stand at ease until those meetings are
7 completed.

8 ACTING PRESIDENT GRIFFO: There's
9 an immediate meeting of the Senate Finance
10 Committee in Room 332, followed by an immediate
11 meeting of the Rules Committee.

12 The Senate will stand at ease.

13 (Whereupon, the Senate stood at ease
14 at 4:10 p.m.)

15 (Whereupon, the Senate reconvened at
16 4:45 p.m.)

17 ACTING PRESIDENT GRIFFO: The
18 Senate will come to order.

19 Senator Libous.

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

22 May we return to reports of standing
23 committees. I believe there's a report of the
24 Rules Committee at the desk.

25 ACTING PRESIDENT GRIFFO: There is

1 a committee report on the desk from the
2 Rules Committee.

3 The Secretary will read.

4 THE SECRETARY: Senator Skelos, from
5 the Committee on Rules, reports the following
6 bills direct to third reading:

7 Senate Print 3768, by Senator
8 Hannon, an act to amend the Public Health Law;

9 Senate 3817, by Senator Hannon, an
10 act to amend the Public Health Law;

11 And Senate 4825, by Senator Little,
12 an act to amend the Executive Law.

13 SENATOR LIBOUS: Mr. President, at
14 this time I move to accept the report of the
15 Rules Committee.

16 ACTING PRESIDENT GRIFFO: All in
17 favor of accepting the Committee on Rules report
18 signify by saying aye.

19 (Response of "Aye.")

20 ACTING PRESIDENT GRIFFO: Opposed,
21 nay.

22 (No response.)

23 ACTING PRESIDENT GRIFFO: The
24 report is accepted.

25 Senator Libous.

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

3 Mr. President, I believe there's a
4 previously adopted resolution by Senator
5 Carlucci, Number 1369, at the desk. I ask that
6 the title be read and if you could then call on
7 Senator Carlucci.

8 ACTING PRESIDENT GRIFFO: The
9 Secretary will read the title.

10 THE SECRETARY: Legislative
11 Resolution Number 1369, by Senator Carlucci,
12 memorializing Governor Andrew M. Cuomo to
13 proclaim May 5-11, 2013, as Correctional Officers
14 and Employees Week in the State of New York.

15 ACTING PRESIDENT GRIFFO: Senator
16 Carlucci.

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

19 I rise to pay tribute, for this
20 important resolution to recognize and appreciate
21 the hard work that our correctional officers do
22 around the State of New York. In fact, I have
23 the privilege of representing Sing Sing, which is
24 in my district and has been operational since
25 1825.

1 And one of the things that is
2 important to recognize is that our correctional
3 officers, these men and women have really
4 dedicated themselves to the professionalism of
5 correctional officers.

6 And that role has changed quite a
7 bit over the past few years, where we've been
8 able to recognize the importance of mental
9 health, recognize so many other issues that are
10 important when we have the custody, the care of
11 inmates through correctional facilities around
12 this state, to make sure that we're protected, to
13 keep people safe while they're in the
14 institution, while they come out, and make sure
15 that we lower the levels of recidivism around the
16 state.

17 And so it's so fitting and I want to
18 thank this body for recognizing the importance of
19 correctional officers around our state. And it's
20 fitting because it often goes unnoticed. The
21 hard work that's done on the inside of these
22 prisons, often we don't see, because we go on
23 with our daily lives.

24 But it's important that we recognize
25 the years that go into making sure that they have

1 the best career that they're able to fulfill with
2 the most professionalism possible.

3 So I support this resolution and
4 want to thank my colleagues for doing the same,
5 in proclaiming May 5th a week of recognition of
6 our appreciation for correctional officers in the
7 State of New York.

8 So thank you, Mr. President.

9 ACTING PRESIDENT GRIFFO: Thank
10 you, Senator Carlucci.

11 The resolution was adopted
12 previously on April 23rd.

13 Senator Libous.

14 SENATOR LIBOUS: Mr. President,
15 Senator Carlucci would like to open it up to all
16 the members of the Senate.

17 And if members wish not or choose
18 not to be on the resolution, if they would let
19 the desk know and we would make sure that their
20 names would not be included.

21 ACTING PRESIDENT GRIFFO: So noted
22 and so instructed.

23 Senator Libous.

24 SENATOR LIBOUS: Mr. President,
25 thank you. At this time may we have the

1 noncontroversial reading of the calendar.

2 ACTING PRESIDENT GRIFFO: The
3 Secretary will read.

4 THE SECRETARY: Calendar Number 94,
5 by Senator Klein, Senate Print 2365, an act to
6 amend the Real Property Actions and Proceedings
7 Law.

8 ACTING PRESIDENT GRIFFO: Read the
9 last section.

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

12 ACTING PRESIDENT GRIFFO: Call the
13 roll.

14 (The Secretary called the roll.)

15 ACTING PRESIDENT GRIFFO: Announce
16 the results.

17 THE SECRETARY: In relation to
18 Calendar Number 94, those recorded in the
19 negative are Senators Dilan, Hoylman, Krueger,
20 Parker, Perkins, Rivera, Serrano and Squadron.

21 Ayes, 49. Nays, 8.

22 ACTING PRESIDENT GRIFFO: The bill
23 is passed.

24 THE SECRETARY: Calendar Number
25 181, by Senator Libous, Senate Print 3580A, an

1 act to amend the Environmental Conservation Law.

2 ACTING PRESIDENT GRIFFO: Read the
3 last section.

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

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: Those recorded in
12 the negative on Calendar Number 181 are
13 Senators Espaillat and Perkins. Also
14 Senator Serrano.

15 Ayes, 54. Nays, 3.

16 ACTING PRESIDENT GRIFFO: The bill
17 is passed.

18 The Secretary will continue to read.

19 THE SECRETARY: Calendar Number
20 245, by Senator Little, Senate Print 1013B, an
21 act to amend the Highway Law.

22 ACTING PRESIDENT GRIFFO: Read the
23 last section.

24 THE SECRETARY: Section 3. 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, 57.

5 ACTING PRESIDENT GRIFFO: The bill
6 is passed.

7 THE SECRETARY: Calendar Number
8 253, by Senator Little, Senate Print 1358, an act
9 to amend the Penal Law.

10 ACTING PRESIDENT GRIFFO: Read the
11 last section.

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

14 ACTING PRESIDENT GRIFFO: Call the
15 roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 57.

18 ACTING PRESIDENT GRIFFO: The bill
19 is passed.

20 THE SECRETARY: Calendar Number
21 265, by Senator Fuschillo, Senate Print 755, an
22 act to amend the Executive 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 ACTING PRESIDENT GRIFFO: Senator
6 Rivera to explain his vote.

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

9 As I've made the argument many times
10 on the floor, we certainly as a body should
11 regulate -- when it comes to sex offenders, we
12 should regulate where they live, where they work,
13 et cetera. But as I've made the case many times
14 before, many of the bills that we introduce do
15 not have a distinction as it refers to levels.

16 That is the case with this
17 particular piece of legislation. It does limit a
18 particular type of license for state-certified
19 real estate appraisers. And as I've made the
20 case in the past, if we made the distinction that
21 Level 3s in particular should be barred from
22 having this type of license or having access to
23 places where they live or work, I certainly would
24 be voting in the affirmative.

25 As it does not have that

1 distinction, I will be forced to vote in the
2 negative.

3 Thank you, Mr. President.

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

6 Senator Fuschillo to explain his
7 vote.

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

10 This builds on a law that we had
11 adopted back in 2008 when we prohibited real
12 estate brokers and salespersons from practicing
13 in State of New York who are convicted of sex
14 offenses.

15 We passed this bill before, and
16 we'll pass it again today. But the offenses
17 we're talking about are defined in Section 168A
18 of the Correction Law, and they deal with luring
19 a child, sexual misconduct, rape in the third
20 degree, rape in the second degree, rape in the
21 first degree, kidnapping in the second degree,
22 kidnapping in the first degree, unlawful
23 imprisonment in the second degree and first
24 degree, patronizing a prostitute in the first,
25 second and third degree, and rape in the first

1 degree and criminal sexual act in the first
2 degree, predatory sexual assault, course of
3 sexual conduct against a child in the second
4 degree.

5 These are the offenses that we want
6 to prohibit a real estate appraiser, a certified
7 appraiser, or an appraiser's assistant from
8 coming in somebody's house.

9 A real estate appraiser, when you
10 hire them to do an appraisal on your house, they
11 go into your bedroom, they go into your
12 children's bedroom, they go into your playroom in
13 your house. Individuals who are convicted of
14 these offenses should never be allowed in your
15 house. We prohibit it for real estate brokers
16 and salespeople, as we should prohibit it for
17 appraisers as well.

18 I vote in the affirmative.

19 ACTING PRESIDENT GRIFFO: Senator
20 Fuschillo to be recorded in the negative.

21 Announce the results.

22 THE SECRETARY: Those recorded in
23 the negative on Calendar Number 265 are
24 Senators Parker, Perkins and Rivera.

25 Ayes, 54. Nays, 3.

1 ACTING PRESIDENT GRIFFO: The bill
2 is passed.

3 THE SECRETARY: Calendar Number
4 296, by Senator DeFrancisco, Senate Print 1216,
5 an act to amend the General Obligations Law.

6 ACTING PRESIDENT GRIFFO: Read the
7 last section.

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

10 ACTING PRESIDENT GRIFFO: Call the
11 roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes, 56. Nays,
14 1. Senator Krueger recorded in the negative.

15 ACTING PRESIDENT GRIFFO: The bill
16 is passed.

17 THE SECRETARY: Calendar Number
18 320, by Senator LaValle, Senate Print 1650, an
19 act to amend the Education Law.

20 ACTING PRESIDENT GRIFFO: Read the
21 last section.

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

24 ACTING PRESIDENT GRIFFO: Call the
25 roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 57.

3 ACTING PRESIDENT GRIFFO: The bill
4 is passed.

5 THE SECRETARY: Calendar Number
6 344, by Senator DeFrancisco, Senate Print 4267,
7 an act to amend the Vehicle and Traffic Law.

8 ACTING PRESIDENT GRIFFO: Read the
9 last section.

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

12 ACTING PRESIDENT GRIFFO: Call the
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 57.

16 ACTING PRESIDENT GRIFFO: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 346, by Senator Maziarz, Senate Print 3977, an
20 act to amend Chapter 631 of the Laws of 2008.

21 ACTING PRESIDENT GRIFFO: Read the
22 last section.

23 THE SECRETARY: Section 2. 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, 57.

4 ACTING PRESIDENT GRIFFO: The bill
5 is passed.

6 THE SECRETARY: Calendar Number
7 348, by Senator Maziarz, Senate Print 4514, an
8 act to amend the Public Service Law.

9 ACTING PRESIDENT GRIFFO: Read the
10 last section.

11 THE SECRETARY: Section 3. 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, 57.

17 ACTING PRESIDENT GRIFFO: The bill
18 is passed.

19 THE SECRETARY: Calendar Number
20 370, by Senator Martins, Senate Print 3705, an
21 act to amend Chapter 3 of the Laws of 2011.

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: In relation to
5 Calendar 370, those recorded in the negative are
6 Senators Espaillat, Squadron and Tkaczyk.

7 Ayes, 54. Nays, 3.

8 ACTING PRESIDENT GRIFFO: The bill
9 is passed.

10 THE SECRETARY: Calendar Number
11 371, by Senator Golden, Senate Print 4088B, an
12 act to amend the Election Law.

13 ACTING PRESIDENT GRIFFO: Read the
14 last section.

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

17 ACTING PRESIDENT GRIFFO: Call the
18 roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT GRIFFO: Announce
21 the results.

22 THE SECRETARY: In relation to
23 Calendar Number 371, those recorded in the
24 negative are Senators Espaillat, Hoylman,
25 Krueger, Parker, Perkins, Squadron and Tkaczyk.

1 Ayes, 50. Nays, 7.

2 ACTING PRESIDENT GRIFFO: The bill
3 is passed.

4 THE SECRETARY: Calendar Number
5 429, substituted earlier by Member of the
6 Assembly Mosley, Assembly Print Number 5057, an
7 act to amend Chapter 591 of the Laws of 2001.

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, 57.

16 ACTING PRESIDENT GRIFFO: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 433, by Senator Little, Senate Print 4282, an act
20 to amend the Executive Law.

21 ACTING PRESIDENT GRIFFO: Read the
22 last section.

23 THE SECRETARY: Section 7. This
24 act shall take effect immediately.

25 ACTING PRESIDENT GRIFFO: Call the

1 roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT GRIFFO: Announce
4 the results.

5 THE SECRETARY: In relation to
6 Calendar Number 433, those recorded in the
7 negative are Senators Avella, Dilan, Espaillat,
8 Gipson, O'Brien, Perkins and Serrano.

9 Ayes, 50. Nays, 7.

10 ACTING PRESIDENT GRIFFO: The bill
11 is passed.

12 THE SECRETARY: Calendar Number
13 439, by Senator Fuschillo, Senate Print 774, an
14 act to amend the General Business Law.

15 ACTING PRESIDENT GRIFFO: Read the
16 last section.

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

19 ACTING PRESIDENT GRIFFO: Call the
20 roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes, 57.

23 ACTING PRESIDENT GRIFFO: The bill
24 is passed.

25 THE SECRETARY: Calendar Number

1 444, by Senator Golden, Senate Print 2097A, an
2 act to amend the General Business Law.

3 ACTING PRESIDENT GRIFFO: Read the
4 last section.

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

7 ACTING PRESIDENT GRIFFO: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 57.

11 ACTING PRESIDENT GRIFFO: The bill
12 is passed.

13 THE SECRETARY: Calendar Number
14 447, by Senator Martins, Senate Print 4057A, an
15 act to amend the General Business Law.

16 SENATOR GIANARIS: Lay it aside.

17 ACTING PRESIDENT GRIFFO: Lay the
18 bill aside.

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

21 SENATOR LIBOUS: Mr. President, can
22 we now do the controversial reading of the
23 calendar.

24 ACTING PRESIDENT GRIFFO: The
25 Secretary will ring the bell.

1 The Secretary will read.

2 THE SECRETARY: Calendar Number
3 447, by Senator Martins, Senate Print 4057A, an
4 act to amend the General Business Law.

5 SENATOR KRUEGER: Explanation.

6 ACTING PRESIDENT GRIFFO: Senator
7 Martins, Senator Krueger has asked for an
8 explanation.

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

11 The bill repeals the requirement
12 that a qualified peace officer -- under 89-f of
13 the General Business Law, you have to have a
14 full-time employee. It would eliminate a
15 distinction that frankly this body and this state
16 eliminated four years ago.

17 In 2009, when this body was asked to
18 review the qualifications for peace officers and
19 the training requirements for peace officers,
20 they did so by eliminating distinctions between
21 full-time and part-time peace officers. Up till
22 that point, a full-time peace officer required
23 35 hours of training; a part-time peace officer
24 required 10 hours of training.

25 And it was decided that there was no

1 distinction between full-time and part-time peace
2 officers, that both required a certain amount of
3 training, up to 180 hours. And that was done in
4 2009. It passed the Senate unanimously, it
5 passed the Assembly unanimously, because at the
6 time it was recognized that there really
7 shouldn't be a distinction. Because whether
8 you're working full-time or part-time, you're
9 going to be expected to deal with those very same
10 issues.

11 One thing that we didn't find back
12 in 2009 was that this particular provision
13 actually continued the distinction. And so it
14 did take four years to catch it, but we are
15 there. The distinction was eliminated in 2009,
16 and all we've done through this bill is ask that
17 that distinction be eliminated in 2013 insofar as
18 it pertains to peace officer standing, consistent
19 with the law in New York State right now and the
20 decision of this body, which was unanimous back
21 in 2009.

22 ACTING PRESIDENT GRIFFO: Senator
23 Krueger.

24 SENATOR KRUEGER: Thank you.
25 Through you, Mr. President, if the sponsor would

1 media.

2 ACTING PRESIDENT GRIFFO: Senator
3 Martins, do you yield?

4 SENATOR MARTINS: Of course.

5 ACTING PRESIDENT GRIFFO: The
6 Senator yields.

7 SENATOR KRUEGER: Thank you.

8 So I understand that the bill is
9 very short and simply replaces "employed" -- it
10 crosses out "full-time" after "employed as a
11 peace officer." It also cites the section of the
12 law as being Section 1.20 of the Criminal
13 Procedure Law, which defines a peace officer as a
14 person listed in Section 2.10 in the Criminal
15 Procedure Law.

16 So am I to understand that every
17 category currently listed in 2.10 of the CPL
18 should now also be treated as "peace officer" for
19 part-time employees?

20 SENATOR MARTINS: Mr. President,
21 through you, that distinction was already -- that
22 definition already exists. The only difference
23 with respect to the bill -- and I will admit,
24 Senator Krueger, that the bill and the law
25 itself, frankly, is rather inartfully written.

1 When you define a peace officer as a peace
2 officer who's employed as a peace officer, you
3 know, it gets a little difficult.

4 But the sections that you're
5 referring to were there, they don't change. The
6 definitions don't change. Mr. President, the
7 only distinction is the term "full-time."

8 And again, consistent with the
9 determination, decision of this body and the law
10 of the State of New York as signed into law back
11 in 2010, but certainly the debates and
12 discussions or lack of debate and discussion back
13 in 2009, when the standards for peace officer
14 status was, I guess, made more uniform,
15 eliminating the distinction between full-time and
16 part-time, this just carries it over into this
17 particular provision of law.

18 ACTING PRESIDENT GRIFFO: Senator
19 Krueger.

20 SENATOR KRUEGER: Thank you,
21 Mr. President. If the sponsor will continue to
22 yield.

23 ACTING PRESIDENT GRIFFO: The
24 sponsor yields.

25 SENATOR MARTINS: Yes, thank you.

1 SENATOR KRUEGER: I appreciate his
2 pointing out the previous law, and it is
3 confusing, because I'm also confused.

4 My understanding is that there are
5 approximately 82 different categories of "peace
6 officer" defined within Section 2.10 of the
7 Criminal Procedure Law. So just for clarity
8 right now, if the sponsor would answer, so anyone
9 in 82 different categories, whether they're an
10 auxiliary police officer or a security guard, if
11 they're part-time, now they would also be defined
12 as "peace officer"?

13 SENATOR MARTINS: Mr. President,
14 through you. First of all, a security guard is
15 not a peace officer.

16 But an auxiliary police officer is a
17 part-time volunteer peace officer, and an
18 auxiliary police officer would in fact qualify
19 under this change. Because, Mr. President, and
20 I'm going to continue to reiterate it, because
21 they're required to follow the same training
22 requirements that a full-time peace officer on
23 that list would have to follow as well.

24 So having gone through the same
25 training requirements, yes, Mr. President,

1 although they're volunteers and they're
2 considered part-time, they would be peace
3 officers as well.

4 ACTING PRESIDENT GRIFFO: Senator
5 Krueger.

6 SENATOR KRUEGER: Thank you.

7 So to follow up, you're saying that
8 security guards would not be peace officers even
9 though in General Business Law -- excuse me --
10 the General Business Law as amended by
11 Chapter 634 of the Laws of 1994, which is the
12 section your bill is amending, actually does
13 define security guards as peace officers?

14 ACTING PRESIDENT GRIFFO: Senator
15 Krueger, you're asking the Senator to yield?

16 SENATOR KRUEGER: I'm asking the
17 Senator, yes, to yield. Thank you,
18 Mr. President.

19 ACTING PRESIDENT GRIFFO: Senator
20 Martins.

21 SENATOR MARTINS: Mr. President,
22 I'll yield. And if the Senator doesn't mind,
23 I'll answer the question.

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

1 SENATOR MARTINS: Mr. President,
2 through you. This particular section deals with
3 waivers. And so there's the distinction made
4 that a part-time peace officer would not be
5 entitled to a waiver, whereas a full-time peace
6 officer would.

7 Normally those waivers are obtained
8 to allow for a part-time or full-time, in this
9 case, peace officer to become a security guard.
10 It's that waiver that allows them the opportunity
11 to become a security guard.

12 So if you have a part-time volunteer
13 auxiliary police officer who went through the
14 same training as a full-time peace officer, they
15 would be denied a waiver to become a security
16 guard even though they'd gone through all the
17 training necessary for that. This would correct
18 that. And I hope that clarifies the question for
19 the Senator.

20 SENATOR KRUEGER: Through you,
21 Mr. President, I appreciate the sponsor's
22 answer. I would like for him to yield to an
23 additional question, if you don't mind.

24 SENATOR MARTINS: Yes.

25 ACTING PRESIDENT GRIFFO: Senator

1 Martins yields.

2 SENATOR KRUEGER: Thank you.

3 So under the scenario you're
4 proposing in this bill, somebody who had multiple
5 employers could be one type of peace officer part
6 of the time and then also a different type of
7 peace officer or a security guard the other part
8 of the time. Is that my understanding of what
9 you just said?

10 SENATOR MARTINS: Mr. President,
11 through you. What I said is that we have
12 consistently found that what's important when you
13 decide whether someone is a peace officer is less
14 the title than the training that goes into the
15 determination as to whether someone is a peace
16 officer.

17 And if they have multiple
18 employment, I would suggest that it's irrelevant
19 to the point of whether or not they had received
20 the proper training to be able to address those
21 issues that we find to be necessary for someone
22 who is a peace officer.

23 So what I would, though, point out
24 is we do have thousands of volunteer auxiliary
25 police officers throughout the state who have

1 gone through the necessary training but, because
2 their particular designation, given their
3 volunteer status, is part-time, they are not
4 entitled to a waiver when it comes to seeking
5 employment as a security guard. And this bill
6 would correct that.

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

10 SENATOR MARTINS: Of course.

11 ACTING PRESIDENT GRIFFO: The
12 sponsor yields.

13 SENATOR KRUEGER: And I appreciate
14 that one scenario could be auxiliary police
15 officers taking second jobs. But it could be
16 anybody in a part-time job or anybody in one
17 part-time job taking a second part-time job.

18 So how do -- through you,
19 Mr. President, if the sponsor will continue to
20 yield.

21 SENATOR MARTINS: Of course. Thank
22 you.

23 SENATOR KRUEGER: Thank you.

24 How do we handle the differences in
25 that there are currently different sets of

1 training and different types of training for
2 different kinds of peace officers, and that
3 somebody who might currently be a peace officer
4 within a hospital setting could now be part-time
5 a security guard, only have had minimal training
6 for a certain kind of peace officer function, but
7 require no additional training in a second or a
8 different part-time job?

9 How do we deal with the fact that we
10 have so many different categories with so many
11 different standards of training? Because
12 Subdivision 2.30 of the Criminal Procedure Law
13 allows the employer to prescribe the subjects and
14 the hours of training to be taught for the
15 special nature of duties of the peace officer in
16 his or her employment.

17 And so how are we assured that with
18 the expansion of eligibility for peace officer
19 status as a part-time worker in this bill, you're
20 not going to have people who were not fully
21 trained for the functions of their second job or
22 their new part-time job? How are we going to
23 deal with that?

24 ACTING PRESIDENT GRIFFO: Senator
25 Martins.

1 SENATOR MARTINS: Mr. President,
2 through you. I certainly understand the
3 Senator's concerns. But those concerns aren't
4 being met by the bill as it currently stands.

5 An artificial distinction between
6 part-time and full-time that doesn't take into
7 consideration the fact that the training
8 requirements have been made more uniform --
9 actually, they've been made perfectly uniform,
10 without distinction for part-time and full-time.
11 So that when someone who is a part-time peace
12 officer and has gone through the training is
13 precluded from receiving a waiver simply because
14 of the number of hours that they work, I would
15 think that that would be an inconsistency that
16 was not foreseen when the Legislature carried
17 this change back in 2009.

18 If it had been foreseen, I would
19 expect that the bill would have been amended and
20 included it back then.

21 But I don't see the distinction.
22 Whether someone is a full-time peace officer
23 specifically working in a certain area of -- in
24 his duties as a peace officer, they should not be
25 precluded from getting a waiver either way.

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

4 SENATOR MARTINS: Yes, thank you.

5 ACTING PRESIDENT GRIFFO: The
6 sponsor yields.

7 SENATOR KRUEGER: Thank you.

8 See, again, my dilemmas go back --
9 and I agree with the sponsor that he is raising
10 that some of these concerns exist under current
11 law. I think I have a problem with the
12 fundamental underlying law. But I fear that
13 expanding upon it to a broader universe of people
14 potentially playing multiple part-time jobs only
15 multiplies the concern.

16 So the question -- I know you want
17 to ask that, Mr. President -- but I would like to
18 ask is, are we going to make all the employers
19 for any individual part-time or multiple-job
20 peace officer file the required reports on
21 training to the Division of Criminal Justice
22 Services as they have to do for regular full-time
23 employees now?

24 And are we going to confirm that the
25 part-time peace officers, which could be in any

1 combination of currently 82 different positions,
2 are in fact appropriately trained for the
3 function they are playing, either part-time or
4 part of the week or with the next job that comes
5 along?

6 SENATOR MARTINS: Through you,
7 Mr. President. Frankly, I don't know. I don't
8 know.

9 And I'll add that when you consider
10 this -- and certainly training is important.
11 Prior to 2009, the training requirements,
12 Mr. President, for a part-time peace officer were
13 10 hours. The training requirements for a
14 full-time police officer were 35 hours. They're
15 now 180 hours, whether you're part-time or
16 whether you're full-time.

17 So I would hope that just that
18 distinction, the fact that the laws in 2009
19 increased the hours without a distinction as to
20 part-time or full-time, would in some ways
21 alleviate some of the concerns that the Senator
22 may have.

23 SENATOR KRUEGER: Through you,
24 Mr. President, would the sponsor yield to one
25 additional question.

1 SENATOR MARTINS: Of course. Thank
2 you.

3 ACTING PRESIDENT GRIFFO: The
4 sponsor yields.

5 SENATOR KRUEGER: Is it the
6 sponsor's understanding that if given peace
7 officer status, that person has the right to
8 detain someone -- i.e., an arrest-like situation
9 or a hold-like situation -- and that that peace
10 officer or being given peace officer status also
11 allows them to be exempt from certain kinds of
12 liability for false arrest as we have with police
13 officers?

14 SENATOR MARTINS: Mr. President,
15 through you. This law wouldn't change that or
16 this proposed bill wouldn't change that one bit.

17 That person who is designated as a
18 part-time peace officer or a full-time peace
19 officer would continue to have the same
20 responsibilities and the same authority that the
21 law confers. So this wouldn't change it at all.

22 SENATOR KRUEGER: I want to thank
23 the sponsor for his answers.

24 SENATOR MARTINS: Thank you.

25 SENATOR KRUEGER: I'd like to speak

1 on the bill.

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

4 SENATOR KRUEGER: Thank you.

5 I mostly agree with the sponsor that
6 his bill doesn't significantly change any of the
7 moving parts of peace officer status in the State
8 of New York.

9 But I want to argue we shouldn't
10 vote for the bill because we need to address the
11 underlying problem, which is this has all gotten
12 out of hand. We have 82 different job titles
13 where a person could be a peace officer, where
14 they could be recognized in Locality A but not in
15 Locality B. New York City has much stricter
16 requirements for training and protocols for peace
17 officers than many other parts of the state.

18 That being a peace officer -- which
19 can range from security guard to animal control
20 person to someone who works in the court system
21 to somebody who works in a college campus to
22 someone who works in a hospital setting to
23 someone who works in a mall -- they potentially
24 have, under our existing too vague, too loose
25 peace officer laws, the possibility to have

1 warrantless arrests, warrantless searches,
2 warrantless stops.

3 And the training requirements are
4 incredibly broad and also vague, although we know
5 that a disproportionate number of people who get
6 peace officer status then go on to further get
7 permits to carry guns.

8 And personally allowing a giant
9 system of almost endless scenarios with no
10 standards for review of who this person is, the
11 type of training they go through, and the
12 possibility of their then getting guns varying
13 from town to town, county to county, city to
14 city, has actually resulted in the creation of a
15 secondhand police system without standards and
16 rules but with a lot of the same authority.

17 And so it's not a surprise, I think,
18 to people who have been here that I vote against
19 almost all peace officer laws because year
20 after year I watch us expand the universe of who
21 gets to be called a peace officer and the powers
22 that they have.

23 And I have to say I think expanding
24 it to now the possibility of part-time employees,
25 where we're moving into a culture where we see

1 more and more contracted-out part-time workers
2 with little accountability and little oversight,
3 particularly in the what I'll euphemistically
4 call the rent-a-cop security guard world, is bad
5 public policy.

6 And that what New York should be
7 doing and the New York State Senate should be
8 doing is going back to looking at the Criminal
9 Procedure Law and all the associated rulings on
10 who is and isn't a peace officer, what they must
11 go through and what job descriptions they
12 actually have, and start again.

13 And I highlight this in the context
14 of the fact this bill didn't go through the
15 Codes Committee even though all my questions
16 relate to the Criminal Procedure Law. It went
17 through the Consumer Affairs Committee -- an
18 excellent committee, but a committee that deals
19 with consumer protection outside, usually, the
20 context of Criminal Procedure Law.

21 So I think that this whole issue of
22 the massive expansion of peace officers, the
23 diversity of them, and the absolutely no
24 standards between 82 different job categories in
25 endless different localities and counties and

1 municipalities in the state who can each have
2 their own rules, as allowed in the CPL, really
3 calls for us not to expand who can be a peace
4 officer or the sheer number of people who could
5 have peace officer status in the state, and
6 rather go back to square one and say what have we
7 done, what do we know is going on out there, and
8 should we rethink this in the context of
9 21st-century law enforcement and community
10 safety.

11 So I would urge us to vote no,
12 Mr. President, but to make a commitment to asking
13 the hard questions about how we got here.

14 Thank you, Mr. President.

15 ACTING PRESIDENT GRIFFO: Thank
16 you, Senator Krueger.

17 Senator Martins.

18 SENATOR MARTINS: How did we get to
19 82 titles under "peace officer"? I think we just
20 need to look around the room and look at maybe
21 some of our predecessors in this body.

22 But that is the law. This bill
23 doesn't address that. And certainly if somebody
24 in this body wants to propose a bill that would
25 change that, I'd be more than happy to review it

1 with you, more than happy to look at it, more
2 than happy to even perhaps support it.

3 This bill isn't about that. This
4 bill is about whether or not somebody who is a
5 volunteer or a part-time police officer, perhaps
6 volunteering as an auxiliary police officer in
7 our own communities, who's gone through all of
8 the training that a full-time peace officer has
9 to go through, put in 180 hours, and has made the
10 commitment, is entitled to a waiver as a result
11 of the fact that they're a part-time peace
12 officer when that distinction was eliminated four
13 years ago but for this section.

14 So when you consider that, consider
15 the amount of training that they've gotten, when
16 you consider the reason behind it -- and we can
17 come back and look at the underpinnings of peace
18 officer status and how many people have it and
19 who should have it and who shouldn't have it, but
20 that's not what this bill is about.

21 So when you consider whether to vote
22 for this bill, understand that we're not talking
23 about that, we're talking about a distinction
24 that was eliminated four years ago and merely
25 trying to close the loop and not disenfranchise,

1 in many respects, people who are working either
2 part-time or people who are volunteering in their
3 communities from being able to get a waiver that
4 they would otherwise be entitled to given the
5 amount of training that they've received.

6 Thank you, Mr. President.

7 ACTING PRESIDENT GRIFFO: Seeing
8 and hearing no other Senator who wishes to be
9 heard, the debate is closed.

10 The Secretary will ring the bell.

11 Read the 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 ACTING PRESIDENT GRIFFO: Announce
18 the results.

19 THE SECRETARY: In relation to
20 Calendar Number 447, those recorded in the
21 negative are Senators Krueger, Parker, Perkins
22 and Sanders.

23 Absent from voting: Senators
24 Sampson and Squadron.

25 Ayes, 52. Nays, 4.

1 ACTING PRESIDENT GRIFFO: The bill
2 is passed.

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

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

7 At this time, Mr. President, in
8 consultation with Senator Stewart-Cousins,
9 Senator Klein, Senator Skelos, we'd like to hand
10 up the following Democratic Conference
11 appointments.

12 ACTING PRESIDENT GRIFFO: Received.
13 Senator Libous.

14 SENATOR LIBOUS: Is there any
15 further business at the desk, Mr. President?

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

18 SENATOR LIBOUS: Okay. There being
19 no further business, I move that the Senate
20 adjourn until Tuesday, May 7th, at 3:00 p.m.

21 ACTING PRESIDENT GRIFFO: On
22 motion, the Senate stands adjourned until
23 Tuesday, May 7th, at 3:00 p.m. -- can I have
24 everyone's attention, please.

25 Are we okay, Senator Libous?

1 SENATOR LIBOUS: What's that?

2 ACTING PRESIDENT GRIFFO: Okay?

3 SENATOR LIBOUS: Yeah, it's great
4 with me.

5 ACTING PRESIDENT GRIFFO: Okay. On
6 motion, the Senate stands adjourned until
7 Tuesday, May 7th, at 3:00 p.m.

8 Senate adjourned.

9 (Whereupon, at 5:25 p.m., the Senate
10 adjourned.)

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25