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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

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 will be offered by the Reverend Peter
11 G. Young, of the Mother Teresa Community here in
12 Albany.

13 Father Young.

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

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

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

25 And we take and pray that these

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

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

6 ACTING PRESIDENT GRIFFO: The
7 reading of the Journal.

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

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

14 Presentation of petitions.

15 Messages from the Assembly.

16 Messages from the Governor.

17 Reports of standing committees.

18 Reports of select committees.

19 Communications and reports of state
20 officers.

21 Motions and resolutions.

22 Senator Libous.

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

25 ACTING PRESIDENT GRIFFO: Senator

1 Valesky.

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

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

9 ACTING PRESIDENT GRIFFO: It is so
10 ordered.

11 SENATOR VALESKY: Thank you.

12 ACTING PRESIDENT GRIFFO: Thank
13 you, Senator Valesky.

14 Senator Libous.

15 SENATOR LIBOUS: On behalf of
16 Senator Ball, on page 31 I offer the following
17 amendments to Calendar Number 343, Senate Print
18 6613, 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: And on behalf of
25 Senator Young, on page 24 I offer the following

1 amendments to Calendar Number 215, Senate Print
2 3378, and ask that said bill retain its place on
3 the Third Reading Calendar.

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

7 Senator Libous.

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

15 So let's welcome her back to the
16 chamber.

17 (Applause.)

18 SENATOR LIBOUS: And the babies are
19 beautiful.

20 MS. WOOD: Thank you.

21 SENATOR LIBOUS: Mr. President.

22 ACTING PRESIDENT GRIFFO: Senator
23 Libous.

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

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

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

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

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

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

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

3 "WHEREAS, According to the South
4 High marathon dance website, the dance
5 participants have been raising money for local
6 charities for 37 years; this year, over 800
7 students, more than 80 percent of the student
8 body, participated in raising a record-setting
9 \$583,015 for 39 local recipients which includes
10 individuals, families and local charities; and

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

16 "WHEREAS, According to the Glens
17 Falls Post Star, each student was required to
18 raise at least \$150 in order to participate; many
19 raised more than \$1,000; four students raised
20 more than \$10,000; and the elementary and middle
21 school students together raised more than
22 \$44,000; and

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

1 to collect pledges and online donations; and

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

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

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

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

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

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

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

15 ACTING PRESIDENT GRIFFO: Senator
16 Marchione.

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

19 I rise for the purpose of speaking
20 on my resolution recognizing, congratulating and
21 honoring the student body of the South Glens
22 Falls High School upon their successful
23 37th Annual South High Marathon Dance, which took
24 place on March 7th through March 8th.

25 You know, I had the honor of

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

15 Over the last 36 years, more than
16 \$3.64 million has been raised, benefiting over
17 283 beneficiaries, not just within South Glens
18 Falls, but surrounding communities as well.

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

1 difference, a positive difference that benefits
2 those in need.

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

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

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

21 (Applause.)

22 ACTING PRESIDENT GRIFFO: Senator
23 Little.

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

1 While I don't represent South Glens
2 Falls, I was born and raised in Glens Falls and I
3 have watched this marathon grow for the past
4 37 years. The students that do the South Glens
5 Falls marathon year in and year out set records.
6 And when they reached \$100,000 years ago, that
7 was a record. And then it went up and up and up.

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

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

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

24 (Laughter.)

25 SENATOR LITTLE: So they are all

1 there.

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

7 Thank you very much.

8 ACTING PRESIDENT GRIFFO: Senator
9 DeFrancisco.

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

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

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

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

2 (Laughter.)

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

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

8 ACTING PRESIDENT GRIFFO: Thank
9 you, Senator DeFrancisco.

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

13 (Applause.)

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

17 Senator Libous.

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

22 ACTING PRESIDENT GRIFFO: The
23 Secretary will read.

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

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

3 ACTING PRESIDENT GRIFFO: Senator
4 Grisanti.

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

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

13 I said this before, it was back in
14 1970. It was the last time the Beatles produced
15 an album; the song was "Bridge Over Troubled
16 Waters"; Jimmy Hendrix had passed away. And
17 basically, with war going on, there was protests.
18 That was going on back in 1970. But on April 22,
19 1970, Earth Day was born. I don't know if you
20 guys knew that.

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

25 Earth Day is important to help raise

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

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

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

22 Thank you very much.

23 ACTING PRESIDENT GRIFFO: Thank
24 you, Senator Grisanti.

25 As indicated, the resolution was

1 adopted on April 22nd of this year.

2 Senator Libous.

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

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

9 ACTING PRESIDENT GRIFFO: The
10 Secretary will read.

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

15 ACTING PRESIDENT GRIFFO: Senator
16 Peralta.

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

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

25 Cinco de Mayo is about the spirit

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

7 From the arts and culture to
8 politics and the economy, Mexico and
9 Mexican-Americans have made an indelible
10 contribution. Mexican heritage and folklore are
11 intertwined in the American fabric and
12 Mexican-American experience.

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

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

1 elected officials.

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

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

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

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

14 (Response of "Aye.")

15 ACTING PRESIDENT GRIFFO: Opposed?

16 (No response.)

17 ACTING PRESIDENT GRIFFO: The
18 resolution is adopted.

19 Senator Libous.

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

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

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

5 Senator Libous.

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

11 ACTING PRESIDENT GRIFFO: The
12 Secretary will read.

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

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

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

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

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

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

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

17 "WHEREAS, For 23 years, Anthony
18 Merendino served as an officer in the esteemed
19 NYPD Mounted Unit; furthermore, he served for
20 13 years as a trusted aide and advisor to the
21 Ranking Minority Member on the New York State
22 Senate Finance Committee, Donald Halperin, and
23 then went on to work in a similar capacity for
24 former State Senator Donald Halperin during his
25 tenure as Commissioner of the New York State

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

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

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

19 "WHEREAS, Predeceased by his wife of
20 50 years, the former Jacquelyn Walker, Anthony
21 Merendino is survived by his five daughters --
22 Teresa, Debra, Christi, Jodi and Lori -- and his
23 two sons, Tony and Ricci, as well as
24 16 grandchildren and two great grandchildren; and

25 "WHEREAS, Armed with a humanistic

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

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

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

15 ACTING PRESIDENT GRIFFO: Senator
16 Montgomery.

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

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

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

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

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

25 So I am pleased to join his family.

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

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

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

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

20 We welcome and express our
21 condolences to the Merendino family.

22 Welcome, Senator, back to the
23 chamber.

24 The resolution was adopted on
25 April 29, 2014.

1 Senator Libous.

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

5 ACTING PRESIDENT GRIFFO: The
6 Secretary will read.

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

10 ACTING PRESIDENT GRIFFO: Read the
11 last section.

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

14 ACTING PRESIDENT GRIFFO: Call the
15 roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 57.

18 ACTING PRESIDENT GRIFFO: The bill
19 is passed.

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

23 SENATOR GIANARIS: Lay it aside.

24 ACTING PRESIDENT GRIFFO: Lay the
25 bill aside.

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

4 ACTING PRESIDENT GRIFFO: Read the
5 last section.

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

8 ACTING PRESIDENT GRIFFO: Call the
9 roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 57.

12 ACTING PRESIDENT GRIFFO: The bill
13 is passed.

14 THE SECRETARY: Calendar Number
15 145, by Senator Parker, Senate Print 955, an act
16 to amend the Mental Hygiene Law.

17 ACTING PRESIDENT GRIFFO: Read the
18 last section.

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

21 ACTING PRESIDENT GRIFFO: Call the
22 roll.

23 (The Secretary called the roll.)

24 THE SECRETARY: Ayes, 57.

25 ACTING PRESIDENT GRIFFO: The bill

1 is passed.

2 THE SECRETARY: Calendar Number
3 148, by Senator Seward, Senate Print 3065, an act
4 to amend the Insurance Law.

5 SENATOR GIANARIS: Lay it aside.

6 ACTING PRESIDENT GRIFFO: Lay the
7 bill aside.

8 THE SECRETARY: Calendar Number
9 149, by Senator Seward, Senate Print 3066, an act
10 to amend the Insurance Law.

11 ACTING PRESIDENT GRIFFO: Read the
12 last section.

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

15 ACTING PRESIDENT GRIFFO: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 57.

19 ACTING PRESIDENT GRIFFO: The bill
20 is passed.

21 THE SECRETARY: Calendar Number
22 161, by Senator Little, Senate Print 1361, an act
23 to amend the Agriculture and Markets Law.

24 SENATOR GIANARIS: Lay it aside.

25 ACTING PRESIDENT GRIFFO: Lay it

1 aside.

2 THE SECRETARY: Calendar Number
3 209, by Senator Golden, Senate Print 2180, an act
4 to amend the Penal Law.

5 ACTING PRESIDENT GRIFFO: Read the
6 last section.

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

9 ACTING PRESIDENT GRIFFO: Call the
10 roll.

11 (The Secretary called the roll.)

12 SENATOR LIBOUS: Lay it aside for
13 the day.

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

16 THE SECRETARY: Calendar Number
17 210, by Senator Golden, Senate Print 2237D, an
18 act to amend the Penal Law.

19 SENATOR LIBOUS: Lay it aside for
20 the day.

21 ACTING PRESIDENT GRIFFO: Lay it
22 aside for the day.

23 THE SECRETARY: Calendar Number
24 239, by Senator Klein, Senate Print 2373A, an act
25 to amend the Insurance Law.

1 ACTING PRESIDENT GRIFFO: Read the
2 last section.

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

5 ACTING PRESIDENT GRIFFO: Call the
6 roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 57.

9 ACTING PRESIDENT GRIFFO: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 250, by Senator Young, Senate Print 2049B, an act
13 to amend the Agriculture and Markets Law.

14 ACTING PRESIDENT GRIFFO: Read the
15 last section.

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

18 ACTING PRESIDENT GRIFFO: Call the
19 roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 57.

22 ACTING PRESIDENT GRIFFO: The bill
23 is passed.

24 THE SECRETARY: Calendar Number
25 269, by Senator Marcellino, Senate Print 1514, an

1 act to amend the Vehicle and Traffic Law.

2 ACTING PRESIDENT GRIFFO: Read the
3 last section.

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

6 ACTING PRESIDENT GRIFFO: Call the
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 57.

10 ACTING PRESIDENT GRIFFO: The bill
11 is passed.

12 THE SECRETARY: Calendar Number
13 273, by Senator Robach, Senate Print 3769, an act
14 to amend the Vehicle and Traffic Law.

15 ACTING PRESIDENT GRIFFO: Read the
16 last section.

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

19 ACTING PRESIDENT GRIFFO: Call the
20 roll.

21 (The Secretary called the roll.)

22 ACTING PRESIDENT GRIFFO: Senator
23 Rivera to explain his vote.

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

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

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

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

20 Thank you, Mr. President.

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

23 Announce the results.

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

1 negative.

2 ACTING PRESIDENT GRIFFO: The bill
3 is passed.

4 THE SECRETARY: Calendar Number
5 285, by Senator Golden, Senate Print 2094B, an
6 act to amend the Domestic Relations Law.

7 ACTING PRESIDENT GRIFFO: Read the
8 last section.

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

11 ACTING PRESIDENT GRIFFO: Call the
12 roll.

13 (The Secretary called the roll.)

14 ACTING PRESIDENT GRIFFO: Senator
15 Golden to explain his vote.

16 SENATOR GOLDEN: Thank you,
17 Mr. President.

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

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

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

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

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

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

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

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

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

10 Thank you, Mr. President.

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

13 Announce the results.

14 THE SECRETARY: Ayes, 58.

15 ACTING PRESIDENT GRIFFO: The bill
16 is passed.

17 THE SECRETARY: Calendar Number
18 309, by Senator Bonacic, Senate Print 1886, an
19 act to amend the Education Law.

20 ACTING PRESIDENT GRIFFO: Read the
21 last section.

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

24 ACTING PRESIDENT GRIFFO: Call the
25 roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 58.

3 ACTING PRESIDENT GRIFFO: The bill
4 is passed.

5 THE SECRETARY: Calendar Number
6 336, by Senator Gallivan, Senate Print 91, an act
7 to amend the Environmental Conservation Law.

8 SENATOR LIBOUS: Lay it aside for
9 the day.

10 ACTING PRESIDENT GRIFFO: Lay it
11 aside for the day.

12 THE SECRETARY: Calendar Number
13 346, by Senator Hannon, Senate Print 2937, an act
14 to amend the Real Property Tax Law.

15 ACTING PRESIDENT GRIFFO: Read the
16 last section.

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

19 ACTING PRESIDENT GRIFFO: Call the
20 roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes, 58.

23 ACTING PRESIDENT GRIFFO: The bill
24 is passed.

25 THE SECRETARY: Calendar Number

1 358, by Senator Ball, Senate Print 2559, an act
2 to amend the Penal Law.

3 ACTING PRESIDENT GRIFFO: Read the
4 last section.

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

7 ACTING PRESIDENT GRIFFO: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 58.

11 ACTING PRESIDENT GRIFFO: The bill
12 is passed.

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

17 ACTING PRESIDENT GRIFFO: The bill
18 is passed.

19 THE SECRETARY: Calendar Number
20 364, by Senator Nozzolio, Senate Print 5307, an
21 act to amend the Penal Law.

22 SENATOR GIANARIS: Lay it aside.

23 ACTING PRESIDENT GRIFFO: Lay it
24 aside.

25 THE SECRETARY: Calendar Number

1 365, by Senator Farley, Senate Print 3832, an act
2 to amend the Banking Law.

3 ACTING PRESIDENT GRIFFO: Read the
4 last section.

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

7 ACTING PRESIDENT GRIFFO: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 58.

11 ACTING PRESIDENT GRIFFO: The bill
12 is passed.

13 THE SECRETARY: Calendar Number
14 379, by Senator Young, Senate Print 5928, an act
15 to amend the General Municipal Law.

16 ACTING PRESIDENT GRIFFO: Read the
17 last section.

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

20 ACTING PRESIDENT GRIFFO: Call the
21 roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 58.

24 ACTING PRESIDENT GRIFFO: The bill
25 is passed.

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

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

6 ACTING PRESIDENT GRIFFO: The
7 Secretary will ring the bell.

8 The Secretary will read.

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

12 SENATOR SQUADRON: Explanation.

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

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

19 (Laughter.)

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

1 SENATOR SQUADRON: Will the sponsor
2 yield for a question?

3 SENATOR MARCELLINO: Yes, I will.

4 ACTING PRESIDENT GRIFFO: Senator
5 Marcellino yields.

6 SENATOR SQUADRON: Thank you.

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

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

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

1 the existing school district.

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

4 SENATOR MARCELLINO: I will.

5 ACTING PRESIDENT GRIFFO: The
6 sponsor will continue to yield.

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

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

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

15 SENATOR SQUADRON: If the sponsor
16 will continue to yield.

17 SENATOR MARCELLINO: Yes.

18 ACTING PRESIDENT GRIFFO: The
19 sponsor yields.

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

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

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

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

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

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

1 constant flow of new people coming in.

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

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

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

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

23 SENATOR SQUADRON: If the sponsor
24 would continue to yield.

25 SENATOR MARCELLINO: Yes.

1 ACTING PRESIDENT GRIFFO: The
2 sponsor yields.

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

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

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

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

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

19 SENATOR MARCELLINO: Yes.

20 ACTING PRESIDENT GRIFFO: The
21 sponsor yields.

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

25 SENATOR MARCELLINO: Right now

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

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

6 SENATOR MARCELLINO: Yes.

7 ACTING PRESIDENT GRIFFO: The
8 sponsor yields.

9 SENATOR SQUADRON: Thank you.

10 SENATOR MARCELLINO: Take another
11 one, if you want.

12 (Laughter.)

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

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

19 SENATOR MARCELLINO: Yes.

20 SENATOR SQUADRON: Thank you.

21 On the bill.

22 ACTING PRESIDENT GRIFFO: Senator
23 Squadron on the bill.

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

1 those questions.

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

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

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

21 Thank you, Mr. President.

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

24 Is there any other Senator wishing
25 to be heard?

1 Senator Marcellino.

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

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

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

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

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

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

3 The Secretary will ring the bell.

4 Senator Libous.

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

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

14 (Standing ovation.)

15 ACTING PRESIDENT GRIFFO: Senator
16 Connor, welcome.

17 Read the last section.

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

20 ACTING PRESIDENT GRIFFO: Call the
21 roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT GRIFFO: Announce
24 the results.

25 THE SECRETARY: In relation to

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

8 Absent from voting: Senators
9 Espaillat, Golden and Sampson.

10 Ayes, 32. Nays, 24.

11 ACTING PRESIDENT GRIFFO: The bill
12 is passed.

13 The Secretary will continue to read.

14 THE SECRETARY: Calendar Number
15 148, by Senator Seward, Senate Print 3065, an act
16 to amend the Insurance Law.

17 SENATOR KRUEGER: Explanation,
18 please.

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

22 Can I have some order in the house,
23 please.

24 SENATOR SEWARD: Certainly,
25 Mr. President.

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

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

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

22 It's also important, it seems to me,
23 that insurance laws and regulations should be as
24 uniform and consistent as possible throughout the
25 50 states. This legislation would ensure, in

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

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

10 ACTING PRESIDENT GRIFFO: Thank
11 you, Senator Seward.

12 Senator Krueger.

13 SENATOR KRUEGER: Thank you.

14 On the bill, Mr. President.

15 ACTING PRESIDENT GRIFFO: Senator
16 Krueger on the bill.

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

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

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

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

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

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

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

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

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

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

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

12 Thank you, Mr. President.

13 ACTING PRESIDENT GRIFFO: Senator
14 Breslin.

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

17 ACTING PRESIDENT GRIFFO: Senator
18 Breslin on the bill.

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

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

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

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

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

25 Thank you, Mr. President.

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

3 Is there any other Senator wishing
4 to be heard?

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

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

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

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

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

20 Read the last section.

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

23 ACTING PRESIDENT GRIFFO: Call the
24 roll.

25 (The Secretary called the roll.)

1 ACTING PRESIDENT GRIFFO: Announce
2 the results.

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

7 Absent from voting: Senators
8 Espaillat and Golden.

9 Ayes, 51. Nays, 6.

10 ACTING PRESIDENT GRIFFO: The bill
11 is passed.

12 THE SECRETARY: Calendar Number
13 161, by Senator Little, Senate Print 1361, an act
14 to amend the Agriculture and Markets Law.

15 ACTING PRESIDENT GRIFFO: Read the
16 last section.

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

19 ACTING PRESIDENT GRIFFO: Call the
20 roll.

21 (The Secretary called the roll.)

22 ACTING PRESIDENT GRIFFO: Announce
23 the results.

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

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

6 Absent from voting: Senators
7 Espaillat and Golden.

8 Ayes, 34. Nays, 23.

9 ACTING PRESIDENT GRIFFO: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 364, by Senator Nozzolio, Senate Print 5307, an
13 act to amend the Penal Law.

14 SENATOR SQUADRON: Explanation.

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

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

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

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

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

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

21 ACTING PRESIDENT GRIFFO: Thank
22 you, Senator Nozzolio.

23 Senator Squadron.

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

1 SENATOR NOZZOLIO: Yes,
2 Mr. President.

3 ACTING PRESIDENT GRIFFO: Senator
4 Nozzolio yields.

5 SENATOR SQUADRON: Thank you very
6 much.

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

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

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

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

1 this house in the past.

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

5 ACTING PRESIDENT GRIFFO: The
6 sponsor yields.

7 SENATOR SQUADRON: Thank you.

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

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

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

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

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

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

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

10 SENATOR SQUADRON: If the sponsor
11 would continue to yield.

12 SENATOR NOZZOLIO: Yes,
13 Mr. President.

14 ACTING PRESIDENT GRIFFO: The
15 sponsor yields.

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

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

25 SENATOR NOZZOLIO: Mr. President,

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

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

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

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

24 SENATOR SQUADRON: If the sponsor
25 would continue to yield.

1 The sponsor I think --

2 ACTING PRESIDENT GRIFFO: The
3 sponsor yields.

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

7 The real reason I was asking the
8 question about the extensive different categories
9 of peace officers -- 17 pages in statute,
10 12 bills on tomorrow's Codes Committee agenda
11 alone -- is whether the nature of any of the jobs
12 that are carried out by these folks who are peace
13 officers might cause them to come into contact
14 with saliva or any of the other bodily fluids
15 enumerated in the bill, in a way that might
16 change the sponsor's view of creating a felony
17 from anyone being served by those peace officers
18 in that way.

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

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

6 SENATOR SQUADRON: If the sponsor
7 would continue to yield.

8 SENATOR NOZZOLIO: Yes,
9 Mr. President.

10 ACTING PRESIDENT GRIFFO: The
11 sponsor yields.

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

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

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

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

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

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

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

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

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

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

15 SENATOR SQUADRON: On the bill,
16 Mr. President.

17 ACTING PRESIDENT GRIFFO: Senator
18 Squadron on the bill.

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

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

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

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

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

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

14 ACTING PRESIDENT GRIFFO: Senator
15 Squadron, do you yield?

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

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

21 Senator Squadron, continue.

22 SENATOR SQUADRON: Thank you so
23 much.

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

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

7 I will yield.

8 ACTING PRESIDENT GRIFFO: Senator
9 Nozzolio.

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

12 Senator Nozzolio.

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

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

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

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

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

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

9 ACTING PRESIDENT GRIFFO: Senator
10 Squadron.

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

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

1 effect it's not a crime.

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

6 SENATOR SQUADRON: Thank you for
7 the clarification.

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

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

25 And that is clearly not the

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

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

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

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

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

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

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

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

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

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

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

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

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

4 Thank you, Mr. President.

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

7 Senator Hoylman.

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

10 ACTING PRESIDENT GRIFFO: Senator
11 Hoylman on the bill.

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

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

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

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

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

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

12 The Secretary will ring the bell.

13 Read the last section.

14 (Pause.)

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

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

19 ACTING PRESIDENT GRIFFO: Call the
20 roll.

21 (The Secretary called the roll.)

22 ACTING PRESIDENT GRIFFO: Announce
23 the results.

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

1 negative are Senators Breslin, Dilan --

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

4 The Secretary will continue to
5 announce the results.

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

11 Absent from voting: Senators
12 Espaillat and Golden.

13 Ayes, 44. Nays, 13.

14 ACTING PRESIDENT GRIFFO: The bill
15 is passed.

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

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

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

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

25 ACTING PRESIDENT GRIFFO: On

1 motion, the Senate stands adjourned until

2 Tuesday, May 6th, at 3:00 p.m.

3 Senate adjourned.

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

5 adjourned.)

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