

1 NEW YORK STATE SENATE

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3
4 THE STENOGRAPHIC RECORD

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7
8 ALBANY, NEW YORK

9
10 June 4, 2013

11 3:48 p.m.

12
13
14 REGULAR SESSION

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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: Today's
10 prayer will be offered by Muhammad Sayeedur
11 Rahman Khan, Imam of Masjid Al Arapha in
12 Jamaica, Queens, New York City.

13 Imam.

14 IMAM KHAN: {Singing in Arabic.}

15 I seek refuge to Allah from the
16 devils, the rejectors, with the name of Allah,
17 the God most merciful, the most beneficent.

18 To Allah belongs all that is in the
19 heavens and all in the earth. And whether you
20 disclose what is in your minds or conceal it,
21 Allah will call you to account for it. Then he
22 forgives whom he will please and punishes whom
23 he wills. And Allah has power over all things.

24 The messenger, Muhammad, peace be
25 upon him, believes what has been sent down to

1 him from his Lord, and so do the believers.
2 Each one believes in Allah, His angels, His
3 books, and his messengers. They say, "We make
4 no distinction between one another of his
5 messengers." And they say, "We hear and we
6 obey. We seek Your forgiveness, O our Lord, and
7 to You is the return."

8 Allah not burdens a person beyond
9 his scope. He gets reward for that good actions
10 which he does, what he earns, and he is punished
11 for the evil which he has earned.

12 O our Lord, do not punish us if we
13 forget or fall into error. Our Lord, lay not on
14 us a burden like that which You did lay on those
15 nations before us. Our Lord, do not put on us a
16 burden greater than we have strength to bear.

17 Pardon us and grant us
18 forgiveness. Have mercy on us. You are our
19 patron, supporter and protector. And give us
20 victory over the disbelieving peoples.

21 Amen, God, Just One, Amen.

22 ACTING PRESIDENT GRIFFO: Thank
23 you, Imam.

24 The reading of the Journal.

25 THE SECRETARY: In Senate, Monday,

1 June 3rd, the Senate met pursuant to
2 adjournment. The Journal of Sunday, June 2nd,
3 was read and approved. On motion, Senate
4 adjourned.

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

7 Presentation of petitions.

8 Messages from the Assembly.

9 The Secretary will read.

10 THE SECRETARY: On page 27,
11 Senator Marcellino moves to discharge, from the
12 Committee on Investigations and Government
13 Operations, Assembly Bill Number 5788 and
14 substitute it for the identical Senate Bill
15 Number 4317, Third Reading Calendar 315.

16 ACTING PRESIDENT GRIFFO:
17 Substitution so ordered.

18 Can I have some order in the
19 chamber, please.

20 The Secretary will continue.

21 THE SECRETARY: On page 43,
22 Senator Espaillat moves to discharge, from the
23 Committee on Housing, Construction and Community
24 Development, Assembly Bill Number 2929A and
25 substitute it for the identical Senate Bill

1 Number 1740A, Third Reading Calendar 674.

2 ACTING PRESIDENT GRIFFO:

3 Substitution so ordered.

4 THE SECRETARY: On page 46,
5 Senator LaValle moves to discharge, from the
6 Committee on Judiciary, Assembly Bill Number 4359
7 and substitute it for the identical Senate Bill
8 Number 1562, Third Reading Calendar 760.

9 ACTING PRESIDENT GRIFFO: The
10 substitution is so ordered.

11 THE SECRETARY: On page 46,
12 Senator Martins moves to discharge, from the
13 Committee on Judiciary, Assembly Bill Number 6551
14 and substitute it for the identical Senate Bill
15 Number 4833, Third Reading Calendar 764.

16 ACTING PRESIDENT GRIFFO: The
17 substitution is so ordered.

18 The Secretary will continue.

19 THE SECRETARY: And on page 46,
20 Senator Bonacic moves to discharge, from the
21 Committee on Judiciary, Assembly Bill Number 6553
22 and substitute it for the identical Senate Bill
23 Number 5004, Third Reading Calendar 765.

24 ACTING PRESIDENT GRIFFO: The
25 substitution is so ordered.

1 Messages from the Governor.

2 Reports of standing committees.

3 Reports of select committees.

4 Communications and reports of
5 officers.

6 Motions and resolutions.

7 Senator Libous.

8 SENATOR LIBOUS: Mr. President,
9 we'll come back and do motion and resolutions.
10 Right now I think it's more imperative that we
11 call an immediate meeting of the Finance
12 Committee in Room 332.

13 There will be an immediate meeting
14 of the Finance Committee in Room 332, and in the
15 in the meantime we will stand at ease.

16 ACTING PRESIDENT GRIFFO: There's
17 an immediate meeting of the Finance Committee in
18 Room 332.

19 The Senate will stand at ease.

20 SENATOR LIBOUS: Mr. President.

21 ACTING PRESIDENT GRIFFO: Senator
22 Libous.

23 SENATOR LIBOUS: While we're
24 calling members to the Finance Committee, we
25 could do some housekeeping. So let's go back to

1 motions.

2 ACTING PRESIDENT GRIFFO: The
3 Senate is in session.

4 Senator Libous, we'll return to
5 motions and resolutions.

6 SENATOR LIBOUS: Mr. President, on
7 behalf of Senator Zeldin, I wish -- can we have a
8 little order?

9 ACTING PRESIDENT GRIFFO: Excuse
10 me, Senator Libous.

11 Can I have some order in the
12 chamber, please. I know members are moving to
13 the Finance Committee meeting. But I would ask
14 all of the conversations to please be taken
15 outside the chamber {gaveling}.

16 The Finance Committee is to report
17 in Room 332. We are returning to motions and
18 resolutions.

19 Senator Libous.

20 SENATOR LIBOUS: Mr. President, on
21 behalf of Senator Zeldin, I wish to call up his
22 bill, Print Number 3816, recalled from the
23 Assembly, which is now at the desk.

24 ACTING PRESIDENT GRIFFO: The
25 Secretary will read.

1 THE SECRETARY: Calendar Number
2 236, by Senator Zeldin, Senate Print 3816, an act
3 to amend Chapter 719 of the Laws of 1982.

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

7 ACTING PRESIDENT GRIFFO: Call the
8 roll on reconsideration.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 60.

11 SENATOR LIBOUS: Mr. President, I
12 offer up the following amendments.

13 ACTING PRESIDENT GRIFFO: The
14 amendments are received.

15 SENATOR LIBOUS: Mr. President, on
16 behalf of Senator Libous, I wish to call up his
17 bill Print Number 4360A, recalled from the
18 Assembly, which is now at the desk.

19 ACTING PRESIDENT GRIFFO: The
20 Secretary will read.

21 THE SECRETARY: Calendar Number
22 511, by Senator Libous, Senate Print 4360A, an
23 act to amend the Highway Law.

24 SENATOR LIBOUS: I move to
25 reconsider the vote by which this bill was

1 passed.

2 ACTING PRESIDENT GRIFFO: Call the
3 roll on reconsideration.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 60.

6 SENATOR LIBOUS: Mr. President, I
7 hand up the following amendments.

8 ACTING PRESIDENT GRIFFO: The
9 amendments are received.

10 SENATOR LIBOUS: Mr. President, on
11 behalf of Senator LaValle, on page 23 I offer the
12 following amendments to Calendar Number 154,
13 Senate Print 1853, and ask that said bill retain
14 its place on the Third Reading Calendar.

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

18 SENATOR LIBOUS: Mr. President, on
19 behalf of Senator Fuschillo, on page 41 I offer
20 the following amendments to Calendar Number 646,
21 Senate Print 770A, and ask that said bill retain
22 its place on the Third Reading Calendar.

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

1 SENATOR LIBOUS: On behalf of
2 Senator Golden, on page 23 I offer the following
3 amendments to Calendar Number 175, Senate Print
4 3754A, and ask that said bill retain its place on
5 the Third Reading Calendar.

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

9 SENATOR LIBOUS: On behalf of
10 Senator Ball, on page 33 I offer the following
11 amendments to Calendar Number 453, Senate Print
12 2560, and ask that said bill retain its place on
13 the Third Reading Calendar.

14 And, Mr. President, at this time
15 would you call on Senator Carlucci.

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

19 Senator Carlucci.

20 SENATOR CARLUCCI: Mr. President,
21 on behalf of Senator Klein, on page number 46 I
22 offer the following amendments to Calendar Number
23 761, Senate Print Number 3567, and ask that the
24 said bill retain its place on the Third Reading
25 Calendar.

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

4 Senator Libous.

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

7 At this time I believe that Senator
8 Peralta would like to be recognized for the
9 purposes of recognizing a group that is with us
10 in the chamber today.

11 ACTING PRESIDENT GRIFFO: Senator
12 Peralta for the purposes of an acknowledgment.

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

15 I am extremely proud to recognize,
16 welcome and honor the men and women from the
17 Bangladeshi-American group who have joined us
18 here today in the Capitol -- in particular, Kamal
19 Bhuiyan, Jahinger, Zhazan, and all the other
20 organizers that brought this group up here to
21 Albany.

22 From politics and the economy to
23 science and technology to the arts and
24 scholarship, Bangladeshi-Americans have made an
25 enormous contribution to this state and this

1 nation.

2 I'm extremely fortunate to have a
3 large, vibrant Bangladeshi-American population
4 right in the heart of my district. My
5 Bangladeshi-American constituents have
6 strengthened and enriched our neighborhoods, our
7 community and our local economy through their
8 valuable contributions and customs.

9 I am thrilled to see members of my
10 community and other Bangladeshi-American
11 New Yorkers from across the state up in the
12 Capitol making their presence known and their
13 voices heard. New York's greatest strength is
14 its diversity, and this day is an important step
15 towards making our state stronger than ever.

16 I want to thank all of you for
17 coming and showing up here and all your enormous
18 contributions to the State of New York. Thank
19 you for doing what you do on a day-to-day basis.

20 Please stand up.

21 (Applause.)

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

24 And we thank you all and welcome you
25 to the Senate chambers.

1 Senator Maziarz.

2 SENATOR MAZIARZ: Thank you very
3 much, Mr. President.

4 Could the Senate now please stand at
5 ease pending the reports of the various
6 committees.

7 ACTING PRESIDENT GRIFFO: The
8 Senate will stand at ease.

9 (Whereupon, the Senate stood at ease
10 at 4:01 p.m.)

11 (Whereupon, the Senate reconvened at
12 4:20 p.m.)

13 SENATOR LIBOUS: Mr. President.

14 ACTING PRESIDENT GRIFFO: Senator
15 Libous.

16 SENATOR LIBOUS: If we can return
17 to reports of standing committees, I believe
18 there's a report of the Finance Committee at the
19 desk.

20 ACTING PRESIDENT GRIFFO: The
21 Senate will come to order.

22 We will return to reports of
23 standing committees.

24 The Secretary will read.

25 THE SECRETARY: Senator

1 DeFrancisco, from the Committee on Finance,
2 reports the following nominations:

3 As commissioner of the
4 Port Authority of New York and New Jersey,
5 Jeffrey Hayden Lynford, of New York.

6 ACTING PRESIDENT GRIFFO: Senator
7 DeFrancisco.

8 SENATOR DeFRANCISCO: Thanks,
9 Mr. President.

10 I am proud to rise to move the
11 nomination and reappointment of Jeffrey Hayden
12 Lynford, of New York City, for commissioner of
13 the Port Authority of New York and New Jersey.

14 He appeared not only before the
15 Transportation Committee but also before the
16 Finance Committee, and was unanimously approved
17 at both committees, and reasonably so.

18 This individual has an incredible
19 record, and the mere fact that he's willing to
20 add this responsibility on all of the other
21 responsibilities he has is really a tribute to
22 him. And it's a great nomination by
23 Governor Cuomo.

24 So I move his nomination.

25 ACTING PRESIDENT GRIFFO: Thank

1 you, Senator DeFrancisco.

2 The question is on the nomination of
3 Jeffrey Hayden Lynford as a commissioner of the
4 Port Authority of New York and New Jersey. All
5 in favor signify by saying aye.

6 (Response of "Aye.")

7 ACTING PRESIDENT GRIFFO: Opposed,
8 nay.

9 (No response.)

10 ACTING PRESIDENT GRIFFO: Jeffrey
11 Hayden Lynford is hereby confirmed as a
12 commissioner of the Port Authority of New York
13 and New Jersey.

14 Congratulations and good luck.

15 (Applause.)

16 ACTING PRESIDENT GRIFFO:
17 Mr. Lynford, we thank you and express our
18 gratitude and best wishes.

19 For the second nomination, the chair
20 recognizes Senator DeFrancisco.

21 SENATOR DeFRANCISCO: Yes, I have
22 another nomination, a reappointment as a member
23 of the Republic Airport Commission, Frank A.
24 Nocerino, of North Massapequa.

25 ACTING PRESIDENT GRIFFO: Senator

1 DeFrancisco, first we'll have the Secretary read
2 the nomination.

3 THE SECRETARY: As a member of the
4 Republic Airport Commission, Frank A. Nocerino,
5 of North Massapequa.

6 ACTING PRESIDENT GRIFFO: Senator
7 DeFrancisco.

8 SENATOR DeFRANCISCO: In the
9 interests of time, I move the nomination.

10 ACTING PRESIDENT GRIFFO: The
11 question is on the nomination of Frank A.
12 Nocerino as a member of the Republic Airport
13 Commission. All in favor signify by saying aye.

14 (Response of "Aye.")

15 ACTING PRESIDENT GRIFFO: Opposed,
16 nay.

17 (No response.)

18 ACTING PRESIDENT GRIFFO: Frank A.
19 Nocerino is hereby confirmed as a member of the
20 Republic Airport Commission.

21 Thank you, Senator DeFrancisco.

22 Senator Libous.

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

25 Could we go back to motions and

1 resolutions, please.

2 ACTING PRESIDENT GRIFFO: We will
3 return to motions and resolutions.

4 SENATOR LIBOUS: At this time could
5 we adopt the Resolution Calendar.

6 ACTING PRESIDENT GRIFFO: All in
7 favor of adopting the Resolution Calendar signify
8 by saying aye.

9 (Response of "Aye.")

10 ACTING PRESIDENT GRIFFO: Opposed,
11 nay.

12 (No response.)

13 ACTING PRESIDENT GRIFFO: The
14 Resolution Calendar is adopted.

15 SENATOR LIBOUS: Mr. President, can
16 you talk and write at the same time?

17 ACTING PRESIDENT GRIFFO: I can.
18 You've taught me well.

19 SENATOR LIBOUS: Good. Would you
20 call on Senator Serrano, please.

21 ACTING PRESIDENT GRIFFO: Senator
22 Serrano.

23 SENATOR SERRANO: Thank you. There
24 will be an immediate meeting of the Democratic
25 Conference in Room 351.

1 ACTING PRESIDENT GRIFFO: There
2 will be an immediate meeting of the Democrat
3 Conference in Room 315.

4 SENATOR LIBOUS: Mr. President,
5 before the Democrats conference, if all the
6 members would pay close attention.

7 At ten minutes to 5:00 there will be
8 a Rules Committee meeting, and I would ask that
9 everybody be there promptly, in Room 332. So at
10 ten minutes to 5:00 there will be a Rules
11 Committee meeting. We will buzz through the
12 Rules Committee meeting, come back to the floor
13 and address the calendar.

14 In the meantime, the Senate will
15 stand at ease.

16 ACTING PRESIDENT GRIFFO: There
17 will be a meeting of the Rules Committee at
18 4:50 p.m. in Room 332.

19 Until such time, the Senate will
20 stand at ease.

21 (Whereupon, the Senate stood at ease
22 at 4:24 p.m.)

23 (Whereupon, the Senate reconvened at
24 5:14 p.m.)

25 SENATOR LIBOUS: Mr. President.

1 ACTING PRESIDENT GRIFFO: Senator
2 Libous.

3 SENATOR LIBOUS: Could we go back
4 to motions, please.

5 ACTING PRESIDENT GRIFFO: The
6 Senate will return to session, and we'll return
7 to the order of motions and resolutions.

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

10 On behalf of Senator Golden, on
11 page 41 I offer the following amendments to
12 Calendar Number 655, Senate Print 4248, and ask
13 that said bill retain its place on the Third
14 Reading Calendar.

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

18 SENATOR LIBOUS: Also on behalf of
19 Senator Golden, on page 31 I offer the following
20 amendments to Calendar Number 393, Senate Print
21 4444, and ask that said bill retain its place on
22 the Third Reading Calendar.

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

1 Senator Libous.

2 SENATOR LIBOUS: Mr. President, at
3 this time could we go back to reports of standing
4 committees.

5 I believe there's a report of the
6 Rules Committee at the desk. I ask that it be
7 read at this time.

8 ACTING PRESIDENT GRIFFO: We will
9 return to reports of standing committees, and the
10 Secretary will read.

11 THE SECRETARY: Senator Skelos,
12 from the Committee on Rules, reports the
13 following bills:

14 Senate Print 1294, by Senator
15 Griffo, an act to amend the General Municipal
16 Law;

17 Senate 1940, by Senator Fuschillo,
18 an act to amend the Limited Liability Company
19 Law;

20 Senate 3462, by Senator Seward,
21 Concurrent Resolution of the Senate and Assembly;

22 Senate 5009A, by Senator Valesky, an
23 act to amend the Legislative Law;

24 Senate 5161, by Senator Marchione,
25 an act to amend the Legislative Law;

1 Senate 5166, by Senator Marchione,
2 an act relating to rules and regulations;
3 Senate 5241, by Senator Ball, an act
4 to authorize the commissioner;
5 Senate 5441, by Senator Kennedy, an
6 act to amend the Highway Law;
7 Senate 5519, by Senator Griffo, an
8 act to amend the Executive Law;
9 Senate 5536A, by Senator Maziarz, an
10 act to amend the Public Service Law;
11 Senate 5553, by Senator Valesky, an
12 act to amend the State Administrative Procedure
13 Act;
14 Senate 5656, by Senator Marcellino,
15 an act to amend the Vehicle and Traffic Law;
16 And Senate 5657, by Senator
17 Gallivan, an act to amend the State
18 Administrative Procedure Act.
19 All bills reported direct to third
20 reading.
21 SENATOR LIBOUS: Move to accept the
22 report of the Rules Committee.
23 ACTING PRESIDENT GRIFFO: All in
24 favor of accepting the Committee on Rules report
25 signify by saying aye.

1 (Response of "Aye.")

2 ACTING PRESIDENT GRIFFO: Opposed,
3 nay.

4 (No response.)

5 ACTING PRESIDENT GRIFFO: The
6 report is accepted.

7 Senator Libous.

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

11 ACTING PRESIDENT GRIFFO: The
12 Secretary will read.

13 THE SECRETARY: Calendar Number 80,
14 by Senator Golden, Senate Print 2093, an act to
15 amend the Elder Law.

16 ACTING PRESIDENT GRIFFO: Read the
17 last section.

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

20 ACTING PRESIDENT GRIFFO: Call the
21 roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 61. Nays, 1.
24 Senator Ball recorded in the negative.

25 ACTING PRESIDENT GRIFFO: The bill

1 is passed.

2 THE SECRETARY: Calendar Number
3 315, substituted earlier by Member of the
4 Assembly --

5 SENATOR LIBOUS: Lay the bill aside
6 for the day.

7 ACTING PRESIDENT GRIFFO: Lay it
8 aside for the day.

9 THE SECRETARY: Calendar Number
10 341, by Senator Martins, Senate Print 4056, an
11 act to repeal Section 271 of the Highway Law.

12 ACTING PRESIDENT GRIFFO: Read the
13 last section.

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

16 ACTING PRESIDENT GRIFFO: Call the
17 roll.

18 (The Secretary called the roll.)

19 ACTING PRESIDENT GRIFFO: Announce
20 the results.

21 THE SECRETARY: In relation to
22 Calendar Number 341, those recorded in the
23 negative are Senators Espaillat, Gianaris,
24 Gipson, Krueger, Rivera, Sanders, Serrano and
25 Tkaczyk.

1 (Pause.)

2 ACTING PRESIDENT GRIFFO: Results.

3 THE SECRETARY: In relation to
4 Calendar 341, those recorded in the negative are
5 Senators Ball, Espaillat, Gianaris, Gipson,
6 Hassell-Thompson, Krueger, Parker, Rivera,
7 Sanders, Serrano, Stavisky, and Tkaczyk.

8 Ayes, 51. Nays, 12.

9 ACTING PRESIDENT GRIFFO: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 360, by Senator Golden, Senate Print 2094A, an
13 act to amend the Domestic Relations Law.

14 ACTING PRESIDENT GRIFFO: Read the
15 last section.

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

18 ACTING PRESIDENT GRIFFO: Call the
19 roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 63.

22 ACTING PRESIDENT GRIFFO: The bill
23 is passed.

24 THE SECRETARY: Calendar Number
25 460, by Senator Grisanti, Senate Print 1675, an

1 act to amend the Navigation Law.

2 ACTING PRESIDENT GRIFFO: Read the
3 last section.

4 THE SECRETARY: Section 6. 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: Senator
10 Grisanti to explain his vote.

11 SENATOR GRISANTI: Yes, thank you,
12 Mr. President.

13 You know, this bill passed last
14 year. And I don't understand why so many people
15 are voting against this bill.

16 If you're looking at what the office
17 of the State Comptroller is saying for an
18 opposition, it's absolutely not correct at what
19 they're stating.

20 Basically the purpose of the bill is
21 to get more oil spills cleaned, more oil spills
22 cleaned up in your districts. Oil spills that
23 are old abandoned gas stations that are sitting
24 there. This bill allows a person who has by a
25 preponderance of evidence the information that

1 another person did the spill, then they can go
2 ahead and have another individual pay for the
3 cleanup. Or they jointly pay for the cleanup.

4 We have over 16,000 spills across
5 New York State. You know what have been cleaned
6 up? Two hundred and fifty. That's why these gas
7 stations are sitting there by themselves for
8 years and years and years causing blight in your
9 communities.

10 This bill allows a different area.
11 The last time any of this Navigation Law was
12 amended was 1992. We have come a long way in
13 scientific methods. We have, believe it or not,
14 a DNA sort of testing; we know how old the oil
15 is, we know how old the gas is that's under the
16 ground that spilled so we can basically state who
17 caused that spill and who was the owner at that
18 time.

19 That's all you need to then go to
20 the DEC. It relieves the burden on them to say,
21 Hey, I just bought the property. This guy is the
22 one that did it two years ago, five years ago, 10
23 years ago. And the evidence is there and the
24 evidence is clear.

25 So I urge you to take a look at the

1 justification, read the bill. This is not
2 something that is a burden, it strengthens it.
3 And it works well and it will move these
4 properties back onto the tax roll to increase
5 revenue for the state.

6 I vote aye, Mr. President. And I
7 urge you to talk to me and I'll send you the
8 information. Thank you very much.

9 ACTING PRESIDENT GRIFFO: Senator
10 Grisanti to be recorded in the affirmative.

11 Announce the results.

12 THE SECRETARY: In relation to
13 Calendar Number 460, those recorded in the
14 negative are Senators Addabbo, Avella, Ball,
15 Breslin, Carlucci, Dilan, Espaillat, Gianaris,
16 Gipson, Hassell-Thompson, Krueger, Latimer,
17 LaValle, Marcellino, Montgomery, Parker, Rivera,
18 Sanders, Squadron, Stewart-Cousins and Tkaczyk.
19 Also Senator Peralta. Also Senator Perkins.

20 (Pause.)

21 ACTING PRESIDENT GRIFFO: Announce
22 the results.

23 THE SECRETARY: In relation to
24 Calendar Number 460, those recorded in the
25 negative are Senators Addabbo, Avella, Ball,

1 Breslin, Carlucci, Dilan, Espaillat, Gianaris,
2 Gipson, Hassell-Thompson, Hoylman, Krueger,
3 Latimer, LaValle, Marcellino, Montgomery, Parker,
4 Peralta, Perkins, Rivera, Sanders, Serrano,
5 Squadron, Stavisky, Stewart-Cousins and Tkaczyk.

6 Ayes, 37. Nays, 26.

7 ACTING PRESIDENT GRIFFO: The bill
8 is passed.

9 THE SECRETARY: Calendar Number
10 492, by Senator Grisanti, Senate Print 4244, an
11 act to amend the Local Finance Law.

12 ACTING PRESIDENT GRIFFO: There is
13 a home-rule message at the desk.

14 The Secretary will read the last
15 section.

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

18 ACTING PRESIDENT GRIFFO: Call the
19 roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 62. Nays,
22 1. Senator Ball recorded in the negative.

23 ACTING PRESIDENT GRIFFO: The bill
24 is passed.

25 THE SECRETARY: Calendar Number

1 535, by Senator Parker, Senate Print 1615A, an
2 act to amend the Not-For-Profit Corporation Law.

3 ACTING PRESIDENT GRIFFO: Read the
4 last section.

5 THE SECRETARY: Section 2. This
6 act shall take effect November 11, 2014.

7 ACTING PRESIDENT GRIFFO: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 63.

11 ACTING PRESIDENT GRIFFO: The bill
12 is passed.

13 THE SECRETARY: Calendar Number
14 578, by Senator Carlucci, Senate Print 3866, an
15 act to amend the Civil Rights Law.

16 ACTING PRESIDENT GRIFFO: Read the
17 last section.

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

20 ACTING PRESIDENT GRIFFO: Call the
21 roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 63.

24 ACTING PRESIDENT GRIFFO: The bill
25 is passed.

1 Calendar Number 655 is high.

2 The Secretary will read Calendar
3 Number 674.

4 THE SECRETARY: Calendar Number
5 674, substituted earlier by Member of the
6 Assembly Wright, Assembly Print Number 2929A, an
7 act to amend the Public Housing Law.

8 ACTING PRESIDENT GRIFFO: Read the
9 last section.

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

12 ACTING PRESIDENT GRIFFO: Call the
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 62. Nays,
16 1. Senator Martins recorded in the negative.

17 ACTING PRESIDENT GRIFFO: The bill
18 is passed.

19 THE SECRETARY: Calendar Number
20 710, by Senator Kennedy, Senate Print 373, an act
21 to amend the Penal Law.

22 ACTING PRESIDENT GRIFFO: Read the
23 last section.

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

1 ACTING PRESIDENT GRIFFO: Call the
2 roll.

3 (The Secretary called the roll.)

4 ACTING PRESIDENT GRIFFO: Senator
5 Kennedy to explain his vote.

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

8 Earlier this year our community in
9 Western New York was shaken up after hearing
10 about a terrible case of elder abuse, a case that
11 specifically dealt with the financial
12 exploitation of a senior citizen.

13 Ninety-year-old Matt Pollack had
14 worked his entire life to save up over \$600,000
15 so that he could spend his last days and years
16 living independently in his home in Niagara
17 County. Matt got to know one of his neighbors,
18 Kenneth Heitzenrater, and he began to trust him
19 like a son. His trust in him was so strong that
20 in 2010 he signed a power of attorney putting
21 Heitzenrater in charge of his accounts.

22 Over the course of just a few years,
23 while Heitzenrater should have been looking out
24 for Matt, he emptied out his savings, stealing
25 more than \$550,000 from this defenseless elderly

1 individual.

2 The Niagara County courts have
3 ordered Heitzenrater to pay restitution of \$1,300
4 a month. But at that rate, it will take him 35
5 years to pay back what he stole. Unfortunately
6 for Matt, he won't have the 35 years to get back
7 the money and the dignity that was stolen from
8 him.

9 It's a tragic case, and it's
10 downright disgusting, but it's not unique.
11 Studies show that each year approximately 260,000
12 New Yorkers are victims of all types of elder
13 abuse: Physical, emotional, psychological,
14 financial. What's worse is that too many of
15 those cases go unreported.

16 When it comes to financial
17 exploitation, it's estimated that for every case
18 reported to the proper authorities, 44 cases go
19 unreported.

20 It's time New York State gets tough
21 on those who seek to hurt or exploit vulnerable
22 senior citizens. Presently our state has no
23 legal provision that specifically addresses
24 financial abuse of seniors. This has to change.
25 This has led to instances where prosecutors may

1 not have been able to bring sufficient charges
2 against people who have exploited vulnerable
3 senior citizens or people with disabilities.

4 This bill adds a new section of the
5 law that will attack and prevent this crime while
6 giving prosecutors the authority they need to
7 stop scam artists from defrauding individuals.

8 New York's population is aging.
9 This problem may only get worse unless we act
10 now. We need to step up our efforts to protect
11 the most vulnerable New Yorkers. I thank my
12 colleagues for supporting this important
13 measure.

14 Thank you, Mr. President. I vote
15 aye.

16 ACTING PRESIDENT GRIFFO: Senator
17 Kennedy to be recorded in the affirmative.

18 Announce the results.

19 THE SECRETARY: Ayes, 63.

20 ACTING PRESIDENT GRIFFO: The bill
21 is passed.

22 THE SECRETARY: Calendar Number
23 760, substituted earlier by Member of the
24 Assembly Thiele, Assembly Print 4359, Concurrent
25 Resolution of the Senate and Assembly.

1 ACTING PRESIDENT GRIFFO: The
2 Secretary will call the roll on the concurrent
3 resolution.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 63.

6 ACTING PRESIDENT GRIFFO: The
7 concurrent resolution is adopted.

8 THE SECRETARY: Calendar Number
9 763, by Senator DeFrancisco, Senate Print 4792,
10 an act to amend the Family Court Act.

11 ACTING PRESIDENT GRIFFO: Read the
12 last section.

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

15 ACTING PRESIDENT GRIFFO: Call the
16 roll.

17 (The Secretary called the roll.)

18 ACTING PRESIDENT GRIFFO: Senator
19 DeFrancisco to explain his vote.

20 SENATOR DeFRANCISCO: Yes, this is
21 a very important bill responding to a terrible
22 situation in Central New York.

23 A woman and a young girl were
24 abducted by an individual who was charged with
25 murder at a shopping mall in Central New York, a

1 very well frequented shopping mall. That
2 individual was awaiting trial on some charges in
3 federal court, sexual-related charges in federal
4 court.

5 Well, when he was arraigned, the
6 individual was let out of jail on bail and
7 actually was given one of those ankle bracelets.
8 Unfortunately the federal probation department
9 did not monitor the bracelet and what ended up
10 happening, he was able to jimmy it off of him
11 whenever he wanted to. Therefore, he was out in
12 the public where he shouldn't have been.

13 He abducted a woman and a young
14 girl, raped the young girl in front of the woman
15 and killed the woman in front of the young girl.
16 He was later apprehended. He's now facing
17 charges.

18 Later on, the federal court found
19 out that this man had a sex-related charge as a
20 juvenile. But unfortunately the federal court
21 did not have that information when determining
22 whether to release the man.

23 So this bill is a very limited
24 exception to juvenile court records being
25 sealed. And what it does is simply this. Either

1 a prosecutor who's trying to argue bail or a
2 court before whom the individual is facing a
3 sexual-related charge, they can check with
4 Family Court under this bill. And just the
5 Family Court would review is there a sex-related
6 offense or not. If not, everything remains
7 sealed. If so, the court and the prosecutor are
8 allowed to get that information for the purposes
9 of setting bail.

10 I think it's a very limited bill and
11 it's an important bill. And we hope that this
12 passes unanimously because it's definitely
13 needed, in my opinion.

14 Thank you, Mr. President. I vote
15 aye, as you might expect.

16 ACTING PRESIDENT GRIFFO: Senator
17 DeFrancisco to be recorded in the affirmative.

18 Announce the results.

19 THE SECRETARY: Ayes, 59. Nays,
20 4. Senators Hassell-Thompson, Montgomery, Parker
21 and Perkins recorded in the negative.

22 ACTING PRESIDENT GRIFFO: The bill
23 is passed.

24 THE SECRETARY: Calendar Number
25 764, by substituted earlier Member of the

1 Assembly Lavine, Assembly Print 6551, an act to
2 amend Chapter 367 of the Laws of 1999.

3 ACTING PRESIDENT GRIFFO: Read the
4 last section.

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

7 ACTING PRESIDENT GRIFFO: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 63.

11 ACTING PRESIDENT GRIFFO: The bill
12 is passed.

13 THE SECRETARY: Calendar Number
14 765, substituted earlier by Member of the
15 Assembly Skartados, Assembly Print 6553, an act
16 to amend the Civil Practice Law and Rules.

17 ACTING PRESIDENT GRIFFO: Read the
18 last section.

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

21 ACTING PRESIDENT GRIFFO: Call the
22 roll.

23 (The Secretary called the roll.)

24 THE SECRETARY: Ayes, 62. Nays,
25 1. Senator Gipson recorded in the negative.

1 ACTING PRESIDENT GRIFFO: The bill
2 is passed.

3 THE SECRETARY: Calendar Number
4 766, by Senator Bonacic, Senate Print 5078, an
5 act to amend the Judiciary 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, 63.

14 ACTING PRESIDENT GRIFFO: The bill
15 is passed.

16 THE SECRETARY: Calendar Number
17 771, by Senator DeFrancisco, Senate Print 340A,
18 an act to amend the Penal Law.

19 ACTING PRESIDENT GRIFFO: Read the
20 last section.

21 THE SECRETARY: Section 6. This
22 act shall take effect on the 90th day.

23 ACTING PRESIDENT GRIFFO: Call the
24 roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 63.

2 ACTING PRESIDENT GRIFFO: The bill
3 is passed.

4 THE SECRETARY: Calendar Number
5 772, by Senator Flanagan, Senate Print 1194A, an
6 act to amend the Penal Law.

7 ACTING PRESIDENT GRIFFO: Read the
8 last section.

9 THE SECRETARY: Section 6. This
10 act shall take effect immediately.

11 ACTING PRESIDENT GRIFFO: Call the
12 roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes, 63.

15 ACTING PRESIDENT GRIFFO: The bill
16 is passed.

17 THE SECRETARY: Calendar Number
18 773, by Senator Skelos, Senate Print 1431, an act
19 to amend the Criminal Procedure Law.

20 ACTING PRESIDENT GRIFFO: Read the
21 last section.

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

24 ACTING PRESIDENT GRIFFO: Call the
25 roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 63.

3 ACTING PRESIDENT GRIFFO: The bill
4 is passed.

5 THE SECRETARY: Calendar Number
6 774, by Senator Flanagan, Senate Print 1450, an
7 act to amend the Penal Law.

8 ACTING PRESIDENT GRIFFO: Read the
9 last section.

10 THE SECRETARY: Section 3. 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, 61. Nays,
16 2. Senators Montgomery and Perkins recorded in
17 the negative.

18 ACTING PRESIDENT GRIFFO: The bill
19 is passed.

20 THE SECRETARY: Calendar Number
21 777, by Senator Klein, Senate Print 2333, an act
22 to amend the Civil Practice Law and Rules.

23 ACTING PRESIDENT GRIFFO: Read the
24 last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect on the 30th day.

2 ACTING PRESIDENT GRIFFO: Call the
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 60. Nays,
6 3. Senators Montgomery, Parker and Perkins
7 recorded in the negative.

8 ACTING PRESIDENT GRIFFO: The bill
9 is passed.

10 THE SECRETARY: Calendar Number
11 779, by Senator Lanza, Senate Print 2492, an act
12 to amend the Penal Law.

13 ACTING PRESIDENT GRIFFO: Read the
14 last section.

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

17 ACTING PRESIDENT GRIFFO: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 63.

21 ACTING PRESIDENT GRIFFO: The bill
22 is passed.

23 THE SECRETARY: Calendar Number
24 781, by Senator Nozzolio, Senate Print 4487, an
25 act to amend the Criminal Procedure Law.

1 ACTING PRESIDENT GRIFFO: Read the
2 last section.

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

5 ACTING PRESIDENT GRIFFO: Call the
6 roll.

7 (The Secretary called the roll.)

8 ACTING PRESIDENT GRIFFO: Senator
9 Hoylman to explain his vote.

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

12 Mr. President, this bill allows a
13 victim of a sexual assault to have the court
14 order -- the defendant to submit to an HIV test
15 within 48 hours of filing the indictment.

16 Now, I'm aware that current law in
17 New York State allows the victim of a sex offense
18 to petition the court for an order to have the
19 defendant tested within six months after the date
20 the crime occurred if it's found medically
21 necessary.

22 I'm also fully aware that the intent
23 of this bill is to comply with federal standards
24 to receive the full amount of federal grants to
25 encourage arrest policies, and that the New York

1 State Department of Criminal Justice Services
2 estimates New York is losing 5 percent of
3 complete funding and netted a loss of about
4 \$150,000 in 2011 because New York isn't complying
5 with the federal 48-hour standard.

6 One hundred and fifty thousand
7 dollars, Mr. President, statewide, for not
8 complying with bad federal guidelines. In my
9 opinion, Mr. President, that's money well spent.

10 It's money well spent because we
11 should do everything we can to assist survivors
12 of sexual assault. The federal guidelines are
13 dangerous policy with potential tragic
14 consequences. The only way, Mr. President, a
15 person can determine if they have HIV is to get
16 tested themselves. Period.

17 The bill before us is well-meaning,
18 but it's classic feel-good stuff. It may provide
19 some comfort to us or the victim to have the
20 opportunity to test a perpetrator for HIV, but in
21 the meantime the victim is sitting on a time
22 bomb.

23 What any person should do if they
24 are sexually assaulted is to immediately start a
25 round of post-exposure prophylaxis for HIV

1 infection. There are countless respected
2 scientific studies and directives, including from
3 our own State Department of Health, which state
4 in the clearest possible terms that post-exposure
5 prophylaxis should be initiated as rapidly as
6 possible after possible exposure -- with the
7 greatest benefit, Mr. President, coming within
8 36 hours, and no longer than 72 hours.

9 It's important to point out that
10 this legislation requires testing 48 hours from
11 indictment. Not the actual crime, not the
12 arrest. The indictment could come days, weeks,
13 or months from the time of the crime and the
14 accused could actually be the wrong person.

15 The New York State Department of
16 Health cites studies stating treatment should
17 begin immediately even before the results of a
18 victim's HIV test are confirmed. Suggesting to a
19 victim, Mr. President, that he or she should wait
20 and rely on the HIV testing of a defendant has
21 the potential to victimize an individual not
22 once, but twice.

23 ACTING PRESIDENT GRIFFO: Senator
24 Hoylman, how do you vote?

25 SENATOR HOYLMAN: Mr. President, if

1 I could just finish.

2 ACTING PRESIDENT GRIFFO: Please.

3 SENATOR HOYLMAN: The fact that the
4 federal government is enticing our state to adopt
5 this policy for about \$150,000 worth of funding,
6 funding which we've already missed for this year,
7 doesn't make this bill any less dangerous or the
8 medical science any less sound.

9 Mr. President, thank you. I'll be
10 voting in the negative.

11 ACTING PRESIDENT GRIFFO: Senator
12 Hoylman to be recorded in the negative.

13 Announce the results.

14 THE SECRETARY: In relation to
15 Calendar 781, those recorded in the negative are
16 Senators Espaillat, Hassell-Thompson, Hoylman,
17 Montgomery, Parker, Perkins, Rivera, Serrano and
18 Squadron.

19 Ayes, 54. Nays, 9.

20 ACTING PRESIDENT GRIFFO: The bill
21 is passed.

22 THE SECRETARY: Calendar Number
23 782, by Senator Nozzolio, Senate Print 4488, an
24 act to amend the Penal Law.

25 ACTING PRESIDENT GRIFFO: Read the

1 last section.

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

4 ACTING PRESIDENT GRIFFO: Call the
5 roll.

6 (The Secretary called the roll.)

7 ACTING PRESIDENT GRIFFO: Results.

8 THE SECRETARY: In relation to
9 Calendar Number 782, those recorded in the
10 negative are Senators Dilan, Hassell-Thompson,
11 Montgomery and Perkins.

12 Ayes, 59. Nays, 4.

13 ACTING PRESIDENT GRIFFO: The bill
14 is passed.

15 THE SECRETARY: Calendar Number
16 785, by Senator Lanza, Senate Print 4751, an act
17 to amend the Social Services Law.

18 ACTING PRESIDENT GRIFFO: Read the
19 last section.

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

22 ACTING PRESIDENT GRIFFO: Call the
23 roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes, 63.

1 ACTING PRESIDENT GRIFFO: The bill
2 is passed.

3 THE SECRETARY: Calendar Number
4 786, by Senator Felder, Senate Print 5202, an act
5 to amend the Family Court Act.

6 ACTING PRESIDENT GRIFFO: Read the
7 last section.

8 THE SECRETARY: Section 8. This
9 act shall take effect on the 90th day.

10 ACTING PRESIDENT GRIFFO: Call the
11 roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes, 63.

14 ACTING PRESIDENT GRIFFO: The bill
15 is passed.

16 THE SECRETARY: Calendar Number
17 788, by Senator Bonacic, Senate Print 1879, an
18 act to amend the Criminal Procedure Law.

19 ACTING PRESIDENT GRIFFO: Read the
20 last section.

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

23 ACTING PRESIDENT GRIFFO: Call the
24 roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Those recorded in
2 the negative are Senators Montgomery,
3 Hassell-Thompson and Perkins.

4 Ayes, 60. Nays, 3.

5 ACTING PRESIDENT GRIFFO: The bill
6 is passed.

7 THE SECRETARY: Calendar Number
8 790, by Senator DeFrancisco, Senate Print 2316,
9 an act to amend the Public Health Law.

10 ACTING PRESIDENT GRIFFO: Read the
11 last section.

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

14 ACTING PRESIDENT GRIFFO: Call the
15 roll.

16 (The Secretary called the roll.)

17 ACTING PRESIDENT GRIFFO: Senator
18 DeFrancisco to explain his vote.

19 SENATOR DeFRANCISCO: I'm tired of
20 carrying this bill. I am tired of carrying this
21 bill. This passes year after year unanimously.

22 And with the obesity problem in the
23 State of New York, you would think that we would
24 get it passed in both houses so that we could
25 have a coordinated program. I mean, the First

1 Lady of this country is trying to focus on this
2 particular issue. I've been trying to focus when
3 the First Lady was not the First Lady, for years
4 and years. We can't get it passed in the
5 Assembly.

6 So there's a Democrat sponsor, a
7 Majority sponsor. So those of you who can put
8 some influence on the majority members of that
9 house to get the bill on and pass it -- it's a
10 no-brainer -- I would be forever indebted to you,
11 and you wouldn't have to hear me say this again
12 next year.

13 Thank you very much.

14 ACTING PRESIDENT GRIFFO: Senator
15 DeFrancisco to be recorded in the affirmative.

16 Announce the results.

17 THE SECRETARY: Ayes, 63.

18 ACTING PRESIDENT GRIFFO: The bill
19 is passed.

20 THE SECRETARY: Calendar Number
21 796, by Senator Seward, Senate Print 3728B, an
22 act to amend the State Finance Law.

23 ACTING PRESIDENT GRIFFO: Read the
24 last section.

25 THE SECRETARY: Section 3. 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. Nays, 1.
6 Senator Hassell-Thompson recorded in the
7 negative.

8 ACTING PRESIDENT GRIFFO: The bill
9 is passed.

10 THE SECRETARY: Calendar Number
11 801, by Senator Golden, Senate Print 4915, an act
12 to amend the State Finance Law.

13 ACTING PRESIDENT GRIFFO: Read the
14 last section.

15 THE SECRETARY: Section 4. 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: Senator
21 Montgomery to explain her vote.

22 SENATOR MONTGOMERY: Yes,
23 Mr. President. In an unprecedented move, I want
24 to rise to compliment Senator Golden --

25 (Laughter.)

1 SENATOR MONTGOMERY: -- on this
2 legislation.

3 And the reason that I want to
4 compliment him is that it's little known that
5 this Procurement Council is a very important
6 entity in state government, and he is proposing
7 that it should increase participation by local
8 resident businesses. And I think that is a very
9 important thing.

10 I have introduced and we passed last
11 session legislation that would require membership
12 on that council by a member of the farming
13 community, which we did not have up until that
14 legislation. So little by little, we are
15 recognizing the importance of this procurement
16 council.

17 And certainly it's interesting that
18 two New York City legislators -- Senator Golden
19 this year and I last year -- have looked at this
20 for its significance, and we want to make sure
21 that it functions well in our state.

22 So I vote aye. Thank you,
23 Mr. President.

24 ACTING PRESIDENT GRIFFO: Senator
25 Montgomery to be recorded in the affirmative.

1 Announce the results.

2 THE SECRETARY: Ayes, 63.

3 ACTING PRESIDENT GRIFFO: The bill
4 is passed.

5 THE SECRETARY: Calendar Number
6 802, by Senator Golden --

7 SENATOR HASSELL-THOMPSON: Lay it
8 aside.

9 ACTING PRESIDENT GRIFFO: Lay it
10 aside.

11 Senator Libous, that completes the
12 noncontroversial reading of the calendar at this
13 point.

14 SENATOR LIBOUS: So, Mr. President,
15 it does.

16 So at this time we are going to go
17 to Supplemental Calendar 47A, and we will call up
18 Senator Ball's Bill 1034, noncontroversial.

19 ACTING PRESIDENT GRIFFO: We will
20 take up Supplemental Calendar 46A {sic}, Bill
21 Number 1034.

22 The Secretary will read.

23 THE SECRETARY: Calendar Number
24 1034, by Senator Ball, Senate Print 5241, an act
25 to authorize.

1 ACTING PRESIDENT GRIFFO: Read the
2 last section.

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

5 ACTING PRESIDENT GRIFFO: Call the
6 roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 63.

9 ACTING PRESIDENT GRIFFO: The bill
10 is passed.

11 Senator Libous, that completes the
12 noncontroversial reading of Supplemental Calendar
13 46A {sic}.

14 SENATOR LIBOUS: Well, it doesn't
15 complete the noncontroversial reading of the
16 entire calendar, it only completes the Senator
17 Ball bill.

18 ACTING PRESIDENT GRIFFO: Correct.

19 SENATOR LIBOUS: Therefore, we will
20 lay the rest of the calendar aside for the day.

21 ACTING PRESIDENT GRIFFO: We will
22 lay the remainder of Supplemental Calendar 46A
23 {sic} aside for the day, with the exception of
24 1034, which passed.

25 SENATOR LIBOUS: Thank you,

1 Mr. President.

2 And while Senator Golden is
3 deliberating, I would like to go back to motions.

4 ACTING PRESIDENT GRIFFO: We'll
5 return to motions and resolutions.

6 SENATOR LIBOUS: Senator Marcellino
7 noted that, Mr. President, you laid Calendar 46A
8 aside and we were on Calendar 47A. Not that we
9 would want to point out that Mr. President made a
10 mistake, but you did.

11 ACTING PRESIDENT GRIFFO: None of
12 us are infallible, Senator Libous.

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

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

17 And Supplemental Calendar 47A has
18 been laid aside in its entirety, with the
19 exception of 1034, which has passed the Senate.

20 SENATOR LIBOUS: And we respect the
21 fact that Mr. President is human.

22 ACTING PRESIDENT GRIFFO: Thank
23 you.

24 SENATOR LIBOUS: I would like to go
25 back to motions, sir.

1 ACTING PRESIDENT GRIFFO: We'll
2 return to motions and resolutions.

3 SENATOR LIBOUS: Thank you.

4 On behalf of Mr. President, on
5 page 2 of the supplemental calendar I offer up
6 the following amendments to Calendar 1036, Senate
7 Print 5519, and ask that said bill retain its
8 place on the Third Reading Calendar.

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

12 Can I have some order in the
13 chamber, please.

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

16 And I believe now we can come back
17 to the regular calendar and have the
18 controversial reading of the regular calendar.

19 ACTING PRESIDENT GRIFFO: The
20 Secretary will ring the bell.

21 The Secretary has rung the bell,
22 Senator Golden is in the room, and we will now
23 read Calendar Number 802, controversial.

24 THE SECRETARY: Calendar Number
25 802, by Senator Golden, Senate Print 4916, an act

1 to amend the State Finance Law.

2 ACTING PRESIDENT GRIFFO: Senator
3 Hassell-Thompson, why do you rise?

4 SENATOR HASSELL-THOMPSON:
5 Mr. President, I rise and I'd like the
6 opportunity to ask some questions of the sponsor.

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

9 SENATOR GOLDEN: I do indeed,
10 Mr. President.

11 ACTING PRESIDENT GRIFFO: Senator
12 Hassell-Thompson, you may proceed.

13 SENATOR HASSELL-THOMPSON: Thank
14 you. Through you, Mr. President.

15 My understanding of this bill is it
16 purports to open the door to opportunities for
17 joint ventures or teaming in a controlled pilot
18 program as a means to assure that disabled
19 veteran enterprises and MWBEs are full partners
20 in any business venture. Is that a correct
21 reading of the bill?

22 SENATOR GOLDEN: Yes, that's a fair
23 reading. Yes, Mr. President.

24 ACTING PRESIDENT GRIFFO: Senator
25 Hassell-Thompson.

1 SENATOR HASSELL-THOMPSON: If the
2 sponsor will continue to yield.

3 SENATOR GOLDEN: I do,
4 Mr. President.

5 ACTING PRESIDENT GRIFFO: The
6 sponsor yields.

7 SENATOR HASSELL-THOMPSON:
8 Mr. President, through you to the sponsor.

9 Can you point out to me a certain
10 provision within the current State Finance Law
11 that prohibits joint ventures or teaming between
12 MWBEs, New York partners, and/or service-disabled
13 veterans?

14 SENATOR GOLDEN: Mr. President,
15 there is no place in that -- that actually
16 authorizes it, that gives it the ability to go
17 forward. It is mentioned in 15A, but it does not
18 give it the authority to move forward. And
19 that's in centralized contracts.

20 ACTING PRESIDENT GRIFFO: Senator
21 Hassell-Thompson.

22 SENATOR HASSELL-THOMPSON: If the
23 sponsor will continue to yield.

24 ACTING PRESIDENT GRIFFO: The
25 sponsor yields.

1 SENATOR GOLDEN: I do,
2 Mr. President.

3 SENATOR HASSELL-THOMPSON: My
4 question was does it prohibit the opportunities
5 for joint ventures or teaming. That was my
6 question.

7 SENATOR GOLDEN: That's really not
8 the standard, Mr. President. It's does it
9 authorize it. And it doesn't authorize it.

10 SENATOR HASSELL-THOMPSON: If the
11 Senator will still continue to yield.

12 SENATOR GOLDEN: I do,
13 Mr. President.

14 ACTING PRESIDENT GRIFFO: The
15 Senator yields.

16 SENATOR HASSELL-THOMPSON:
17 Mr. President, through you to the sponsor.

18 Can you tell me any circumstance
19 that you personally know of, professionally know
20 of where a disabled veteran was unable to enter
21 into a joint venture or teaming venture with a
22 certified MWBE or was denied opportunity as a
23 service-disabled veteran?

24 SENATOR GOLDEN: That's why we're
25 doing this bill, Mr. President. We can't. We

1 have no way of finding out.

2 SENATOR HASSELL-THOMPSON: If the
3 Senator would continue to yield.

4 SENATOR GOLDEN: I will,
5 Mr. President.

6 ACTING PRESIDENT GRIFFO: The
7 Senator yields.

8 SENATOR HASSELL-THOMPSON: Through
9 you, Mr. President.

10 My final question, I think, is are
11 you aware of any disparity study or any report or
12 any indications that suggest that
13 service-disabled veterans are the subject of
14 discrimination in the state procurement system?

15 SENATOR GOLDEN: Mr. President,
16 we're being proactive with this bill. We're
17 trying to get a bill established that gives
18 credit to our disabled and gives them an
19 opportunity to be able to start a business here
20 and be able to procure state contracts.

21 We need to do that. And I think we
22 need reports. And I think this bill would allow
23 us to do that, Mr. President, and give our
24 disabled vets opportunities as well as our MWBEs.

25 SENATOR HASSELL-THOMPSON: Thank

1 you. On the bill.

2 ACTING PRESIDENT GRIFFO: Senator
3 Hassell-Thompson on the bill.

4 SENATOR GOLDEN: Thank you,
5 Mr. President.

6 SENATOR HASSELL-THOMPSON: There is
7 no provision currently under state law that
8 prohibits service-disabled veterans, New York's
9 business enterprises, from teaming or joining a
10 joint venture with an MWBE. There also appears
11 to be no state procurement practice showing that
12 these sorts of arrangements are forbidden or
13 discouraged.

14 There are therefore the sponsor's
15 bill encouraging these arrangements by way of
16 establishing a pilot program has the effect of
17 creating a preference for service-disabled
18 veterans without proper justification.

19 While I have demonstrated my support
20 of our service-disabled veterans, I'm opposing
21 this bill for the following reasons. In New York
22 State, procurement preferences such as these have
23 been given only within the context of a disparity
24 study in order to determine, number one, whether
25 a special preference is warranted or, number two,

1 whether the remedy created by the bill will be
2 effective in eliminating such a disparity.

3 To my knowledge, no such
4 service-disabled veterans disparity study has
5 been conducted to date.

6 There is nothing in State Finance
7 Law that prohibits joint ventures by
8 service-disabled veterans. The MTA, the Tappan
9 Zee Bridge construction projects are examples of
10 scores of joint ventures that are formed and are
11 being formed.

12 Article 15A, which is the MWBE
13 statute, already defines diversity practices by a
14 contractor to include joint ventures with MWBEs.
15 Indeed, the definition applies to teaming by
16 defining the joint ventures to include other
17 similar arrangements.

18 Administrative regulations allow for
19 agencies to consider a contractor's diversity
20 practices in contracting decisions. Therefore,
21 it is already allowed for MWBEs to partner with a
22 non-diversity business enterprise and to receive
23 consideration on all sorts of projects, even
24 projects otherwise under the State Finance Law.

25 This bill would therefore accomplish

1 nothing with respect to joint ventures and
2 teaming that is not already permitted. In fact,
3 the New York State Office of General Services
4 confirmed in an earlier conversation this week
5 that there is nothing in current law to prohibit
6 businesses owned and operated by MWBEs or
7 service-disabled veterans from teaming up to seek
8 state contract opportunities and procurement
9 opportunities. OGS confirmed that such ventures
10 have obtained state contracts through the agency
11 in the past.

12 The phrase "joint venture," for
13 those who may not be aware, is a term of art
14 referring to a legal organization that takes the
15 form of a short-term partnership in which the
16 persons jointly undertake a transaction for
17 mutual profit.

18 However, this bill further defines
19 joint ventures as business entities which include
20 a diversity business enterprise, which is defined
21 in law as either a minority business enterprise,
22 a woman's business enterprise, and/or a disabled
23 veteran's business enterprise.

24 This definition is problematic
25 because it creates a precedent and a preference

1 specifically for disabled vets without first
2 providing compelling justification by way of a
3 disparity study or reports to the contrary.

4 Whether or not intentional, the
5 sponsor has designed what appears to be a
6 marketing plan to encourage MWBEs and disabled
7 veterans to partner together to compete for state
8 procurement contracts. But the textual alignment
9 of disabled service vets with MWBEs in a new
10 definition for joint ventures does not give
11 proper deference or due and appreciation for why
12 MWBE enterprises are highlighted in the State
13 Finance Law in the first place.

14 Promoting state procurement on the
15 basis of gender or race is an affirmative action
16 program that must be justified in order to pass
17 constitutional muster.

18 Therefore, I recommend that the
19 sponsor revise the bill after a full disparity
20 study has been done analyzing whether disabled
21 service veterans are discriminated against in
22 state procurement practice. The last disparity
23 study that was conducted, at that time disabled
24 service veterans were not included in that
25 procurement study. The next will be conducted in

1 2016.

2 I welcome the opportunity to
3 continue to work with the sponsor about the
4 possibility of including this class of important
5 persons within that planned analysis. In the
6 meantime, however, I've been informed today that
7 the Assembly will be striking the enabling clause
8 of the statute from their bill.

9 Thank you, Mr. President.

10 ACTING PRESIDENT GRIFFO: Senator
11 Sanders.

12 SENATOR SANDERS: On the bill,
13 Mr. President.

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

16 SENATOR SANDERS: As a veteran
17 myself, and as the author of Local Law 129 in
18 New York City, I have a little knowledge on this,
19 information on it. And I also urge the sponsor
20 to withdraw and put it in later.

21 Without a disparity study, you
22 cannot include any new classes into the MWBE
23 bill. You need such a study. This is based on
24 Richmond v. Croson, 1989. And under those
25 conditions, if you were to try to put a class

1 into here, you would in effect endanger the
2 entire program, which I don't believe is the
3 desire of the sponsor.

4 So under those conditions, I'm
5 encouraging him that veterans should be studied.
6 Perhaps, if that's the earliest that it can be
7 done, 2016, then do so then. Why not sooner? I
8 have no problems with that. But you would need
9 to do a separate study to see if they have met
10 the criteria to be one of the classes that can be
11 put into the MWBE.

12 I urge again the sponsor to go about
13 it a different way, look to see if you can't get
14 the study done first and then see what you can
15 do.

16 Thank you very much, Mr. President.

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

19 Seeing and hearing no other Senator
20 who wishes to be heard, debate is closed.

21 The Secretary will ring the bell.

22 Read the last section.

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

25 ACTING PRESIDENT GRIFFO: Call the

1 roll.

2 (The Secretary called the roll.)

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

5 SENATOR GOLDEN: Thank you,
6 Mr. President. I want to explain my vote --

7 ACTING PRESIDENT GRIFFO: Excuse
8 me, Senator Golden.

9 Can we have some order in the
10 chamber, please.

11 SENATOR GOLDEN: -- and be
12 specific. And this does not create a preference
13 for any group. It expands opportunity by
14 eliminating barriers to financing, expertise and
15 credit.

16 It allows minority and women-owned
17 businesses and businesses owned by service-
18 disabled vets to joint venture or team with other
19 New York-based companies to bid on contracts, and
20 to allow the awards and contracts through these
21 joint ventures and teams if the bids are equal or
22 less than those that would be offered to a
23 non-joint venture or team. It provides a way for
24 OGS to determine whether the joint venture or the
25 team is a true joint venture or team by comparing

1 profit share with work share.

2 And, Mr. President, again, it does
3 not create a preference. It does not allow for
4 principle awards of bids to entities which submit
5 a higher-cost proposal. It does not set targets
6 for participation by any other group. It does
7 not require set-asides. It does not affect a
8 preferred source program. It does not reduce the
9 qualifications required to submit or be awarded a
10 bid as a responsible bidder. It does not change
11 requirements for reporting or best practices. It
12 does not exclusive of other programs already in
13 operation.

14 It does not affect 15A firms,
15 minority and women business enterprises. If
16 anything, it provides a way for them to bid on
17 centralized contracts by detailing what the joint
18 venture is.

19 It is carefully drawn to be a pilot
20 program that provides a maximum flexibility to
21 the OGS commissioner. Again, it expands
22 opportunity by eliminating barriers to financing,
23 expertise and credit.

24 Thank you, Mr. President.

25 ACTING PRESIDENT GRIFFO: Thank

1 you, Senator Golden.

2 Senator Golden to be recorded in the
3 affirmative.

4 Senator Hassell-Thompson to explain
5 her vote.

6 SENATOR HASSELL-THOMPSON: Thank
7 you, Mr. President.

8 Again, I just want to reiterate the
9 fact that I would do everything possible to
10 ensure that disabled veterans and any other group
11 who want to do business with the State of
12 New York -- and I would work as vigorously as I
13 have with minority and women business in order to
14 achieve that goal.

15 I do not believe, however, that
16 sufficient homework has been done by the sponsor
17 of this bill, because it is very clear from all
18 of the people who worked on the MWBE that if in
19 fact this legislation is passed, that it will be
20 set down in the middle of the MWBE and will be as
21 intrinsic in terms of the goal development that
22 has already been set by the state.

23 And so therefore I am encouraging
24 all of my colleagues to vote no and give us more
25 opportunity to study the issue appropriately,

1 because it is truly my belief that we will
2 disadvantage everybody by including that language
3 into the MWBE bill.

4 I will be voting no.

5 ACTING PRESIDENT GRIFFO: Senator
6 Hassell-Thompson to be recorded in the negative.

7 Announce the results.

8 THE SECRETARY: In relation to
9 Calendar Number 802, those recorded in the
10 negative are Senators Dilan, Espaillat, Gianaris,
11 Hassell-Thompson, Hoylman, Krueger, Parker,
12 Peralta, Perkins, Rivera, Sanders, Serrano,
13 Stavisky and Stewart-Cousins.

14 Absent from voting: Senators Adams,
15 Bonacic, Larkin, Sampson and Squadron.

16 Ayes, 44. Nays, 14.

17 ACTING PRESIDENT GRIFFO: The bill
18 is passed.

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

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

23 ACTING PRESIDENT GRIFFO: There is
24 no further business.

25 SENATOR LIBOUS: There being no

1 further business, Mr. President, I move that the
2 Senate adjourn until Wednesday, June 5th, at
3 11:00 a.m.

4 ACTING PRESIDENT GRIFFO: On
5 motion, the Senate stands adjourned until
6 Wednesday, June 5th, at 11:00 a.m.

7 Senate adjourned.

8 (Whereupon, at 6:05 p.m., the Senate
9 adjourned.)

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