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REGULAR SESSION

LIEUTENANT GOVERNOR KATHLEEN C. HOCHUL, President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

I ask everyone present to please rise and repeat with me the Pledge of Allegiance.

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

THE PRESIDENT: Today we have Mohammad Fayek Uddin, the Imam of the Islamic Center of Jackson Heights, in Queens, who is with us today to give us the invocation.

IMAM UDDIN: {37:03} Peace be upon you, everybody. We're going to invoke the Almighty for the prosperities, for the happiness, for the progress, for the safety, for our countries, for our nation, for ourselves.

Before invoking the Almighty, I would like to quote here some verses from the Holy Quran: Almighty Allah {in Arabic} inscribes in Holy Quran {in Arabic}: O mankind, we have created you from a male and female, and made you into races and tribes, so that you may identify one another.

In another verse {in Arabic}, Allah

enjoins to do justice and to adopt good behavior.

In another verse in the Quran, Allah {in Arabic} says: Help each other in righteousness and piety, and do not help each other in sin and aggression.

In another verse, Almighty Allah {in Arabic} says {in Arabic}: Allah invites to the abode of peace and brings whom he wills to a straight path.

And eventually I'm invoking right now the Almighty Allah {in Arabic} with you together, which supplication made by Prophet Abraham, Ibrahim {in Arabic}, peace be upon him. {In Arabic} O my Allah, O my God, O my Almighty, please make our land safe, secured. Allah, please protect our country. Allah, bless United States of America. And those who are serving for this country, will Allah please provide them the prosperities.

Amen. Amen. {in Arabic}

THE PRESIDENT: Thank you very much. Thank you.

The reading of the Journal.

THE SECRETARY: In Senate, Monday,

January 29th, the Senate met pursuant to adjournment. The Journal of Sunday, February 28th, was read and approved. On motion, Senate adjourned.

THE PRESIDENT: 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.

Floor Leader.

SENATOR DeFRANCISCO: Thank you, Madam President.

Could we please close the door so we can hear what's going on.

I move that the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause: Senate Bill Number 249.

THE PRESIDENT: So ordered.

SENATOR DeFRANCISCO: On page 19,

I offer the following amendments to Calendar Number 216, Senate Print 1796A, a bill by Senator Ritchie, and ask that the said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: So ordered.

SENATOR DeFRANCISCO: Would you please recognize Senator Gianaris.

THE PRESIDENT: Senator Gianaris.

SENATOR GIANARIS: Thank you, Madam President.

On page 8 I offer the following amendments to Calendar 62, Senate Print 4233A, and ask that said bill retain its place on Third Reading Calendar.

THE PRESIDENT: So ordered.

Floor Leader.

SENATOR DeFRANCISCO: I move to adopt the Resolution Calendar, with the exception of Resolution 3833.

THE PRESIDENT: All those in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Resolution

Calendar is adopted.

Floor Leader.

SENATOR DeFRANCISCO: Could we now take up Resolution 3893, by Senator Golden. It was previously adopted. Read the title only, and recognize Senator Golden.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 3893, by Senator Golden, memorializing Governor Andrew M. Cuomo to proclaim March 6, 2016 as Lymphedema Day in the State of New York, in conjunction with the observance of the first Annual World Lymphedema Day.

THE PRESIDENT: Senator Golden.

SENATOR GOLDEN: Thank you, Madam President.

I rise today to honor those who have led the effort to recognize World Lymphedema Day.

We are also making history here today in this chamber. The New York State Legislature will today become the first governing body in the United States and the world to honor and recognize World Lymphedema Day. Originally

inspired by National Lymphedema Awareness Day, this effort has grown into a worldwide movement.

Millions of Americans are affected by lymphedema and other lymphatic diseases. This disease is common in cancer survivors, with approximately 35 percent suffering with lymphedema as a result of diagnostic treatment procedures. Despite the high numbers of sufferers, researchers into potential treatment and cures lags far behind other similar physical and emotionally debilitating diseases.

Lymphedema is a disease that results in swelling, usually of the arms and legs, leaving people in severe pain or discomfort, and sometimes leaving them physically impaired. Raising awareness of this underreported and often misdiagnosed condition is imperative, since the potential for infection is greatly increased if not treated.

It is only right that we recognize the advocates who devoted so much of their time and efforts to this condition. And at the top of this list is Bill Repicci, executive director of the National Lymphatic Education and Research Foundation. Bill is a true champion of the

cause. Thank you for all that you do.

Today we also honor a brave young man, 5-year-old Nicholas Hernandez of Riverhead, New York, as a youth ambassador for his extraordinary efforts to promote lymphedema awareness and research. Nicholas was born with a primary lymphatic disease, and his parents, Enabel and Christina, have been tireless advocates for the cause through fundraising and developing a network of supporters. And we also have last year's ambassador as well, 7-year-old Emma Detlefsen. Welcome.

I commend all of the advocates for their tireless ongoing efforts to bring more attention to lymphedema and for lymphedema research.

I also commend my colleagues for their support on this great movement. This is an open resolution at the desk, and I would hope all of you would sign onto it.

Thank you, and God bless the advocates and those that are suffering with this disease. Thank you.

THE PRESIDENT: Floor Leader.

SENATOR DeFRANCISCO: May we have a

vote on the resolution.

And it's open, according to Senator Golden, for cosponsorship. We'll assume that everyone wants to cosponsor. If you don't, please notify the desk.

THE PRESIDENT: The resolution is open for cosponsorship. If you do not wish to be a cosponsor, please notify the desk.

The resolution was previously adopted.

Mr. Floor Leader.

SENATOR DeFRANCISCO: Thank you, Madam President.

Can we now take up Resolution 3833, by Senator Lanza, and read the title only.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 3833, by Senator Lanza, honoring Luke J. Nasta upon the occasion of his designation as a recipient of a Liberty Medal, the highest honor bestowed upon an individual by the New York State Senate.

THE PRESIDENT: The question is on the resolution. All in favor signify by saying

aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

And on behalf of Senator Lanza and the Senate, I'd like to welcome Luke Nasta, the recipient of the Liberty Medal from the Senate, and offer him the privileges of the house.

Mr. Floor Leader.

SENATOR DeFRANCISCO: Thank you. This also is open for cosponsorship. And if anyone does not want to cosponsor, they should notify the desk.

And congratulations to Luke Nasta. I believe he's sitting over here with the big medal on. And I would request that the legislative body show their appreciation for his good work.

(Standing ovation.)

THE PRESIDENT: The resolution is open for cosponsorship. If you do not wish to be a cosponsor, please notify the desk.

Mr. Floor Leader.

SENATOR DeFRANCISCO: Yes. Also would you please recognize Senator Peralta, for a brief introduction of some guests that he has in the chambers today.

THE PRESIDENT: Senator Peralta.

SENATOR PERALTA: Thank you, Madam President.

{In Bengali} It is truly an honor to welcome you and recognize the men and women from the Bangladeshi American Advocacy Group, better known as BAAG, who are joining us today here in the Capitol.

It is a privilege and I am extremely proud to pay tribute to your organization, as it gives a voice to the Bangladeshi communities living in our state. I am thrilled to see members of my community and other Bangladeshi-Americans from across the state here in our Capitol making your presence felt.

Bangladeshi-Americans have made enormous contributions to our Empire State and our great nation, from politics to the economy to the arts and science. And I am extremely fortunate and proud to have a large and active, vibrant, Bangladeshi-American community in

Jackson Heights, right in the heart of my district, the United Nations of all Senate districts.

As a fairly new immigrant group, my Bangladeshi-American constituents have already strengthened and enriched our neighborhoods, our communities, and our local economy through their contributions and their customs. Once the Latino community was called "the Sleeping Giant," but now it is you, my friends. And that is why it's very important to get involved in the political process and making your voice count. And that's why I'm very proud that you're here today.

Your tireless work in supporting the advancement of the Bangladeshi community in our state is exemplary, a model to others. I applaud your efforts and your work with other organizations and elected officials as you improve the lives of Bangladeshi-Americans.

Our greatest strength is our diversity, and today we're taking crucial steps to make our state stronger than ever. I want to thank you very much for being here today, and I want to thank you for your tremendous contributions to the State of New York.

Thank you, Madam Speaker.

(Applause.)

THE PRESIDENT: Senator Hamilton.

SENATOR HAMILTON: {In Bengali.} To my Bangladeshi brothers and sisters, welcome to Albany, to the New York State Capitol, to the best state in the United States.

I also say {in Bengali}. Yes. Yes.

(Applause from gallery).

SENATOR HAMILTON: I just want to say that the Bangladeshi people are hardworking people, they're law-abiding people, and they are true Americans. They work hard every day, they love their children and send them to school, they're intact families, and they work in many of the small business shops in our neighborhood. They are the economic engine for small business owners in our community, from construction workers to restaurant owners.

And I'm happy to see that you're here today, and I'm happy to see that we're one nation. It doesn't matter if you're Christian, Jewish or Muslim, we're all Americans, and we should all be respected and we should all be allowed to practice our religions in peace and

not fear anyone intruding upon that.

So thank you for coming to Albany. I hope everything is well. {In Bengali.} And I just want to say thank you for coming {in Bengali}.

(Laughter, applause from gallery.)

THE PRESIDENT: Senator Sanders.

SENATOR SANDERS: It is always dangerous to follow Senator Hamilton.

I will not insult you by trying to say words when I can barely do what I'm doing.

I will say this, however. I am glad that you're here because this shows the growing influence of the many communities that are here, as we struggle to make sure that America is America for everyone. That America has -- its promise is unfulfilled, and we, its citizens, are its best bet to see it through.

Now, I understand that you're not here just for ceremony. I understand that there are things that are important to you, such as making Eid a holiday throughout the state. And making sure that the Religious Garb Bill passes, and other bills that are here.

(Applause from gallery.)

SENATOR SANDERS: That you're not simply here to show and to have a nice time, but you're here to remind us, to remind all of us that America is a giant, beautiful mosaic capable of taking in all kinds of people and making sure that we produce a far better union. No, we're not looking to build walls, we're interested in building bridges.

Having said that, Madam President, I shall say no more. Greetings.

(Applause from gallery.)

THE PRESIDENT: Senator Díaz wishes to be recognized.

SENATOR DÍAZ: Thank you, Madam President.

By the way, Madam President, I have noticed that you, among all the deputy governors, you are the one that has come the most to us. And I see that you come every day here, and I appreciate that. And I congratulate you for your support to this body.

THE PRESIDENT: Thank you, Senator.

SENATOR DÍAZ: And today I'm just going to join my friends -- Peralta welcoming the Bangladesh community from Queens.

I am from the Bronx, and I started to bring the Bangladesh community here for many years ago. And I also do the Bangladesh Abrazo. I do the Abrazo where I do a banquet for the Bangladesh community.

And also today I want to congratulate the Bangladesh community and the Bangladesh government because, Madam President and ladies and gentlemen, for the first time ever, the Bangladesh government has appointed a woman to be the ambassador here in New York. And she will be here with us at the end of this month, during this month, the first woman ambassador to the United States. And I congratulate you guys on that.

(Applause from gallery.)

SENATOR DÍAZ: Welcome, welcome to the Bronx. And if you -- you are invited to come back at the end of this month to do the Bangladesh, and then we do an activity outside with Bangladesh dance and Bangladesh food, and we do all kinds of things here.

So Peralta, I join you and I join the leaders of the community today. I do not know how to speak Bangladesh. I don't even know

how to speak English.

(Laughter.)

SENATOR DÍAZ: But in my broken English, in my Spanish {in Spanish}. Welcome to Albany. Thank you very much.

(Applause.)

THE PRESIDENT: Senator Comrie wishes to be recognized.

SENATOR COMRIE: Thank you, Madam President.

I rise today to join with my colleagues in praising the Bangladesh community for coming to Albany, for lobbying, for understanding that this process requires your effort to make sure that your issues and concerns are heard by all sides.

I applaud you for continuing to raise your level of activism, and I look forward to working with you as we make all these issues come to fruition, and that we make sure that everybody on all sides understands the power and the dignity and the respect that your community has for the communities that you live in. You've definitely raised the standard of living in everywhere in the city that you have come into,

and we want to make sure that this entire state recognizes that.

Thank you, Madam President.

(Applause from gallery.)

THE PRESIDENT: Thank you.

Mr. Floor Leader.

SENATOR DeFRANCISCO: Madam President, would you now turn and read the noncontroversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 90, by Senator Bonacic, Senate Print 1677, an act to amend the Labor Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Announce the results.

THE SECRETARY: In relation to Calendar Number 90, those recorded in the negative are Senators Hassell-Thompson, Krueger,

and Montgomery.

Ayes, 57. Nays, 3.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 93, by Senator Young, Senate Print --

SENATOR DeFRANCISCO: Lay the bill aside for the day, please.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 94, by Senator Murphy, Senate Print 5354, an act to amend the Labor Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 97, by Senator Ritchie, Senate Print 6225, an act to amend the Workers' Compensation Law.

THE PRESIDENT: Read the last section.

SENATOR DeFRANCISCO: Lay the bill aside for the day, please.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 129, by Senator Ortt, Senate Print 2976, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 90th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Announce the result.

THE SECRETARY: Ayes, 59. Nays, 1. Senator Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 131, by Senator Martins, Senate Print 208, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Hamilton to explain his vote.

SENATOR HAMILTON: Yes, Madam Chair, I'd like to explain my vote.

I'm in favor of not selling drugs to 14-year-olds, but I just can't vote on enhancing the laws on individuals who sell drugs, especially in my community, where a lot of people don't have jobs. And I wish we would pass more bills on more education and more job training and more jobs, so I think people wouldn't sell drugs.

So rather than try to incarcerate people because they don't have jobs, we should try to more or less help them out to make them viable citizens in our state.

So I have to vote no on this bill.

THE PRESIDENT: Senator Hamilton to be recorded in the negative.

Senator Krueger.

SENATOR KRUEGER: Thank you, Madam President. I also rise to explain my no vote.

I appreciate my colleague's point. I think it's important to be on record that this

is not a bill that suddenly makes something illegal. It is already illegal, and it enhances the penalties to an extreme level.

And yes, selling drugs to children under 14 is an inappropriate and happily illegal activity. But, you know, you might think this could be about a massive, you know, drug kingpin selling to a young teenager. It could be a 21-year-old who stole some Oxycontin pills selling one or two to someone under 14. Which also is totally inappropriate, and we want to stop that, but the penalties in this bill could drive putting this person in jail for over a decade on a first-time situation.

And I agree, reversing ourselves, going back to Rockefeller Drug Law-era penalties is not the solution to the drug problem we are seeing in our communities.

Thank you, Madam President. I vote no.

THE PRESIDENT: Senator Krueger wishes to be recorded in the negative.

Senator Golden.

SENATOR GOLDEN: I would like to explain my vote as well. Thank you, Madam

President.

The playgrounds are a place where our children are supposed to be safe. We currently protect our children from drug dealers at their schools. This bill would protect our children from drug dealers lurking in these very playgrounds.

In July of 2015, four men were arrested in Cooper Park Houses in Greenpoint for selling crack cocaine, heroin and marijuana. The Cooper Park Houses have a playground located a few blocks from another park that has basketball courts, playgrounds and a dog run.

In January of 2015, NYPD charged 14 people with drug trafficking in the Farragut Houses in Brooklyn where I used to be a police officer years ago. The drugs being trafficked included crack cocaine and heroin.

I don't know about you, but we buried about six children, six young men in the past eight weeks in the 22nd Senatorial District. Two doctors' kids in December, 24 -- they were older, 24 and 27.

Heroin is killing our children as young as 11 years of age. The Farragut Houses

are located near the playground, and in June of 2014, 22 people were arrested for selling crack cocaine and heroin at the Eleanor Roosevelt housing projects in Bedford-Stuyvesant. This housing project is located near several schools and playgrounds.

Our children are our future. We owe it to them. We need to protect our children from being exposed to the drugs and to the drug dealers and the drugs that are killing them. This bill will accomplish that goal.

And I would hope that all of my colleagues would see the value in saving these young lives from heroin and crack and giving them an opportunity to grow up in our communities to be young productive professionals.

I vote yes.

Thank you, Madam President.

THE PRESIDENT: Senator Golden wishes to be recorded in the affirmative.

Senator Martins.

SENATOR MARTINS: Thank you, Madam President.

I also rise to vote yes on this bill.

You know, I'm confused on this issue because, like so many of my colleagues here, I do live in communities that deal with the scourge of drug abuse. And when we talk to our emergency responders, we hear all too often about how they're responding to drug overdoses and our children are dying each and every day in our communities as a result of heroin overdoses. And these are kids.

And we have a responsibility to protect our kids. And yes, we can bring up the Rockefeller Drug Laws as if that is an excuse for us to be more lenient and for us to turn our heads and ignore a problem. But there is no excuse here. When somebody deals drugs to a minor, to someone who is less than 14 years old, we all have a responsibility to draw a line in the sand and make sure that we stand on the side of our kids and hold them responsible.

This isn't an accident. This isn't somebody who just happened to inadvertently be selling poison to children. This is an intentional act that puts kids at risk and puts them on the road to heroin and drug addiction that will destroy their lives and destroy our

communities.

Look around. Look at what's happening in our communities today. This is a small step that we can take to protect our communities and send a strong message that yes, we're aware of what's happening in our own backyards. We're aware that our kids are at risk. But we're willing to take a stand and to put the penalties behind those which would poison our children.

Madam President, I vote aye and I would ask all of my colleagues to join me in doing so. Thank you.

THE PRESIDENT: Senator Martins wishes to recorded in the affirmative.

Senator Sanders.

SENATOR SANDERS: Thank you, Madam President.

With great reservation, I am voting yes on this bill. But I'm going to encourage my colleagues to remember that you cannot incarcerate a social problem. You can't solve this problem simply by putting more -- building more prisons, putting more people in them.

Yes, we slowly are creeping back to

the discredited Rockefeller Drug Laws that we have to watch out. America has more people in jail than any other country on this planet. It has more people in jail than China. It has more people in jail than Russia. I believe it has more people in jail than both of those countries combined. May I remind you that the Chinese population is probably triple or quadruple the American population. And China is not known for its leniency.

This is a medical and a social problem and should be attacked in a medical and a social method. You cannot incarcerate a social problem.

Thank you, Madam President.

THE PRESIDENT: Senator Sanders wishes to be recorded in the affirmative.

Announce the result.

THE SECRETARY: In relation to Calendar Number 131, those recorded in the negative are Senators Dilan, Hamilton, Krueger, Montgomery, Persaud and Rivera.

Ayes, 55. Nays, 6.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

133, by Senator Klein, Senate Print 849, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Announce the result.

THE SECRETARY: In relation to Calendar Number 133, those recorded in the negative are Senators Hamilton, Krueger, Montgomery and Persaud.

Ayes, 57. Nays, 4.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 134, by Senator Golden, Senate Print 994, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Announce the result.

THE SECRETARY: In relation to Calendar 134, those recorded in the negative are Senators Dilan, Hamilton, Krueger and Montgomery. Also Senator Persaud.

Ayes, 56. Nays, 5.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 137, by Senator Bonacic, Senate Print 1900, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Squadron.

SENATOR SQUADRON: Thank you, Madam President.

This is a bill that most in this house are familiar with, since we've seen this bill the last two years in its current form and the five years -- five of the seven years prior in a modified form. It's the bill that Senator

Bonacic and I have gone back and forth and discussed in the past, as have the chair of Codes and I, and it is the bill that creates the felony spitting provision in our penal code.

Essentially what it does is it allows a felony to be charged for the act of expectorating with the intent to aggravate, annoy, or harass.

It's not something that people should be doing, not something inmates should be doing, absolutely.

But the question is should spitting on its own be a felony. I don't believe it should. In fact, the original version of this bill, the one that passed this house in 2007, 2008, 2011, 2012 and 2013, included a whole additional list of bodily fluids that passed this house with bipartisan support and was in fact chaptered. But spitting, saliva, didn't make it into that chapter, and yet this bill comes back and forth.

For anyone who thinks it may be passing into law, you should know it has never moved in the Assembly in all that time. This is not a bill that's going to become law. This is

an opportunity to create a felony for any activity under the sun, including activities like this one that are reprehensible and shouldn't happen.

But not all reprehensible activities are felony activities, and spitting is not one. I'll vote no, Madam President.

THE PRESIDENT: Senator Squadron wishes to be recorded in the negative.

Senator Hamilton.

SENATOR HAMILTON: Yes, thank you, Madam Chair.

I'm going to have to concur with my colleague Daniel Squadron. I don't believe that anyone should put a correction officer in danger. But we have to realize the fact that more than 70 percent of people who are incarcerated have mental issues which have not been addressed. And if I was locked up in prison, I don't know what I would do to try to get attention.

So as we incarcerate people more and more, especially from neighborhoods of color in this state, to keep the economy going in the upstate region, we have to realize that we need more mental health providers in the prisons, and

we need more mental health providers in our schools to make sure we can divert people from going into criminal activities when they're not educated in school.

A lot of times we look at kids in school, they may have mental issues and we treat it as a behavioral issue. And it goes untreated for years and years and years until the point where they're arrested for doing something, creating harm to someone else.

So I think we should be more looking at it from a holistic perspective as let's try to help these inmates, let's try to get them the mental attention that they need, because right now treating someone with a mental illness is not to be incarcerated and locked up in prison to come out even more insane than when you went in.

So I have to vote no on this bill, Madam Chair.

THE PRESIDENT: Senator Hamilton to be recorded in the negative.

Senator Hoylman to explain his vote.

SENATOR HOYLMAN: Thank you, Madam President.

I rise with my colleagues in

opposition to this bill, because there's an underlying myth that was originally given for the intention behind this bill, which is that spitting will somehow transmit HIV.

And the facts, Madam President, are clear. Spit does not transmit. HIV cannot be contracted through saliva. The CDC and countless other scientific and medical organizations have confirmed that fact, and we should not be making public policy based on myths or outdated science.

So I'll be voting no. Thank you, Madam President.

THE PRESIDENT: Senator Hoylman wishes to be recorded in the negative.

Senator Bonacic wishes to explain his vote.

SENATOR BONACIC: Yes, thank you, Madam President.

You know, a lot of the discussions were that the act of spitting is somehow harmless. But spitting can spread an infectious disease. And I had said this the last time we debated this, and I think I will remind the members again what infectious spitting can do to a correction officer or a police officer. It can

cause hand to foot and mouth disease. It can cause the mumps. It can cause meningitis, bacterial and viral. And it can cause mononucleosis.

Now, correction officers have a dangerous job. And the purpose of the legislation is to tell inmates that we don't want you to do any acts that can cause an injury to a correction officer and a police officer.

There are 20,000 correction officers that support this legislation. There are 54,000 PEF workers that support this legislation. So when members get up and say spitting is not harmful, I beg to differ with you.

So for those reasons, I would ask for your support. And one comment one Senator made, and I don't want to single him out, people are in jail not because of a mental health issue, they're in jail because they've committed a crime against society. Most of the time it's a violent crime against society. They might have a mental health issue, but they're in there for the harm that they did to society and to individuals.

And if you're saying that they shouldn't be in jail if they committed a violent

act against someone in society because they have a mental health issue, I don't think it's based in reality.

I would say that I happen to agree that we need more money to treat people that have mental health issues, whether it's in an application for a gun, whether we see dangerous symptoms in a school district. But that argument doesn't apply to people that are incarcerated when we're trying to protect our correction officers and police officers.

I vote aye. Thank you, Madam President.

THE PRESIDENT: Senator Bonacic shall be recorded in the affirmative.

Senator Gianaris to explain his vote.

SENATOR GIANARIS: Thank you, Madam President.

I will be voting for this bill, but I just want to make one clarification on my colleague's remarks.

This would not only apply to people who are in jail for committing violent crimes. We should remember that there are thousands and

thousands of people in the jails awaiting trial. Okay? And there's a discussion we can have about bail reform later in the session. But there are thousands of people who would be subjected to this who have yet to be tried or convicted of the crimes that they're charged with. So I just wanted to make that clarification.

But I do believe in providing this protection for our correction officers, so I will be voting for the bill.

THE PRESIDENT: Senator Gianaris will be recorded in the affirmative.

Senator Díaz wishes to explain his vote.

SENATOR DÍAZ: Thank you, Madam President.

You know, I'm listening to all my colleagues for and against. It comes to my mind that how low we have come to be in this nation and this state that we have to really legislate and condemn people that disrespect others by spitting. Spitting, regardless of a police officer, to anybody, that's -- it is wrong. It is uneducated. It is an act of -- a repugnant act.

And when we come here to try to defend people that spit on other people, that is -- it is wrong. The message that we're supposed to be sending to all our youth, to all our community members is respect. Respect authority. Respect other people. And by saying no, no, we shouldn't do this, we are telling them, go ahead, keep spitting on people and keep disrespecting people.

I'm in favor of this bill and I think it's a good bill. And we should -- we shouldn't -- if people respect each other, if our leaders teach the members of our community to respect and not to do this kind of -- we don't have to be doing this. We shouldn't be doing this. But we have to do it because we keep protecting criminals and we keep protecting people that violate other people's rights and trying to get away with it.

So, you know, I'm sorry too that we have come to this point, but this bill has to be passed. And I'm in favor of this bill.

THE PRESIDENT: Senator Díaz wishes be recorded in the affirmative.

Are there any other Senators who

wish to be heard?

Announce the results.

THE SECRETARY: In relation to Calendar Number 137, those recorded in the negative are Senators Hamilton, Hoylman, Krueger, Montgomery, Parker, Rivera and Squadron.

Ayes, 54. Nays 7.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 142, by Senator Nozzolio, Senate Print 5598, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Krueger wishes to be heard on the bill.

SENATOR KRUEGER: Thank you, Madam President. To explain my vote.

So one would look at a bill or the title and think of course none of us support inciting violence against a police officer. But this bill would actually have the penalty for

stating inappropriate things about police officers in a Twitter or a Facebook or an Instagram account -- I guess Instagram are pictures, not words, so perhaps not Instagram.

And the penalty for, quote, inciting violence through words could be the same as the current criminal sanction for an actual physical assault in the second degree on a police officer.

So I think when you're getting to the point where you're proposing law that the same penalty applies if you physically harm a police officer or if you put words in your mouth or statements on the Internet exploring or considering or even urging violence, that there's a different standard that we should apply in law between thinking and saying versus committing actual physical violence.

So I respect the issue and that when you're a police officer and you go into situations where people may be shouting things, threatening you in some way verbally, or even encouraging people to do harmful things, that's a very frightening experience that should not have to be part of the job description. But I don't think we want to get to the stage where the laws

that we apply to criminal activity are the same for thinking and saying something versus doing that something.

And I'll be voting no, Madam President. Thank you.

THE PRESIDENT: Senator Krueger to be recorded in the negative.

Senator Squadron wishes to explain his vote.

SENATOR SQUADRON: Thank you very much.

And there are a number of concerns about this bill. We're treading very carefully and treading on or near the First Amendment, which I know everyone in this chamber is concerned about, Madam President.

What this bill does, essentially, is it takes the test created by the Supreme Court for speech you're allowed to limit, and it copies that text into the bill. Some real questions about doing that, one of which is are we actually providing sufficient guidance for law enforcement and the courts that every single time this gets charged, you're not going to end up with a First Amendment challenge to it by the person

charged.

I don't think it makes a lot of sense for us to pass bills that are going to tie up the state, local law enforcement and the courts in First Amendment challenges because we haven't carefully enough considered not just the Supreme Court's test but the impact of the Supreme Court's test and a way to write legislation that fits within it.

I know that it's not as good a headline as the idea that you can't advocate violence against police officers. Let me be clear; you can't -- you shouldn't advocate violence against police officers. That is behavior that I personally find and I think we collectively find to be unacceptable and, to use a word I used earlier, reprehensible. It is.

Whether we can make it a crime is a different question, and it relates to the First Amendment. And to do that, we should be careful to write bills that have their desired impact, not just their press release impact. That's what I'm afraid about with this bill, so I have to vote no.

I would look forward to seeing a

bill in the future that more thoughtfully considered the Supreme Court's Brandenburg decision and more carefully considered the existing state statute against inciting violence or inciting a riot, which is done a lot more carefully and fully than this draft.

For that reason, I vote no, Madam President.

THE PRESIDENT: Senator Squadron to be recorded in the negative.

Announce the result.

THE SECRETARY: In relation to Calendar 142, those recorded in the negative --

SENATOR DeFRANCISCO: Excuse me, Madam President. I think Senator Nozzolio rose to explain his vote.

THE PRESIDENT: Senator Nozzolio is recognized to explain his vote.

SENATOR NOZZOLIO: Thank you very much for the indulgences of the body. I ask the opportunity to explain my vote.

That Senator Squadron and I are noble adversaries. I appreciate his input as ranking member of the Senate Codes Committee. But on this measure, we have grave difference.

And the differences center on our views relative to the continued support of the most important item we have in our society, and that's to ensure public protection, the protection of the public. And that when there is an erosion of that ethic, chaos exists. And chaos leads to a much more unsafe environment for the citizens of our state who we are entrusted with doing all we can to protect their safety.

That I appreciate some nuances that Senator Squadron mentioned, but I rise to reaffirm the fact that we in this state owe a great deal of gratitude to those who put themselves in harm's way each and every minute of their tenure, each and every minute put their lives on the line, each and every minute of their of their day risk not just their safety but the future of their own families because they believe that protecting the public is the most important priority.

We're not saying that we should ignore any imperfections in the process. But the fact of the matter is that our police, who walk the toughest law enforcement beat that you have, should not have to face the additional

indignities of those engaging in violence against them.

That, Madam President, this measure is unfortunately necessary, unfortunately necessary to keep the integrity of the process alive, to keep our police officers a little bit more safer in the conduct of their day-to-day activities.

I appreciate the opportunity to announce that I firmly support this measure and vote aye.

THE PRESIDENT: Senator Nozzolio wishes to be recorded in the affirmative.

ACTING PRESIDENT CROCI: Announce the results.

THE SECRETARY: In relation to Calendar 142, those recorded in the negative are Senators Comrie, Gianaris, Hoylman, Krueger, Montgomery, Parker, Rivera, Serrano and Squadron. Also Senator Hassell-Thompson. Also Senator Sanders.

Ayes, 50. Nays, 11.

ACTING PRESIDENT CROCI: The bill is passed.

THE SECRETARY: Calendar Number

164, by Senator Ritchie, Senate Print 5707A, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT CROCI: Read the last section.

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

ACTING PRESIDENT CROCI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 2. Senators Díaz and Espaillat recorded in the negative.

ACTING PRESIDENT CROCI: The bill is passed.

THE SECRETARY: Calendar Number 175, by Senator Young, Senate Print 3024A, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT CROCI: Read the last section.

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

ACTING PRESIDENT CROCI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT CROCI: The bill is passed.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I understand that completes the noncontroversial reading.

ACTING PRESIDENT CROCI: That completes the noncontroversial reading.

SENATOR DeFRANCISCO: That being the case, can we return to motions and resolutions.

ACTING PRESIDENT CROCI: Motions and resolutions.

SENATOR DeFRANCISCO: I move that the following bill be discharged from its respective committee -- one of my bills, 6857 -- and that bill be recommitted with instructions to strike the enacting clause.

ACTING PRESIDENT CROCI: So ordered.

SENATOR DeFRANCISCO: Is there any further business at the desk?

ACTING PRESIDENT CROCI: No further business at the desk.

SENATOR DeFRANCISCO: Would you please recognize Senator Gianaris for an

important announcement.

ACTING PRESIDENT CROCI: Senator Gianaris.

SENATOR GIANARIS: Thank you.

Mr. President and my colleagues, before we adjourn I just want to take a moment to recognize that we have a birthday in the chamber today. One of our newest colleagues, Roxanne Persaud, is celebrating today.

Happy birthday.

(Applause.)

SENATOR DeFRANCISCO: I would now move to adjourn until tomorrow, that's Wednesday, March 2nd, at 11:00 a.m.

ACTING PRESIDENT CROCI: On motion, the Senate stands adjourned until Wednesday, March 2nd, at 11:00 a.m.

(Whereupon, at 4:20 p.m., the Senate adjourned.)