

1 NEW YORK STATE SENATE

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4 THE STENOGRAPHIC RECORD

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9 ALBANY, NEW YORK

10 March 19, 2014

11 3:19 p.m.

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14 REGULAR SESSION

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18 SENATOR JOSEPH GRIFFO, Acting President

19 FRANCIS W. PATIENCE, Secretary

1 P R O C E E D I N G S

2 ACTING PRESIDENT GRIFFO: The
3 Senate will come to order.

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

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

9 ACTING PRESIDENT GRIFFO: Today's
10 invocation, on St. Joseph's Day, will be offered
11 by the Most Reverend Terry LaValley, Bishop of
12 the Roman Catholic Diocese of Ogdensburg.

13 Bishop LaValley.

14 BISHOP LaVALLEY: Almighty and
15 Eternal God, You have revealed Your glory to all
16 nations.

17 God of power and might, wisdom and
18 justice, accept the prayers we offer for our
19 Empire State. Through You, authority is rightly
20 administered, laws are enacted, and judgment is
21 decreed.

22 We pray for Andrew Cuomo, the
23 Governor of this state, for the members of this
24 Legislature and of the Judiciary, and for all who
25 are entrusted with guarding our civil welfare.

1 Fill all public servants with the
2 spirit of Your wisdom. May they always act in
3 accordance with Your divine will, preserving and
4 fostering the sacred foundation of all life, and
5 safeguarding the splendor of God's creation. May
6 they be enabled by Your powerful protection to
7 discharge their duties with honesty and ability.

8 We likewise commend to Your
9 unbounded mercy all residents of New York State,
10 that they may be blessed with freedom, security
11 and peace.

12 By sharing the good things You give
13 us, may we work for the well-being of all and,
14 under Your providence, help to build the city of
15 lasting peace.

16 We pray to You, who are Lord and
17 God, whom we seek to honor and strive to please
18 at all times.

19 Forever and ever, amen.

20 ACTING PRESIDENT GRIFFO: Reading
21 of the Journal.

22 THE SECRETARY: In Senate, Tuesday,
23 March 18th, the Senate met pursuant to
24 adjournment. The Journal of Monday, March 17th,
25 was read and approved. On motion, Senate

1 adjourned.

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

4 Presentations of petitions.

5 Messages from the Assembly.

6 Messages from the Governor.

7 Reports of standing committees.

8 Reports of select committees.

9 Communications and reports of state
10 officers.

11 Motions and resolutions.

12 Senator Libous.

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

15 On behalf of Senator Zeldin, I
16 believe it's page 23, I offer the following
17 amendments to Calendar Number 228, Senate Print
18 6525, and ask that said bill retain its place on
19 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.

24 SENATOR LIBOUS: I believe there's
25 a previously adopted resolution by Senator

1 Marchione, Number 3989, at the desk. Could we
2 have the title read and please call on
3 Senator Marchione.

4 ACTING PRESIDENT GRIFFO: The
5 Secretary will read.

6 THE SECRETARY: Legislative
7 Resolution Number 3989, by Senator Marchione,
8 memorializing Governor Andrew M. Cuomo to
9 proclaim March 21, 2014, Down Syndrome Awareness
10 Day in the State of New York, in conjunction with
11 the observance of World Down Syndrome Day.

12 ACTING PRESIDENT GRIFFO: Senator
13 Marchione.

14 Can I have some order in the
15 chamber, please.

16 SENATOR MARCHIONE: Mr. President
17 and my colleagues, I rise for the purpose of
18 speaking on my legislative resolution
19 memorializing the Governor to proclaim March 21,
20 2014, as Down Syndrome Awareness Day in New York
21 State, in conjunction with the observation of
22 World Down Syndrome Day.

23 Down syndrome is a genetic condition
24 affecting the body's development caused by the
25 presence of three copies of chromosome 21 in the

1 cell nucleus, and is also called trisomy 21.

2 Mr. President and my colleagues, I
3 would like to share with you some of the
4 important facts about Down syndrome. There are
5 an estimated 6 million people with Down syndrome
6 worldwide. One in every 691 babies born in the
7 United States are afflicted with Down syndrome,
8 making it the most common genetic disorder in our
9 nation.

10 Approximately 400,000 Americans have
11 Down syndrome. And nearly 6,000 babies are born
12 with Down syndrome in the United States each
13 year.

14 Once extremely fatal, new advances
15 in medical technology are helping individuals
16 with Down syndrome to live longer, healthier and
17 more productive lives than ever before. With
18 proper medical treatment, as many as 80 percent
19 of adults with Down syndrome will reach the age
20 of 60 or older. This is a critical breakthrough,
21 and it is truly welcome news.

22 People with Down syndrome possess a
23 wide range of abilities and are loving, generous
24 and gifted souls. They are some of the greatest
25 people you will ever have the privilege of

1 meeting.

2 I'm proud to sponsor this resolution
3 memorializing the Governor to proclaim March 21,
4 2014, as Down Syndrome Awareness Day in New York
5 State. My resolution reminds us of the
6 importance of recognizing the inherent dignity,
7 worth and contributions of individuals with
8 Down syndrome, as well as the love and kindness
9 they share and the countless lives they brighten.
10 In so remembering, we can better celebrate their
11 lives and publicly recognize and share in their
12 many accomplishments.

13 Thank you, Mr. President and my
14 colleagues. I appreciate your support for this
15 important resolution.

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

18 Senator Libous.

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

21 I want to rise and say thank you to
22 Senator Marchione for putting this resolution
23 before the house.

24 I've had the honor and pleasure of,
25 for 11 years, chairing the Committee on Mental

1 Health and Developmental Disabilities, and on two
2 occasions I was blessed and honored to be the
3 chairman of the statewide Special Olympics.

4 Just specifically, while the love of
5 all individuals with disabilities really comes
6 through when you work and spend time with them,
7 individuals with Down syndrome, as Senator
8 Marchione said, are a very special group, because
9 the love and affection that they share and exude
10 is just incredible.

11 I often tell people that if you
12 really want to lift your day, if you really think
13 you're having a bad day, spend some time with
14 some folks particularly with Down syndrome and
15 disabilities, and I guarantee you they will put a
16 smile on your face.

17 They will make you feel an awful lot
18 better, and when you leave, you'll scratch your
19 head, wondering "What's my problem?" Because
20 they will lift you, their attitudes are
21 incredible, and they enjoy every day. They enjoy
22 life even with their disability.

23 So, Senator, thank you for bringing
24 this resolution to the floor. I think we should
25 all pause and pay tribute and say thank you to

1 those individuals who have Down syndrome and who
2 have actually shared a delight and helped us to
3 really understand what life is all about.

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

6 Senator LaValle.

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

9 I too rise to compliment
10 Senator Marchione on this resolution, and my dear
11 friend and colleague Senator Libous for his
12 remarks in laying out some very important points.

13 I would like to just build on what
14 Senator Libous said. I know three mothers who
15 I'd like to think are friends who have Down
16 syndrome children, and who we have conversations
17 about their growth and their development and what
18 a wonderful difference that each of those
19 children make each and every day.

20 And recently one of the mothers sent
21 me a video on her son, who is on the
22 Port Jefferson wrestling team. And I watched him
23 wrestle, and the camaraderie from the other
24 members of the team in congratulating him on his
25 match, and I must tell you, it brought tears to

1 my eyes.

2 We have come a long way, a long way
3 as a society where we can interact with people
4 with special needs and become almost part of a
5 family in making sure that they grow up to be all
6 that they can be. So these children do bring a
7 lot of joy to a lot of people, but they are
8 important members of our society and our family.

9 So, Senator Marchione, thank you
10 very much for bringing this resolution before the
11 house.

12 ACTING PRESIDENT GRIFFO: Senator
13 Carlucci.

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

16 And I too want to thank
17 Senator Marchione and the previous speakers for
18 talking on this very important resolution.

19 As we approach March 21st and
20 World Down Syndrome Awareness Day, it's so
21 fitting that we proclaim a New York State Down
22 Syndrome Awareness Day. Because it's really, as
23 was talked about from previous speakers, that we
24 are talking about some of our most vulnerable
25 populations. And the strides that have been made

1 in just the past decade are really to be thought
2 of and to reflect upon.

3 But the fact is we still have a lot
4 of work to do. And the fact that, as
5 Senator Marchione had mentioned in the
6 resolution, that 80 percent of people living with
7 Down syndrome can expect to live beyond their
8 60th birthday, it's a massive improvement that
9 we've seen in the past couple of decades. But
10 it's not just about the amount of time that you
11 spend here on this earth, it's the quality of
12 life.

13 And I know that I'm working with
14 many of my colleagues here in this chamber on
15 this budget that's coming up in addressing many
16 of these key issues, such as how do we get people
17 with developmental disabilities into integrated
18 employment settings. And by doing that, that it
19 won't just help our economy but will also help
20 improve the quality of life of thousands of
21 New Yorkers.

22 So I want to thank my colleagues for
23 supporting this resolution and look forward to
24 working with you on these important issues.

25 Thank you, Mr. President.

1 ACTING PRESIDENT GRIFFO: Senator
2 Farley.

3 SENATOR FARLEY: Yeah, I rise to
4 speak on this resolution.

5 You know, I was deeply touched by
6 what some of my fellow Senators had to say.
7 Senator Marchione, I applaud you for bringing
8 this to us. But I know what you were saying,
9 Senator Libous, is so true. Anybody that meets
10 or crosses the path of a Down syndrome person,
11 your whole day is lifted because of the joy that
12 they bring to this world.

13 You know, I think it's so important
14 that we recognize people with disabilities, but
15 particularly the Downs. They are such wonderful,
16 contributing people. We have a number of them
17 working here in the Senate. They're the most
18 reliable, the most conscientious, the most
19 competent people that we have working here at the
20 Senate. They're absolutely lovely, lovely
21 people.

22 And I'll tell you, I thank you for
23 bringing this resolution before us. And I was
24 deeply touched by what my colleagues were saying.

25 Thank you very much, Mr. President.

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

3 As noted, the resolution was adopted
4 on March 18th of 2014.

5 Senator Libous.

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

8 I would assume that, even though
9 that was adopted, Senator Marchione would open
10 that up to the house. So we will do that. I
11 don't know if I'm out of order here, but --

12 ACTING PRESIDENT GRIFFO: So noted.
13 The resolution is open for cosponsorship. If you
14 choose not to --

15 SENATOR LIBOUS: And if somebody
16 doesn't want to be on it, let the desk know.

17 ACTING PRESIDENT GRIFFO: If you
18 choose not to, please notify the desk.

19 SENATOR LIBOUS: Thank you.

20 ACTING PRESIDENT GRIFFO: Senator
21 Libous.

22 SENATOR LIBOUS: I believe that
23 there's a resolution by Senator Montgomery,
24 Number 3335, at the desk. Could we have the
25 title read, and I believe Senator Montgomery

1 would like to speak on it.

2 ACTING PRESIDENT GRIFFO: The
3 Secretary will read.

4 THE SECRETARY: Legislative
5 Resolution Number 3335, by Senator Montgomery,
6 commending Beverly Johnson upon the occasion of
7 being honored in conjunction with Women's History
8 Month 2014 in the State of New York.

9 ACTING PRESIDENT GRIFFO: Senator
10 Montgomery.

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

13 I rise again today to honor a woman
14 of distinction and a woman who has made
15 significant contributions, especially to young
16 people in the State of New York. This is the
17 Honorable Beverly Johnson.

18 Beverly Johnson is the former
19 executive director of the Magnolia Tree Earth
20 Center of Bedford-Stuyvesant in the Borough of
21 Brooklyn in the 25th Senate District, responsible
22 for the creation, development and implementation
23 of programs and activities that encourage and
24 provide science, engineering, technology,
25 mathematics and environmental awareness to youth,

1 and fosters the development of human potential
2 within urban communities like that that I
3 represent.

4 She was formerly employed by
5 Polytech Institute in the Borough of Brooklyn,
6 which is now part of New York University. She
7 was there for 27 years, holding positions as
8 associate dean of undergraduate admissions,
9 director of international student recruitment,
10 assistant dean of university admissions, and
11 executive director of the Promise Fund, which is
12 the organization that sponsored the Center for
13 Youth in Engineering and Science, which was part
14 of Polytech Institute's giving back to young
15 people in the community.

16 This Promise Fund traditionally
17 awards \$1.2 million annually in scholarships to
18 students interested in pursuing careers in the
19 fields of mathematics, science and engineering
20 that we often refer to as the STEM careers.

21 The mission of the Promise Fund is
22 to promote activities that introduce
23 underrepresented women and people of color in
24 general, as well as elementary and high school
25 students, to career opportunities in STEM, to

1 nurture their interest, to develop their
2 scientific curiosity and encourage appropriate
3 study.

4 I must say that under the leadership
5 of Beverly Johnson, it was Polytech that set up a
6 relationship with Brooklyn Tech High School
7 students which allowed those students to attend
8 classes in Polytech free of charge and receive
9 college credits.

10 She is also a specialist in the
11 evaluation of international and domestic
12 educational documents and immigration
13 credentials. She has traveled worldwide and has
14 been very responsible for recruiting young people
15 from areas such as Taiwan, Hong Kong, Malaysia,
16 Singapore, Indonesia, Thailand, Pakistan, India,
17 Japan, Mexico, Haiti and Africa.

18 She is an active member of the
19 Second Baptist Church in Baldwin, New York. She
20 is chairperson of the SBC Scholarship Ministry
21 and a member of the welcoming committee.

22 She is a liaison for the National
23 Society of Black Engineers. She is an honorary
24 member of the National Society of Women
25 Engineers, and she is an advisor to the National

1 Society of Black Engineers, the National
2 Association of Foreign Student Advisors, and
3 Black Professionals in International Education in
4 America.

5 I am honored today and I thank you
6 for allowing me an opportunity to express my
7 pride in knowing Beverly Johnson, having worked
8 with her throughout these past few years that
9 I've known her, and having seen how brilliant she
10 is as it relates to designing programs that
11 actually accomplish what our goal in our
12 Legislature is, and that is to make sure that we
13 are including all young people, especially young
14 people of color in the urban centers, as well as
15 throughout our state, to become involved in STEM.

16 So thank you, Mr. President. And I
17 honor Beverly Johnson today as a Woman of
18 Distinction in this month. Thank you.

19 ACTING PRESIDENT GRIFFO: As noted,
20 the resolution was adopted on February 4, 2014.

21 Senator Libous.

22 SENATOR LIBOUS: Mr. President, may
23 we have the reading of the noncontroversial
24 calendar.

25 ACTING PRESIDENT GRIFFO: The

1 Secretary will read.

2 THE SECRETARY: Calendar Number 57,
3 by Senator Savino, Senate Print 5792B, an act to
4 amend the Labor Law.

5 ACTING PRESIDENT GRIFFO: Read the
6 last section.

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

9 ACTING PRESIDENT GRIFFO: Call the
10 roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT GRIFFO: Senator
13 Peralta to explain his vote.

14 SENATOR PERALTA: Thank you,
15 Mr. President. I want to explain my vote.

16 My understanding of this bill is
17 that it attempts to preserve jobs in the banquet
18 industry by excluding well-compensated banquet
19 employees from receiving overtime wages on
20 mandatory gratuities and service charges.

21 The concern this bill addresses is
22 that if New York law is not amended to better
23 align with federal law, it might mean a rash of
24 lawsuits and years of overtime back pay for
25 individuals who make near or above six figures a

1 year. This could then create catastrophic
2 consequences for workers lower down the pay scale
3 by potentially forcing even high-road employers
4 to fire workers across the spectrum, or even shut
5 down their operations entirely.

6 I understand and share the goals of
7 the sponsor and supporters of this bill,
8 protecting good-paying, high-road jobs for
9 banquet workers.

10 I expressed concerns about the
11 drafting of this bill when it came before the
12 Labor Committee, and I appreciate the efforts by
13 the sponsor and the stakeholders to address those
14 version in this version, including raising the
15 threshold wages a worker would have to make in
16 order for this to apply to him or her.

17 While I remain concerned about the
18 possibility that some of the terminology in this
19 bill is not fully defined in statute, and I am
20 always reticent about anything that repeals parts
21 of the New York law that offers stronger worker
22 protection than federal law, I have been
23 convinced that in practice this restriction will
24 not apply to the vast majority of workers and
25 that it will not create a practical loophole for

1 predatory employers to exploit.

2 I have been assured that there will
3 be a time for all the stakeholders to fully
4 consider this bill and weigh in with potential
5 concerns before it is passed in the Assembly, and
6 therefore I will be voting in the affirmative.

7 Thank you.

8 ACTING PRESIDENT GRIFFO: Senator
9 Peralta to be recorded in the negative.

10 Announce the results.

11 THE SECRETARY: Ayes, 56.

12 ACTING PRESIDENT GRIFFO: The bill
13 is passed.

14 THE SECRETARY: Calendar Number
15 218, by Senator Bonacic, Senate Print 2042, an
16 act to amend the Labor Law.

17 ACTING PRESIDENT GRIFFO: Read the
18 last section.

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

21 ACTING PRESIDENT GRIFFO: Call the
22 roll.

23 (The Secretary called the roll.)

24 ACTING PRESIDENT GRIFFO: Senator
25 Hoylman to explain his vote.

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

3 I'll be voting for this bill, but I
4 wanted to point out that the City of New York has
5 issued a memo in opposition, for the reason that
6 the bill is essentially unworkable due to the
7 fact that the agencies in New York that are
8 responsible for reporting the Department of
9 Corrections and the Department of Probation do
10 not receive the information necessary regarding
11 whether an inmate has committed a crime in the
12 workplace or the employment history of the
13 individual.

14 So I'm hopeful that our colleagues
15 in the Assembly will amend this bill and we'll be
16 seeing a different version of the bill in this
17 chamber as well. I'll be voting in the
18 affirmative.

19 ACTING PRESIDENT GRIFFO: Senator
20 Hoylman to be recorded in the affirmative.

21 Announce the results.

22 THE SECRETARY: In relation to
23 Calendar 218, those recorded in the negative are
24 Senators Hassell-Thompson, Krueger, Montgomery
25 and Perkins.

1 Ayes, 52. Nays, 4.

2 ACTING PRESIDENT GRIFFO: The bill
3 is passed.

4 THE SECRETARY: Calendar Number
5 246, by Senator Ranzenhofer, Senate Print 4324,
6 an act to amend the Not-for-Profit Corporation
7 Law.

8 ACTING PRESIDENT GRIFFO: Read the
9 last section.

10 THE SECRETARY: Section 4. 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, 56.

16 ACTING PRESIDENT GRIFFO: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 263, by Senator Flanagan, Senate Print 5364, an
20 act to repeal paragraph D of Subdivision 4 of
21 Section 3641 of the Education Law.

22 ACTING PRESIDENT GRIFFO: Read the
23 last section.

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

1 ACTING PRESIDENT GRIFFO: Call the
2 roll.

3 (The Secretary called the roll.)

4 ACTING PRESIDENT GRIFFO: Senator
5 Stavisky to explain her vote.

6 SENATOR STAVISKY: To explain my
7 vote.

8 Currently schools have to report
9 three times a year as required by this statute.
10 This would repeal it and make the reporting
11 requirements annually to conform to the National
12 Asbestos Hazard Emergency Safety Act, I think
13 it's called.

14 The first school asbestos act in the
15 nation was passed in this legislative body in
16 1980. And I'm very familiar with that because my
17 husband was chair of the Education Committee and
18 was the sponsor of that first School Asbestos
19 Safety Act.

20 Asbestos is extremely dangerous for
21 a lot of reasons. You can't taste it, you don't
22 see it, you can't feel it, but it's in the walls
23 of buildings that were built prior to the 1970s.
24 In fact, in the state office buildings that were
25 constructed during the period prior to the 1970s,

1 you're not supposed to put a nail in the wall
2 because asbestos may come out.

3 And I bought a co-op last year, and
4 I had to sign for a study of the walls. I had to
5 spend money on a test for asbestos. And
6 furthermore, if asbestos were discovered in that
7 co-op building, I would have had to pay for the
8 abatement.

9 My suggestion to the sponsor is that
10 you exempt those buildings that were built after
11 the 1970s that obviously don't have asbestos, but
12 continue the legislation for those which do
13 contain asbestos, because it's a very dangerous
14 substance.

15 I vote no.

16 ACTING PRESIDENT GRIFFO: Senator
17 Stavisky to be recorded in the negative.

18 Announce the results.

19 THE SECRETARY: In relation to
20 Calendar Number 263, those recorded in the
21 negative are Senators Avella, Hoylman, Krueger,
22 Montgomery, Perkins, Serrano, Squadron and
23 Stavisky.

24 Ayes, 49. Nays, 8.

25 ACTING PRESIDENT GRIFFO: The bill

1 is passed.

2 THE SECRETARY: Calendar Number
3 271, by Senator Maziarz, Senate Print 2063B, an
4 act to amend the Highway Law.

5 ACTING PRESIDENT GRIFFO: Read the
6 last section.

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

9 ACTING PRESIDENT GRIFFO: Call the
10 roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 57.

13 ACTING PRESIDENT GRIFFO: The bill
14 is passed.

15 Senator Libous, that completes the
16 noncontroversial reading of today's calendar.

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

19 Is there any further business at the
20 desk?

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

23 SENATOR LIBOUS: There being no
24 further business, I move that the Senate adjourn
25 until Thursday, March 20th, at 11:00 a.m.

1 ACTING PRESIDENT GRIFFO: On
2 motion, the Senate stands adjourned until
3 Thursday, March 20th, at 11:00 a.m.

4 Senate adjourned.

5 (Whereupon, at 3:45 p.m., the Senate
6 adjourned.)

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