NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 5, 2014

3:25 p.m.

REGULAR SESSION

SENATOR JOSEPH GRIFFO, Acting President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT GRIFFO: The Senate will come to order.

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

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

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

Father Young.

REVEREND YOUNG: Thank you, Senator. Let us pray.

Today, on Cinco de Mayo, we know there are many celebrations that are world-famous.

And we see the Senators here hard at work for the New York State citizens. We bless them and their diligence, and for their very important dedication to handle the opportunities and the obstacles that come with being a citizen and being in the Legislature.

And we take and pray that these

challenges of today on this calendar will be then successfully helping others that are in need, and those that are sick and suffering.

We ask this in Your name, now and forever. Amen.

ACTING PRESIDENT GRIFFO: The reading of the Journal.

THE SECRETARY: In Senate, Friday, May 2nd, the Senate met pursuant to adjournment. The Journal of Thursday, May 1st, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports of state officers.

Motions and resolutions.

Senator Libous.

SENATOR LIBOUS: Would you call on Senator Valesky, please.

ACTING PRESIDENT GRIFFO: Senator

Valesky.

SENATOR VALESKY: Thank you, Mr. President.

On behalf of Senator Avella, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Bill 6601.

ACTING PRESIDENT GRIFFO: It is so ordered.

SENATOR VALESKY: Thank you.

ACTING PRESIDENT GRIFFO: Thank you, Senator Valesky.

Senator Libous.

SENATOR LIBOUS: On behalf of Senator Ball, on page 31 I offer the following amendments to Calendar Number 343, Senate Print 6613, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Libous.

SENATOR LIBOUS: And on behalf of Senator Young, on page 24 I offer the following

amendments to Calendar Number 215, Senate Print 3378, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Libous.

SENATOR LIBOUS: Mr. President, before I call on Senator Marchione, I just want you and the other members to know that the proceedings will go much smoother now that Rebecca is back, after giving birth to two beautiful twin baby girls, and she is back to give us the guidance that we need.

So let's welcome her back to the chamber.

(Applause.)

SENATOR LIBOUS: And the babies are beautiful.

MS. WOOD: Thank you.

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT GRIFFO: Senator Libous.

SENATOR LIBOUS: I believe that there's a previously adopted resolution by

Senator Marchione, Number 4135, I believe it is at the desk. Could we have the resolution read in its entirety and call on Senator Marchione.

ACTING PRESIDENT GRIFFO: The resolution is at the desk. The Secretary will read.

THE SECRETARY: Legislative Resolution Number 4135, by Senator Marchione, congratulating the student body of South Glens Falls High School upon the occasion of participating in its 37th Annual South High Marathon Dance, benefiting numerous charities throughout its community.

"WHEREAS, It is the sense of this Legislative Body to recognize and pay tribute to those young people within the great Empire State who have made strong contributions to their communities and who serve as role models for their peers; and

"WHEREAS, Attendant to such concern, and in full accord with its long-standing traditions, this Legislative Body is justly proud to congratulate the student body of South Glens Falls High School upon the occasion of participating in its 37th Annual South High

Marathon Dance, March 7-8, 2014, benefiting numerous charities throughout its community; and

"WHEREAS, According to the South High marathon dance website, the dance participants have been raising money for local charities for 37 years; this year, over 800 students, more than 80 percent of the student body, participated in raising a record-setting $583,015 for 39 local recipients which includes individuals, families and local charities; and

"WHEREAS, The dance marathon was started in 1978, the age of turntables and disco; it has morphed into a high-tech event involving not only the students, but the community as a whole; and

"WHEREAS, According to the Glens Falls Post Star, each student was required to raise at least $150 in order to participate; many raised more than $1,000; four students raised more than $10,000; and the elementary and middle school students together raised more than $44,000; and

"WHEREAS, Fundraising efforts included a 50/50 raffle, auction items donated by local businesses, and students going door to door

to collect pledges and online donations; and

"WHEREAS, Under the able leadership of Superintendent Michael Patton and Principal Carla Biviano, as well as hundreds of volunteers from the community, this annual event brings together students from all grades; and

"WHEREAS, This dance marathon is different from the old endurance contests of the past in which the last exhausted couple on the floor escapes the tap on the shoulder to win; the teenage dancers get a couple of hours to sleep, plenty of food and drinks and some other breaks from Friday night to Saturday night; there also are costume parades and opportunities to relax on the gym floor; and

"WHEREAS, Dancing for 24 hours shows dedication and commitment; this annual event exemplifies the spirit of friends helping friends and neighbors helping neighbors, all of whom have come together for the past 37 years to benefit many worthy causes; and

"WHEREAS, The participating students truly exemplify the best potential which is inherent in our most precious resource, our youth; together, they have brought enduring honor

to their school, their families, and their community through their latest achievements; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations, in recognition of the significance of this meritorious achievement, to congratulate the student body of South Glens Falls High School upon the occasion of participating in its 37th Annual South High Marathon Dance; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to Superintendent Michael Patton and Principal Carla Biviano, South Glens Falls High School."

ACTING PRESIDENT GRIFFO: Senator Marchione.

SENATOR MARCHIONE: Thank you, Mr. President.

I rise for the purpose of speaking on my resolution recognizing, congratulating and honoring the student body of the South Glens Falls High School upon their successful 37th Annual South High Marathon Dance, which took place on March 7th through March 8th.

You know, I had the honor of

speaking at the 24-hour marathon dance closing ceremony, and I can tell you firsthand it truly was a very impressive and wonderful event that benefited numerous charities throughout our community. More than 80 percent of the school -- over 800 students -- participated in this record-setting fundraiser. The students' hard work and extraordinary efforts clearly paid off. They raised over $583,015 -- a new record for them -- for 39 local recipients, including individuals, families and charities. So thanks to the dedication and tireless effort of the students, more than half a million dollars was raised for charity.

Over the last 36 years, more than $3.64 million has been raised, benefiting over 283 beneficiaries, not just within South Glens Falls, but surrounding communities as well.

You know, don't let anyone ever say that young people today are apathetic or disinterested in making their communities a better place, because it's simply not true. South Glens Falls High School students proved that. When they set their minds to it, young men and women can make a difference -- a real

difference, a positive difference that benefits those in need.

These tremendous young men and women are New Yorkers of character and commitment. It's my privilege to salute their spirit and commend their energy. And I'm so thankful that some of them were able to join us today up in our visitors gallery.

With us today in our Senate visitors gallery above, South Glens Falls High School students Katie Washburn, Bethany Warren, Joshua Deyo, Patrick Fish, Devon Sweenor, Nick Hutchins, Jody Sheldon, Tom Myott, and Dan Albert, as well as South Glens Falls Principal Carla Biviano and South Glens Falls School Superintendent Mike Patton.

I would ask that my colleagues and I properly recognize, congratulate and honor your charitable efforts and applaud your amazing stamina. Congratulations on a job well done.

(Applause.)

ACTING PRESIDENT GRIFFO: Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

While I don't represent South Glens Falls, I was born and raised in Glens Falls and I have watched this marathon grow for the past 37 years. The students that do the South Glens Falls marathon year in and year out set records. And when they reached $100,000 years ago, that was a record. And then it went up and up and up.

But can you imagine a group of high school students, not the largest group in the state, to raise a half a million dollars? This was another new record.

And this marathon is nationally known. They have had attention and recognition from different places in the country throughout the years.

I did not attend it this year, but I've attended it in the past, and it's absolutely phenomenal. It's not just a school event, it's a community event. And the businesses and the parents and the alumni and the faculty, everyone is there. Actually, if you're in South Glens Falls and you're not at the marathon, you must be sick.

(Laughter.)

SENATOR LITTLE: So they are all

there.

And I just want to join Senator Marchione in recognizing you, congratulating you, and really honoring you for your efforts. You've created memories for yourselves, but also for the people that you have recognized this year.

Thank you very much.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

SENATOR DeFRANCISCO: First I want to thank Senator Marchione for bringing this fine group of young people to us.

And what she said really hit home to me, and that is oftentimes what's publicized and what is said about young people are not complimentary. Every time somebody does something wrong, it's a headline. Unfortunately, when wonderful things are done like you've done, there's not enough congratulations.

And I'm very happy -- I'm from Syracuse, New York, and I don't think we've raised $500,000 at any charity, quite frankly. And that's an incredible amount of money. In fact, I helped raise money for a group in our community; it was a boxing match. I got punched

in the face, so we only raised $25,000.

(Laughter.)

CHAIRMAN DeFRANCISCO: So I need some advice from you guys as to a safer way to raise money in my community as well.

So thank you, and you should be commended for your great work.

ACTING PRESIDENT GRIFFO: Thank you, Senator DeFrancisco.

We want to welcome and congratulate South Glens Falls High School. Thank you very much for being with us today.

(Applause.)

ACTING PRESIDENT GRIFFO: As indicated, the resolution was adopted on March 25th of this year.

Senator Libous.

SENATOR LIBOUS: I believe there's a previously adopted resolution by Senator Grisanti, Number 4539, at the desk. Could we have the title read and call on Senator Grisanti.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 4539, by Senator Grisanti,

commemorating the 44th anniversary of Earth Day on April 22, 2014.

ACTING PRESIDENT GRIFFO: Senator Grisanti.

SENATOR GRISANTI: Thank you, Mr. President.

My fellow colleagues, we were not here on April 22nd, but hopefully each and every person in this room did something for the environment, whether it's recycling or re-recycling or something along those lines, doing a cleanup day for Earth Day.

I said this before, it was back in 1970. It was the last time the Beatles produced an album; the song was "Bridge Over Troubled Waters"; Jimmy Hendrix had passed away. And basically, with war going on, there was protests. That was going on back in 1970. But on April 22, 1970, Earth Day was born. I don't know if you guys knew that.

And basically it was born in the United States and became international in 1990. And it's celebrated, this past year, in 192 countries.

Earth Day is important to help raise

awareness of the impact that we all have on our environment. This is being done worldwide, with over 1 billion people celebrating.

We have had, ourselves, many successes in our legislative conference. Basically, in chairing and taking care of Earth Day, from increasing EPF to legislation on safe sofas to Tris in child products. Getting mercury out of our systems, with the mercury thermostat bill. Renewable energy, Brownfield Program -- which we must move forward this year -- Sewage Right to Know legislation, water withdrawal legislation, protecting our waters around this great state of ours, and the list goes on.

So working together we can, in our best interests and our chance to improve all the environment laws for the state, make it a cleaner and safer place to live and grow. I want to thank you, Mr. President. And let's make sure it's not just on April 22nd, let's make sure every day is Earth Day.

Thank you very much.

ACTING PRESIDENT GRIFFO: Thank you, Senator Grisanti.

As indicated, the resolution was

adopted on April 22nd of this year.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

There is a privileged resolution at the desk by Senator Peralta, Number 4823. May we have the title read only and call on Senator Peralta.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 4823, by Senator Peralta, commemorating the celebration of Cinco de Mayo on May 5, 2014.

ACTING PRESIDENT GRIFFO: Senator Peralta.

SENATOR PERALTA: Thank you, Mr. President.

The Cinco de Mayo commemoration of the Battle of Puebla transcends the victory of the greatly outnumbered Mexican army over the French armed forces. Cinco de Mayo has evolved into an American celebration of Mexican and Hispanic culture and heritage in this country.

Cinco de Mayo is about the spirit

and determination of our Mexican and Chicano brethren, about unity and patriotism, about strength of will and perseverance. It is a celebration of liberty and freedom, of the long-standing friendship between the United States and Mexico.

From the arts and culture to politics and the economy, Mexico and Mexican-Americans have made on indelible contribution. Mexican heritage and folklore are intertwined in the American fabric and Mexican-American experience.

In every borough, in every county of our great state, Mexican-Americans enrich our communities. In celebrating Cinco de Mayo, we recognize their myriad contributions and strengthen the innumerable ties that bind us.

Cinco de Mayo is an occasion of great celebration in my district, home to a growing and increasingly involved Mexican-American community. The festivities in Queens include a celebration in Flushing Meadow Park, where tens of thousands of New Yorkers gather to enjoy Mexican food, song and dance. This event, by the way, is a huge magnet for

elected officials.

Today let us remember that the United States and Mexico are not simply neighbors bound by geography and history, we are two societies that are woven together by millions of families and friends and by common interests in a shared future.

Thank you very much, Mr. President, and happy Cinco de Mayo.

ACTING PRESIDENT GRIFFO: Thank you, Senator Peralta, and happy Cinco de Mayo.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, I think the Senator would like to open the resolution up for the cosponsorship.

So as the policy goes, if for some reason someone does not wish to go on the resolution, please let the desk know.

ACTING PRESIDENT GRIFFO: The resolution is open for cosponsorship. Should you choose not to be a cosponsor, please indicate at the desk.

Senator Libous.

SENATOR LIBOUS: I believe there's a previously adopted resolution by Senator Montgomery, Number 4592. It is at the desk. I ask that the resolution be read in its entirety and call on Senator Montgomery.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 4592, by Senator Montgomery, mourning the death of Anthony Merendino, distinguished citizen and devoted member of his community.

"WHEREAS, It is the custom of this Legislative Body to pay tribute to citizens of the State of New York whose lifework and civic endeavor served to enhance the quality of life in their communities and the great State of New York; and

"WHEREAS, Anthony Merendino, a retired New York Police Department Mounted Unit

officer, businessman, and member of the New York State Senate staff, passed away on Friday, February 21, 2014, at the age of 83; and

"WHEREAS, Born and raised in Brooklyn, Anthony Merendino later moved to Sunnyside, New York, where he raised his family; in 1999, he relocated from Staten Island to Little Egg Harbor in New Jersey and settled in Monroe Township in 2005; and

"WHEREAS, Anthony Merendino served his country as a member of the United States Army during the Korean War, attaining the rank of sergeant; and

"WHEREAS, Anthony Merendino owned and operated the A&A Auto School on Staten Island for more than 10 years; and

"WHEREAS, For 23 years, Anthony Merendino served as an officer in the esteemed NYPD Mounted Unit; furthermore, he served for 13 years as a trusted aide and advisor to the Ranking Minority Member on the New York State Senate Finance Committee, Donald Halperin, and then went on to work in a similar capacity for former State Senator Donald Halperin during his tenure as Commissioner of the New York State

Division of Housing and Community Renewal and later employed his talents as an assistant to State Senate Minority Leader Martin Connor; and

"WHEREAS, Anthony Merendino distinguished himself in his profession through his sincere dedication and substantial contributions to the welfare of his community and State; wherever Anthony Merendino went in his career, his colleagues relied on him for his unwavering commitment to the job at hand, loyalty and companionship; and

"WHEREAS, The patriarch of a large family, Anthony Merendino was a dedicated husband and father who enjoyed swimming, listening to music, and discussing current events, world history and politics; he was known as a very charismatic man who was beloved by his family and many friends; and

"WHEREAS, Predeceased by his wife of 50 years, the former Jacquelyn Walker, Anthony Merendino is survived by his five daughters -- Teresa, Debra, Christi, Jodi and Lori -- and his two sons, Tony and Ricci, as well as 16 grandchildren and two great grandchildren; and

"WHEREAS, Armed with a humanistic

spirit and imbued with a sense of compassion, an infectious laugh and sense of humor, Anthony Merendino leaves behind a legacy which will long endure the passage of time and will remain as a comforting memory to all he served and befriended; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to mourn the death and celebrate the life of Anthony Merendino, distinguished citizen and devoted member of his community; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to the family of Anthony Merendino."

ACTING PRESIDENT GRIFFO: Senator Montgomery.

SENATOR MONTGOMERY: Yes, thank you, Mr. President. I rise to have our colleagues join each other in celebrating the life of this wonderful person.

Most of us in this chamber do not know him, but a couple of us were here when Senator Donald Halperin was the ranking minority member of the Finance Committee on our side. And when I came here, the first Senator to really

take me under his tutelage was Senator Donald Halperin, we both being from Brooklyn. And he had an interest in making sure that I understood how this chamber worked and how business in this chamber would be run.

And it was through him that I actually met Tony -- I knew him only by "Tony." He was a very, very loyal and even-mannered man who seemed to have no other interest than to making sure that Donald Halperin was served in any way that he could in his capacity as Donald Halperin's assistant.

I shall never forget how this person was one of the people that I first met who showed me that it didn't make any difference if you were actually the member, that there was a level of respect and regard that he had for us, and we had and Donald Halperin had for him. Because it is not only us who carry the responsibility of making our jobs work, making this place work for our citizens, but it is in fact very, very dependent upon the staffs who serve us, who work for us, who work with us and in very, very often many ways represent us.

So I am pleased to join his family.

And at the time that Tony was here with Donald Halperin, we also had Senator Joe Montalto, who is a former Senator, but I believe he is here with us today. Welcome back home, Joe.

And I want to also acknowledge that Tony's daughters are here with us today to celebrate, and perhaps his grandchildren, and his son. The family is here. And thank you, family, for coming to join us and help us celebrate the life of the wonderful person that I am mourning today, and that is Tony Merendino.

Thank you, Mr. President. And I invite my colleagues, even though they were not here and didn't know Tony, I invite them to sign onto -- oh, the resolution was already passed. So thank you for allowing me to speak on it.

ACTING PRESIDENT GRIFFO: Thank you, Senator Montgomery.

We welcome and express our condolences to the Merendino family.

Welcome, Senator, back to the chamber.

The resolution was adopted on April 29, 2014.

Senator Libous.

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

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 62, by Senator Zeldin, Senate Print 1687, an act to amend the Public Authorities Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 65, by Senator Marcellino, Senate Print 1501, an act to amend the Retirement and Social Security Law.

SENATOR GIANARIS: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay the bill aside.

THE SECRETARY: Calendar Number 87, by Senator Robach, Senate Print 1977, an act to amend the Social Services Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 145, by Senator Parker, Senate Print 955, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT GRIFFO: The bill

is passed.

THE SECRETARY: Calendar Number 148, by Senator Seward, Senate Print 3065, an act to amend the Insurance Law.

SENATOR GIANARIS: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay the bill aside.

THE SECRETARY: Calendar Number 149, by Senator Seward, Senate Print 3066, an act to amend the Insurance Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 161, by Senator Little, Senate Print 1361, an act to amend the Agriculture and Markets Law.

SENATOR GIANARIS: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it

aside.

THE SECRETARY: Calendar Number 209, by Senator Golden, Senate Print 2180, an act to amend the Penal Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

SENATOR LIBOUS: Lay it aside for the day.

ACTING PRESIDENT GRIFFO: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 210, by Senator Golden, Senate Print 2237D, an act to amend the Penal Law.

SENATOR LIBOUS: Lay it aside for the day.

ACTING PRESIDENT GRIFFO: Lay it aside for the day.

THE SECRETARY: Calendar Number 239, by Senator Klein, Senate Print 2373A, an act to amend the Insurance Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 14. This act shall take effect on the 180th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 250, by Senator Young, Senate Print 2049B, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 269, by Senator Marcellino, Senate Print 1514, an

act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 273, by Senator Robach, Senate Print 3769, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Rivera to explain his vote.

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

I have voted against this bill in the past, and I will be voting in the negative again. I wanted to quickly say that the concern that I have with this bill is the fact that it establishes a rebuttable presumption if someone refuses to taking a Breathalyzer test.

I have concerns about the ultimate legality of this bill and whether it violates the Fifth Amendment as well as the Fourth Amendment. And I think that we need to be very careful when we're putting bills like this together. They might actually -- in this particular case, I'll repeat again, create a rebuttable presumption of guilt if someone just refuses to have a Breathalyzer test or they might not be able to have a Breathalyzer test.

There's a lot of concerns that I have about this bill, and I will be voting in the negative on this bill.

Thank you, Mr. President.

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

Announce the results.

THE SECRETARY: Ayes, 55. Nays, 2. Senators Krueger and Rivera recorded in the

negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 285, by Senator Golden, Senate Print 2094B, an act to amend the Domestic Relations Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Golden to explain his vote.

SENATOR GOLDEN: Thank you, Mr. President.

Briefly, the bill allows for kinship care here in the State of New York. And it gives the situation where grandparents, aunts, uncles and adult siblings of a child have opened their homes to the child and are caring for the child in their homes.

It's estimated that 3 percent of the children here in the State of New York are being

raised by a non-parent relative. Twenty-five percent of all children in the foster care system are in kinship care.

Currently when a parent of a minor child has voluntarily relinquished custody of the child to the child's grandparents and the child has resided with that grandparent for more than two years, the grandparents may petition the court for custody of that child.

We met with many of the grandparents and relatives of family members. And I was just with one recently where the grandmother had four sons of her daughter, and two of them had perished with Duchenne muscular dystrophy. And the grandson has Duchenne muscular dystrophy.

To see the burden that's been placed on this family -- but they did not care about the burden. They recognize that this was a calling for them to take care of these children. And tremendous doctor bills, tremendous sick time away from work, and being around these children and giving them the opportunity to have a real life.

So this is a great bill. It helps kids that need those parents, those grandparents,

those aunts, those uncles, those brothers, those sisters, to still have that family connection and to be brought up here in the State of New York as a family unit.

So I vote aye, and I thank all of my colleagues here in the Senate for voting for this bill. This is truly a good bill and a good bill forward for many of the children across our state that need kinship care.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Golden to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 309, by Senator Bonacic, Senate Print 1886, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 336, by Senator Gallivan, Senate Print 91, an act to amend the Environmental Conservation Law.

SENATOR LIBOUS: Lay it aside for the day.

ACTING PRESIDENT GRIFFO: Lay it aside for the day.

THE SECRETARY: Calendar Number 346, by Senator Hannon, Senate Print 2937, an act to amend the Real Property Tax Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number

358, by Senator Ball, Senate Print 2559, an act to amend the Penal Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Excuse me. In relation to Calendar Number 358: Ayes, 57. Nays, 1. Senator Perkins recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 364, by Senator Nozzolio, Senate Print 5307, an act to amend the Penal Law.

SENATOR GIANARIS: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number

365, by Senator Farley, Senate Print 3832, an act to amend the Banking Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 379, by Senator Young, Senate Print 5928, an act to amend the General Municipal Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

SENATOR LIBOUS: I believe we're going to go to the controversial reading at this time.

ACTING PRESIDENT GRIFFO: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 65, by Senator Marcellino, Senate Print 1501, an act to amend the Retirement and Social Security Law.

SENATOR SQUADRON: Explanation.

ACTING PRESIDENT GRIFFO: An explanation has been requested by Senator Squadron, Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President. It's always a pleasure to discuss a bill with Senator Squadron.

(Laughter.)

SENATOR MARCELLINO: This legislation provides that a retired person or a retired superintendent, former superintendent, shall not be employed as a superintendent of schools for a school district for more than a year.

SENATOR SQUADRON: Will the sponsor yield for a question?

SENATOR MARCELLINO: Yes, I will.

ACTING PRESIDENT GRIFFO: Senator Marcellino yields.

SENATOR SQUADRON: Thank you.

So just so I can understand how it changes current law, currently what's the process for someone who's retired to be approved to be a superintendent?

SENATOR MARCELLINO: In many cases a district, if their own existing superintendent leaves for whatever reason -- a termination of contract or retirement or death, whatever -- the district will go out and search for a superintendent to replace. Sometimes that search goes on. Sometimes they hire an interim superintendent to come in.

That superintendent may be someone who was retired from another district who will come in and work on a salaried basis without benefits of health, pension-related, whatever, but they will keep them on and keep paying them. They will be collecting their own pension from their other school district plus the salary from

the existing school district.

SENATOR SQUADRON: Thank you. If the sponsor would continue to yield.

SENATOR MARCELLINO: I will.

ACTING PRESIDENT GRIFFO: The sponsor will continue to yield.

May I ask for some order in the chamber, please, so members can hear each other.

SENATOR SQUADRON: And under this bill, what would be the procedure that would allow that to happen?

SENATOR MARCELLINO: Under this bill? This bill will allow it to happen, but for only a year.

SENATOR SQUADRON: If the sponsor will continue to yield.

SENATOR MARCELLINO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR SQUADRON: And the reason I ask is the sponsor's memo talks about -- seems to talk about the fact that it's become overly common practice to hire interim superintendents year after year who are retired rather than completing a search for a permanent one.

But it seems that the bill text makes it easier to do exactly that. So I'm just trying to understand which problem the bill is intended to solve.

SENATOR MARCELLINO: I think I answered that question on the first statement, by the first question you asked.

The purpose of this bill -- let me just deal with the reasoning behind it. I've had conversations with many heads of education schools at universities. They have a problem in placing their graduates, people who graduate with superintendent's licenses, principal's licenses and so forth.

This doesn't only occur in the superintendent situation; it could occur for a principalship or an assistant principalship and so forth.

The whole idea is to bring in fresh ideas. The educational system should be one of constant renewal. As you know, Senator, I'm a schoolteacher. I taught school in the City of New York for 20 years. I believe in the educational system. I believe in its vibrancy. I believe that it needs new ideas and it needs a

constant flow of new people coming in.

What is happening, for reasons -- in many cases, it's economic. It's cheaper to keep a retired person on without benefits than it is to hire someone new, even at a lower salary, but you have to pay them benefits, and then they become part of your retirement system.

So the school districts in some cases are looking to save a buck. At the expense, I believe, of the creativity of their administrative staff.

So in this situation we're trying to shake things up a little bit. If the district needs more time, they can appeal to the superintendent of -- New York State Ed, the Commissioner of Education, and basically say we need more time. We've made an honest search, we haven't been able to find someone who fits our bill or fits our needs, we need more time.

And then it's up to the Commissioner of Education to make a determination as to whether or not to grant a waiver or not.

SENATOR SQUADRON: If the sponsor would continue to yield.

SENATOR MARCELLINO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR SQUADRON: Just so I understand the sponsor's view about the Comptroller's role in the waiver to this point --

SENATOR MARCELLINO: Excuse me, I couldn't hear your first --

SENATOR SQUADRON: Just to understand the sponsor's position or understanding of the role the Comptroller has played in granting or failing to grant the waiver currently, is it the sponsor's view that the Comptroller should grant fewer of these waivers?

SENATOR MARCELLINO: Senator, it's my understanding that the Commissioner of Education would grant the waiver.

SENATOR SQUADRON: Thank you. If the sponsor would continue to yield.

SENATOR MARCELLINO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR SQUADRON: And is it the sponsor's view that the commissioner grants the waiver too often?

SENATOR MARCELLINO: Right now

there's no limit to the length of time an interim acting superintendent could be kept on. We're establishing that limit by this bill.

SENATOR SQUADRON: If the sponsor would yield for a final question.

SENATOR MARCELLINO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR SQUADRON: Thank you.

SENATOR MARCELLINO: Take another one, if you want.

(Laughter.)

SENATOR SQUADRON: I appreciate that. I think you might owe me one. Not at all.

However, under this bill the commissioner would still be able to grant the waiver beyond the first year, just as they are today.

SENATOR MARCELLINO: Yes.

SENATOR SQUADRON: Thank you.

On the bill.

ACTING PRESIDENT GRIFFO: Senator Squadron on the bill.

SENATOR SQUADRON: Thank you very much. And I thank the sponsor for answering

those questions.

You know, I think the problem with this bill it seems to go after a challenge that's faced in districts around the state without really fully solving it. I think that to go from a required waiver to a one-year period and then to still allow the waiver at the back end seems not to fully address the issue.

And I know that there is a real interest, both because of the property tax burden and because of the importance of public schools across the district, in making sure we really do encourage districts to hire the best and the brightest when it comes to superintendents, hire folks who are invested in their districts over time. And it is a worthy goal.

Unfortunately, I think that in some ways it loosens and in other ways it just furthers a system that seems to currently be problematic.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Squadron.

Is there any other Senator wishing to be heard?

Senator Marcellino.

SENATOR MARCELLINO: The reason why we give the waiver idea and we keep the waiver idea is because some districts will incur and will require time. They may actually require more time. Some of the districts in remote communities, some of the districts that are small and may not be able to afford high salaries and the like, may need more time to get someone to come up there, be willing to take the time and take the salary.

So they need time for a search. We're giving them that option. We're also encouraging them to bring in some new blood, to bring in some new ideas and fresh thought to the system.

As I said in my opening remarks, education requires innovation. It requires fresh ideas, not old ideas. We must keep it changing, we must keep it current, and we must keep the thought fresh. That requires new people.

Thank you, Mr. President. I'm going to vote aye.

ACTING PRESIDENT GRIFFO: Thank you, Senator Marcellino.

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

The Secretary will ring the bell.

Senator Libous.

SENATOR LIBOUS: Mr. President, we're waiting for members to come back in so we can vote.

And while we're doing that, I want to make note to the body that we are very honored this afternoon to have a former member and a former leader of this house back with us today, Senator Marty Connor. And he is on the floor. Let's give him a big round of applause.

(Standing ovation.)

ACTING PRESIDENT GRIFFO: Senator Connor, welcome.

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Announce the results.

THE SECRETARY: In relation to

Calendar Number 65, those recorded in the negative are Senators Addabbo, Breslin, Díaz, Dilan, Farley, Gianaris, Gipson, Hoylman, Kennedy, Krueger, Latimer, Little, Montgomery, O'Brien, Peralta, Perkins, Rivera, Sanders, Serrano, Smith, Squadron, Stavisky, Stewart-Cousins and Tkaczyk.

Absent from voting: Senators Espaillat, Golden and Sampson.

Ayes, 32. Nays, 24.

ACTING PRESIDENT GRIFFO: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 148, by Senator Seward, Senate Print 3065, an act to amend the Insurance Law.

SENATOR KRUEGER: Explanation, please.

ACTING PRESIDENT GRIFFO: Senator Krueger has requested an explanation, Senator Seward.

Can I have some order in the house, please.

SENATOR SEWARD: Certainly, Mr. President.

This legislation before us provides that the regulation governing the replacements of life insurance products is consistent, to the extent possible, with the replacements regulations that have been adopted by the National Association of Insurance Commissioners.

Now, Regulation 60, which is a regulation by the Department of Financial Services, has been in place for some time, which is -- this deals with this part of the Insurance Law. This is regarding replacements that have been long considered to be one of the most burdensome New York regulations with which life insurers must comply.

And also it has been harmful to the consumers. Because the consumer -- just think about this -- they are looking to replace an insurance policy or insurance product with another life insurance product, yet because of this Regulation 60, they run into a lengthy delay in being able to make that change.

It's also important, it seems to me, that insurance laws and regulations should be as uniform and consistent as possible throughout the 50 states. This legislation would ensure, in

this case, that New York's regulations regarding replacement of insurance policies comply with the NAIC life insurance and annuities replacement model regulation.

And that uniformity with the other states in the union is good, certainly, for particularly our domestic life insurance companies and good for New York insurance consumers.

ACTING PRESIDENT GRIFFO: Thank you, Senator Seward.

Senator Krueger.

SENATOR KRUEGER: Thank you.

On the bill, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Krueger on the bill.

SENATOR KRUEGER: I appreciate the sponsor's explanation. And as he explained, this bill would have New York State insurance be consistent with other states in the life insurance industry. My problem with this bill is it actually weakens the stronger protections that exist in New York State.

So right now -- I don't know about anybody else. Have you tried to read insurance

policies for yourself? Have you found yourself having a little confusion, not understanding what's covered, what's not covered, not even realizing that you don't have certain coverage until after something happens, and then and only then do you learn, oops, your insurance policy doesn't cover that, you just thought it did. I know I have a frustration with that.

And my concern with this bill is it removes the requirement currently in New York State law that says that if you're going to sell off an existing policy and replace it with a different policy or cancel the policy and replace it, right now in New York State law you actually have to be given a side-by-side comparison of what your current policy covers in life insurance and what the new policy would cover.

And I agree that when I've spoken to LICONY, that it's added work for the insurance companies and the brokers to do comparisons between an existing policy you may hold and the policy they want you to buy, that there's some work involved.

But I actually say that's okay. They're trying to get your business. They're

trying to collect your money. And having a side-by-side comparison helps ensure that as a consumer you know what the old policy was, what the new policy would be, and whether in fact it meets your needs as a consumer.

So I recognize why the industry wants this law change, and I recognize there's an argument for having all states be consistent in policies on insurance. But for me, I'd rather side with the consumer rights and say if New York State makes it a little tougher to sell these policies by requiring they do side-by-side comparisons, that's worth our being out of the norm. I would hope the other 49 states might realize this is a good rule for all of them to incorporate, as opposed to our so to speak lowering the standards that we have for providing consumers with information that's relevant to them before they purchase life insurance.

So I'm going to continue my voting no, Mr. President. And I'm going to hope that at some point in time when this bill might pass both houses and it gets before the Governor and the Department of Financial Services, they'll also say, Wait a second here, maybe there are ways to

modernize, streamline and make it easier for insurance companies and the brokers to figure out how to provide this information to people. Maybe in a world of computerization there's a simpler way to do it.

But I really like the fact that New York State requires that you get side-by-side comparisons of these policies. And I think that we would be actually harming consumers' rights if we took away this information. So I'll be voting no.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President. On the bill.

ACTING PRESIDENT GRIFFO: Senator Breslin on the bill.

SENATOR BRESLIN: I think that the NAIC, in its wisdom of all of the commissioners of insurance, have gotten together and provided a model regulation which works. It still requires insurance people in New York State and elsewhere to deal honestly, directly, forthrightly with the consumer.

And the side-by-side comparison in Regulation 60, along with its other components, the side by side frequently, if you've sold insurance to someone that wants it to be replaced by another policy, you're going to want to move quickly, because you're losing something.

So we've found that over a period of years that there hasn't been that side-by-side comparison quickly done. And when it isn't quickly done, interest rates change, changes that affect dramatically the insurance product to the consumer. The consumer is not getting what they want.

We have a tremendous insurance -- the DFS in New York State does a tremendous job in policing the industry. In this case, Regulation 60 goes too far. And it would be moving into compliance with really national standards would be in the best interests of New York.

And I fully support this legislation, and I think it will not only do much to enhance the position of the consumer, but at no expense to wrongdoing.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Breslin.

Is there any other Senator wishing to be heard?

Seeing none, hearing none, debate is closed. The Secretary will ring the bell.

SENATOR LIBOUS: Mr. President, if we have members get to their seats, we can have an accounting and we can move along a little bit faster. But when members stop --

ACTING PRESIDENT GRIFFO: I ask the members to please take their --

SENATOR LIBOUS: -- with other members, we don't know if they're really here because their seats are empty.

ACTING PRESIDENT GRIFFO: May I ask members to please take their seats and to please remain close to the chamber for the votes that are before the house.

Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 180th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Announce the results.

THE SECRETARY: In relation to Calendar Number 148, those recorded in the negative are Senators Griffo, Hoylman, Krueger, Peralta, Sanders and Squadron.

Absent from voting: Senators Espaillat and Golden.

Ayes, 51. Nays, 6.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 161, by Senator Little, Senate Print 1361, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Announce the results.

THE SECRETARY: In relation to Calendar Number 161, those recorded in the

negative are Senators Addabbo, Avella, Breslin, Díaz, Dilan, Gianaris, Hoylman, Kennedy, Krueger, Latimer, Montgomery, Peralta, Perkins, Rivera, Sampson, Sanders, Savino, Serrano, Smith, Squadron, Stavisky, Stewart-Cousins and Tkaczyk.

Absent from voting: Senators Espaillat and Golden.

Ayes, 34. Nays, 23.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 364, by Senator Nozzolio, Senate Print 5307, an act to amend the Penal Law.

SENATOR SQUADRON: Explanation.

ACTING PRESIDENT GRIFFO: An explanation has been requested by Senator Squadron, Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President and my colleagues.

The bill before us today, S5307, is a measure that has a deep history and an important one. Emanating from this body a number of years ago, we decided that the correction officers of this state, who walk the toughest law enforcement beat in America, were subjected to

heinous behavior, where inmates in effect were using their bodily fluids as weapons. Those bodily fluids may have had a contagious disease, serious problems with them created by the use of a very difficult and unquestionably distasteful process to describe. But in effect, inmates using bodily fluids as weapons. We made that a felony.

What the provision does today is expand that protection. The protection that we've given to our correction officers of the state we're now trying to provide to those first responders, those who we all have a great deal of respect for, and admiration, and in this state, particularly after September 11th, understood that our first responders are indeed the true heroes of America.

This protection is for those heroes. And I'm hopeful that the measure will pass before us today.

ACTING PRESIDENT GRIFFO: Thank you, Senator Nozzolio.

Senator Squadron.

SENATOR SQUADRON: Thank you. If the sponsor would yield.

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Nozzolio yields.

SENATOR SQUADRON: Thank you very much.

Just so that I can understand the bill better, I know that the sponsor spoke about correction officers. Does this bill apply only to corrections officers or people in correctional facilities?

SENATOR NOZZOLIO: Mr. President, I think Senator Squadron must have heard my explanation about what this house had done previously.

The protections provided correction officers are now to be provided, under this statute that we are debating today, to those who are -- and let me list: -- a peace officer, a police officer, a court officer, an emergency medical technician or a paramedic.

Those are the types of occupations that we are trying to provide protections to, as we had provided those correction officers as well as other correctional personnel in laws passed by

this house in the past.

SENATOR SQUADRON: Thank you for the clarification. If the sponsor would continue to yield.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR SQUADRON: Thank you.

I notice in that list, and I'll ask about a couple of items in it, are peace officers. As the chair of Codes, does the sponsor know how many bills are on simply tomorrow's Codes agenda adding peace officer protection to folks who don't currently have it? Just tomorrow's agenda alone.

SENATOR NOZZOLIO: Mr. President, I'm sorry, I didn't catch the entire nature of Senator Squadron's question. Would you ask him respectfully to repeat it?

ACTING PRESIDENT GRIFFO: Senator Squadron, could you please repeat the question?

SENATOR SQUADRON: Forgive me. Thank you for the opportunity.

I notice that this bill, as this sponsor says, extends protections from any sort of saliva, including potentially just in the act

of yelling, to peace officers. And I wanted to know, just to get a sense of what that includes, how many bills on tomorrow's Codes agenda alone, as the chair of the Codes Committee, extend peace officer protection to folks who don't currently have it.

SENATOR NOZZOLIO: Mr. President, I have not counted the number of bills on the agenda.

SENATOR SQUADRON: If the sponsor would continue to yield.

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR SQUADRON: There are 12 on tomorrow's agenda, by the way.

And does the sponsor know or can the sponsor list, even just by category, all those who currently have peace officer protection and will be protected against inadvertent saliva while in the act of attempting to harass or annoy under this bill? All of the 17 pages worth of peace officers in statute.

SENATOR NOZZOLIO: Mr. President,

I'm not sure where Senator Squadron is trying to lead with this.

If he would like to know, in effect, does this measure protect peace officers, the answer is absolutely yes. And that those are who are designated peace officer status in this state are not second-class peace officers, they are first-class peace officers.

They deserve that type of protection, as decided by the nature of their position and designation by both houses of the Legislature and the Governor, that those individual professions should have peace officer status because they provide an important public protection service for the citizens of this state.

I am getting very close to resentful of the characterizations I hear Senator Squadron make, in his attempt to debate the measure, to somehow separate peace officers as a class that should in fact not receive the types of protections that we're trying to provide by this bill.

SENATOR SQUADRON: If the sponsor would continue to yield.

The sponsor I think --

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR SQUADRON: -- I think misunderstands where I'm going here, and I apologize if there's any resentment being caused.

The real reason I was asking the question about the extensive different categories of peace officers -- 17 pages in statute, 12 bills on tomorrow's Codes Committee agenda alone -- is whether the nature of any of the jobs that are carried out by these folks who are peace officers might cause them to come into contact with saliva or any of the other bodily fluids enumerated in the bill, in a way that might change the sponsor's view of creating a felony from anyone being served by those peace officers in that way.

SENATOR NOZZOLIO: Mr. President, every peace officer in the state, as well as police officers, as well as other personnel enumerated in this bill, do not deserve to have someone intentionally attack them with their saliva or other bodily fluids. That regardless of the number that may be covered, regardless of

the type of individual responsibilities, as Senator Squadron is selecting peace officers, none of them deserve the types of heinous behavior that we're trying to prevent by this statute.

SENATOR SQUADRON: If the sponsor would continue to yield.

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR SQUADRON: I do think that a close look at the list of peace officers would be valuable.

But let me go to another category listed here. Emergency medical technicians or paramedics are listed. And I know the sponsor just referred to heinous acts. And I certainly want to be clear, to spit on another individual or to inadvertently spit on another individual while screaming at them and therefore harassing them, is wrong behavior. It's bad behavior. It may even be criminal behavior.

We're talking about a felony behavior here, which is not simply behavior that

shouldn't happen, it's behavior that leads to very serious penalties and permanent costs in people's lives. As felonies should.

The question is in all cases for each of these 17 pages of folks, is spitting such an heinous act that it is in fact a felony in all cases? And I want to ask about emergency medical technicians and paramedics, which are included.

Is it the sponsor's intent that if an EMT or a paramedic were called to, say, an elderly person's home because a relative of that person was concerned about their well-being or ability to live on their own, if that person, confused or feeling threatened, as is a case that has occurred in my own family, maybe in others -- if during that sort of tense moment that elderly person or person who didn't necessarily understand the context were to spit and that spit were to land on the shoe of the EMT or the paramedic, it is the sponsor's intent that that elderly person would be a felon?

SENATOR NOZZOLIO: Mr. President, under the circumstances and fact pattern presented by Senator Squadron, I think the answers are simple. Absolutely not. That there

has to be a mens rea, there has to be an intention.

And it's stated on lines 8 and 9 of this measure that he or she causes but in effect a person with -- on line 6 and 7, when with intent to harass, annoy, threaten, harm or alarm. Again, with intent to harass, annoy, threaten, harm or alarm.

The specific elements of intent are certainly delineated by this proposal, by this statute. And I think foursquare within those words would separate those who are trying to create harm versus those who are victims of an accident.

SENATOR SQUADRON: On the bill, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Squadron on the bill.

SENATOR SQUADRON: You know, unfortunately, there's actually no intent beyond the one the sponsor just read, the intent to harass, annoy, threaten, harm or alarm.

And unfortunately, the instance I spoke about, an elderly person who has an EMT or a paramedic called to their home who becomes

confused or concerned about that, who lashes out in a way that certainly would not be preferable but could be the cause of simple confusion, would in fact have committed this felony, as it's created. As would anyone else, someone who was having a paranoid episode of some sort and had medical care called in, would be a felon.

In fact, someone who was in the act of --

ACTING PRESIDENT GRIFFO: Senator Nozzolio, why do you rise?

SENATOR NOZZOLIO: Mr. President, will Senator Squadron yield?

ACTING PRESIDENT GRIFFO: Senator Squadron, do you yield?

SENATOR SQUADRON: Let me finish the sentence, and then absolutely.

ACTING PRESIDENT GRIFFO: Upon completion of the sentence, Senator Nozzolio, he will yield.

Senator Squadron, continue.

SENATOR SQUADRON: Thank you so much.

In fact, if someone were engaged in lawful public protest, any number of the

categories of peace officers here, and were chanting or yelling as part of that protest and were purposely irritating but not purposely spitting, and had inadvertent spit come out of their mouth, they would be committing a felony too.

I will yield.

ACTING PRESIDENT GRIFFO: Senator Nozzolio.

May I have some order in the chamber, please.

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, I fear that Senator Squadron might have not heard the answer to the question that he asked of me a few minutes ago.

The question, if I recall, was whether this individual that he described in a fact pattern regarding a senior citizen would in fact be guilty of this crime.

My response to him was absolutely not. It would require, as the fact pattern presented to us -- it showed clearly that the senior citizen in question had no intention of engaging in physical harm or intending any

physical harm or threatening any physical harm to the particular first responder.

I guess Senator Squadron did not hear the answer to that question. Because if he did, he certainly wouldn't be engaging in the type of colloquy that he's engaged in now.

That's my question, Mr. President. Did Senator Squadron hear us?

ACTING PRESIDENT GRIFFO: Senator Squadron.

SENATOR SQUADRON: I apologize. If the sponsor wouldn't mind just concluding the question again.

SENATOR NOZZOLIO: Mr. President, it appears that Senator Squadron didn't hear us the first time or the second time. Because if he heard us the first time or the second time, he would know that the fact pattern that he described clearly is outside the criminal conduct requirement suggested in this bill, where on lines 6 and 7 we talk about -- the statute talks about the mens rea required for the element of this crime, which is intention. Intention to harass, annoy, threaten or harm an individual. Without that mens rea, without that intention, in

effect it's not a crime.

My question to Senator Squadron is, did you not hear that answer before? Because if you did, I am shocked that you engage in such a colloquy now.

SENATOR SQUADRON: Thank you for the clarification.

And I think I was correct in there not really being an answerable question there, other than to say again, as I have before, having heard the answer to the question now once and then clarified and clarified again -- which I appreciate greatly -- that the circumstance I am describing has intent.

I appreciate that the sponsor's intent is different. But let's be clear. The intent to harass, annoy, threaten, harm or alarm. Someone who is confused, therefore lashes out, has the intent to lash out. Someone who has dementia and therefore doesn't correctly understand the context of the situation but lashes out, has an intent to lash out, has an intent to harass, annoy, threaten or alarm. Maybe not harm.

And that is clearly not the

sponsor's intent. The sponsor has gone out of his way to make clear that it's not his intent. But the bill is the bill. And it is wildly broad. It is a bill that could go after anyone in this room if they become confused and try to defend themselves in a way they should not defend themselves, but would be turned into felons by doing so. Go after anyone's parent or a grandparent in this room, if they're ever in a circumstance where they don't understand the intent of an EMT or a paramedic who's called to help them.

It also could undermine the ability and the right to protest legally by -- {pausing}. Thank you.

It also could undermine the ability to protest legally and appropriately if an overzealous peace officer decided that someone who was raising their voice, who was protesting in way that they found annoying or aggravating, also happened to inadvertently have some contact with their saliva or their sweat.

Look, what the sponsor is talking about are circumstances in correctional facilities where behavior that is dangerous, that

risks the lives of everyone in that facility, is occurring.

That is very different than the inadvertent contact along with the intent to harass, annoy or harm that would be broadly written here. You know what this is? This is the bill that could create a felon out of anyone who ever comes into contact with any of a huge category of people in the state, create a felon out of anyone who is confused or concerned when they come into contact with just about anyone in uniform, including those who are there to help them.

It's behavior that shouldn't happen, but it's not felony behavior when a senior citizen who's confused reacts to a paramedic that way. It's bad behavior, but it's not felony behavior.

I also find it ironic that the sponsor is going so far to create felons out of so many categories of people -- those who are legally and lawfully protesting or gathering, those who in their homes might become confused -- and yet the sponsor and the Codes Committee did not consider something that really is dangerous,

which is .50-caliber weapons. Which are currently legal in this state, which can kill at distances of more than 2,000 yards -- some of the most dangerous, most militarized weapons in the world, a lot more dangerous than a senior citizen's saliva.

And yet this house and the sponsor's committee would not even consider the question as to whether .50-caliber weapons should be lawful in this state, at the same time that anybody who comes into contact with just about anybody in uniform can become a felon if they get a little bit overexcited and a little saliva comes out of their mouth when it shouldn't, a little sweat comes into contact if they get a little bit closer than they should.

All of which is bad behavior, much of which might even be misdemeanor behavior, but those folks are all going to be felons, boom, boom, boom. And yet .50-caliber weapons in this state, we can't even have a conversation, a direct conversation about whether they're lawful.

I think the priorities are wrong. I think the bill is overbroad. And I think the bill's statements and the sponsor's intent aren't

aligned, and so I would urge the sponsor to pull the bill today and to work to tighten it up. And I will certainly be voting no.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Is there any other Senator wishing to be heard?

Senator Hoylman.

SENATOR HOYLMAN: Thank you, Mr. President. On the bill.

ACTING PRESIDENT GRIFFO: Senator Hoylman on the bill.

SENATOR HOYLMAN: Mr. President, my concern with this bill is that underlying it is a fundamental misconception about how HIV/AIDS is spread.

It occurs to me, Mr. President, that the intent of the bill is to protect the health and well-being of our corrections officers, our peace officers, court officers, emergency medical technicians and others.

But, Mr. President, you can't contract HIV through spitting. It's disrespectful to spit, I admit. But you will not get AIDS or HIV from doing so. And last year in our Codes Committee meeting, that was one of the

rationales presented for raising this bill to this Class E felony, this infraction to a Class E felony.

And therefore, Mr. President, I'll be voting no. Because not only is it overbroad. But it sends the wrong public health message and buys into stereotypes and myths about HIV/AIDS that we shouldn't accept.

ACTING PRESIDENT GRIFFO: Seeing and hearing no other Senator that wishes to be heard, debate is closed.

The Secretary will ring the bell.

Read the last section.

(Pause.)

ACTING PRESIDENT GRIFFO: The Secretary will, again, read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Announce the results.

THE SECRETARY: In relation to Calendar Number 364, those recorded in the

negative are Senators Breslin, Dilan --

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

The Secretary will continue to announce the results.

THE SECRETARY: In relation to Calendar Number 364, those recorded in the negative are Senators Breslin, Dilan, Gianaris, Hoylman, Krueger, Montgomery, Perkins, Rivera, Sampson, Sanders, Serrano, Squadron and Stavisky.

Absent from voting: Senators Espaillat and Golden.

Ayes, 44. Nays, 13.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

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

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

SENATOR LIBOUS: There being no further business, I move that the Senate adjourn till Tuesday, May 6th, at 3:00 p.m.

ACTING PRESIDENT GRIFFO: On

motion, the Senate stands adjourned until Tuesday, May 6th, at 3:00 p.m.

Senate adjourned.

(Whereupon, at 5:01 p.m., the Senate adjourned.)