

1 NEW YORK STATE SENATE

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3
4 THE STENOGRAPHIC RECORD

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7
8 ALBANY, NEW YORK

9
10 January 30, 2017

11 3:53 p.m.

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13
14 REGULAR SESSION

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18 SENATOR JOSEPH GRIFFO, Acting President

19 FRANCIS W. PATIENCE, Secretary

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

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

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

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

9 ACTING PRESIDENT GRIFFO: In the
10 absence of clergy, I ask all to please bow your
11 heads in a moment of silent reflection and
12 prayer.

13 (Whereupon, the assemblage
14 respected a moment of silence.)

15 ACTING PRESIDENT GRIFFO: The
16 reading of the Journal.

17 THE SECRETARY: In Senate, Sunday,
18 January 29th, the Senate met pursuant to
19 adjournment. The Journal of Saturday,
20 January 28th, was read and approved. On motion,
21 Senate adjourned.

22 ACTING PRESIDENT GRIFFO: Without
23 objection, the Journal will stand approved as
24 read.

25 Presentation of petitions.

1 Messages from the Assembly.

2 The Secretary will read.

3 THE SECRETARY: On page 10,
4 Senator Croci moves to discharge, from the
5 Committee on Rules, Assembly Bill Number 1749
6 and substitute it for the identical Senate Bill
7 418, Third Reading Calendar 54.

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

10 Messages from the Governor.

11 Reports of standing committees.

12 Reports of select committees.

13 Communications and reports of state
14 officers.

15 Motions and resolutions.

16 Senator DeFrancisco.

17 SENATOR DeFRANCISCO:

18 Mr. President, on page 10 I offer the following
19 amendments to Calendar Number 55, Senate Print
20 1379, by Senator Little, and ask that said bill
21 retain its place on the Third Reading Calendar.

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

25 Can I have some order in the house,

1 please.

2 Senator DeFrancisco, you may
3 continue.

4 SENATOR DeFRANCISCO: Yes, may we
5 now take up Concurrent Resolution Number 404, by
6 Senators Flanagan and Klein, read the title
7 only, and I move for its immediate adoption.

8 ACTING PRESIDENT GRIFFO: The
9 Secretary will read the substitution.

10 THE SECRETARY: Senators Flanagan
11 and Klein move that the Assembly resolution be
12 substituted by its identical Senate resolution,
13 Number 404.

14 ACTING PRESIDENT GRIFFO: The
15 substitution is so ordered.

16 The Secretary will read.

17 THE SECRETARY: Concurrent
18 Resolution of the Assembly Number 25, by
19 Assemblymen Heastie and Lavine, amending the
20 Permanent Joint Rules of the Senate and
21 Assembly, in relation to advisory opinions in
22 relation to outside employment.

23 SENATOR GIANARIS: Lay it aside,
24 please.

25 ACTING PRESIDENT GRIFFO: The

1 resolution is laid aside.

2 Senator DeFrancisco.

3 SENATOR DeFRANCISCO: Can we now
4 take up that resolution, please.

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

7 The Secretary will read.

8 THE SECRETARY: Concurrent
9 Resolution of the Senate and Assembly Number 25,
10 by Assemblymembers Heastie and Lavine, amending
11 the Permanent Joint Rules of the Senate and
12 Assembly, in relation to advisory opinions in
13 relation to outside employment.

14 SENATOR DeFRANCISCO: Last section.
15 (Laughter.)

16 ACTING PRESIDENT GRIFFO: Senator
17 Kaminsky.

18 SENATOR KAMINSKY: Mr. President,
19 will the sponsor yield for some questions.

20 ACTING PRESIDENT GRIFFO: Senator
21 DeFrancisco yields.

22 SENATOR DeFRANCISCO: Yes.

23 SENATOR KAMINSKY: Thank you.

24 ACTING PRESIDENT GRIFFO: Can I
25 have some order, please.

1 SENATOR KAMINSKY: Mr. President,
2 can the sponsor please tell us, according to the
3 joint rule, how many times a sitting member would
4 have to seek such an opinion? Or would it only
5 be something that the person would have to get
6 once?

7 SENATOR DeFRANCISCO: It depends on
8 the situation whether or not it would have to be
9 a repeat request.

10 I think, for example, if I -- just
11 taking an example out of the air, if I was a
12 chiropractor and I had a general practice of
13 seeing the general population for chiropractic
14 treatment and services, a request for an opinion
15 on that general service that's repeated quite
16 frequently, then in that type of situation it
17 would only have to be done once.

18 On the other hand, if it was a case,
19 for example, that was going to be worth -- a
20 legal case worth more than \$5,000 and it dealt
21 with, for example, a public hospital that happens
22 to be a SUNY hospital, obviously there's an issue
23 there whether there might be a conflict of
24 interest. And under those circumstances, there
25 would have to be an advisory opinion given and, I

1 would think the legislator would want that.

2 SENATOR KAMINSKY: Mr. President,
3 will the sponsor continue to yield?

4 SENATOR DeFRANCISCO: Yes.

5 ACTING PRESIDENT GRIFFO: The
6 sponsor yields.

7 SENATOR KAMINSKY: So,
8 Mr. President, what I understand the sponsor to
9 be saying is that if you are engaged in the
10 practice of law and you are in a particular firm,
11 and circumstances in terms of a particular client
12 come up, it's your opinion that this resolution
13 requires someone to seek an additional opinion?

14 SENATOR DeFRANCISCO: Again, it
15 depends on the situation. If your general
16 practice is in doing real estate for individuals
17 who are buying a house or getting a mortgage or
18 the like, and if you're going to earn more than
19 \$5,000, you would be able to get an opinion
20 whether there's anything wrong with that.

21 However, if that transaction would
22 deal with, for example, taking the benefit -- the
23 client taking the benefit of a government program
24 in order to make this commercial transaction
25 happen, I think in that situation, since there's

1 a fine line there, you would be required to get
2 that opinion.

3 SENATOR KAMINSKY: Mr. President,
4 will the sponsor continue to yield?

5 SENATOR DeFRANCISCO: Yes.

6 ACTING PRESIDENT GRIFFO: The
7 sponsor yields.

8 SENATOR KAMINSKY: As I read the
9 resolution in front of me, I'm unable to find
10 that language that would give anyone direction in
11 terms of the requirement of seeking an additional
12 opinion once you've gotten an initial "I'm
13 working at a law firm, here's what I'm going to
14 do" type of opinion.

15 Can the sponsor point to me where it
16 would give any direction about when someone needs
17 to seek another opinion or revisit their original
18 opinion?

19 SENATOR DeFRANCISCO: Well, first
20 of all, it's the nature of the request that would
21 determine that. The legislator is the one who's
22 going to make the request and define what opinion
23 they're asking for. If it's an opinion that's
24 broad enough, like in the chiropractic area or in
25 the law practice, that this is the type of work

1 you're going to be doing, the opinion would only
2 deal with that.

3 On the other hand, if it was a
4 specific case where you as a lawyer would know
5 whether it's near the fine line of what's
6 prohibited, that's when you would have to get an
7 opinion.

8 Now, we could not possibly draft a
9 resolution that would take into account every
10 single circumstance for a law practice or any
11 other profession or any other type of work. That
12 is the concept. And again, I've got to make this
13 clear, that the legislator is the one who's on
14 the hook. And if it's a close case, it would
15 behoove the legislator to actually request the
16 opinion so they know that they're not getting
17 into a situation that's going to cause them
18 problems later on.

19 SENATOR KAMINSKY: Mr. President,
20 will the sponsor continue to yield?

21 SENATOR DeFRANCISCO: Yes.

22 ACTING PRESIDENT GRIFFO: The
23 sponsor yields.

24 SENATOR KAMINSKY: Can the sponsor
25 please tell us whether the joint resolution

1 requires an advisory opinion to include any
2 supporting documentation from the prospective
3 employer supporting the legislative description
4 of what the outside income will be for?

5 SENATOR DeFRANCISCO: It doesn't
6 call for any description other than -- or
7 attachments. What it calls for is a -- if you
8 want to get an opinion that's going to give you
9 the opinion based on the facts, you've got to,
10 the legislator has got to outline the facts
11 specifically.

12 The legislator may want to actually
13 show the contract -- this is all, by the way,
14 sealed and private, a private opinion -- might
15 want to show a copy of the contract that may be
16 at issue to make sure that the opinion will be an
17 opinion given on the correct facts.

18 SENATOR KAMINSKY: Mr. President,
19 will the sponsor continue to yield?

20 SENATOR DeFRANCISCO: Yes.

21 ACTING PRESIDENT GRIFFO: The
22 sponsor yields.

23 SENATOR KAMINSKY: Can the sponsor
24 tell us whether there's a requirement that the
25 opinion be made under the penalty of perjury?

1 SENATOR DeFRANCISCO: I'm sorry, I
2 didn't hear that.

3 SENATOR KAMINSKY: Is it made under
4 the penalty of perjury?

5 SENATOR DeFRANCISCO: No, it's
6 under the penalty of going to jail if you're
7 violating the rules. If you don't get an
8 opinion, you're clearly violating the rules. I
9 don't think that's a criminal action, and I don't
10 think it's under -- we're not doing this under
11 the penalty of perjury.

12 But there's even more of a problem,
13 and that is if you are outlining facts and you're
14 outlining them incorrectly and, furthermore, do
15 something that's prohibited that you're doing,
16 it's almost double evidence that you're in a
17 situation where you tried to hide the situation
18 that you're allegedly getting an opinion for.

19 No, it's not under the penalty of
20 perjury. But obviously it would behoove everyone
21 to be honest; otherwise, they're creating more of
22 a problem from a criminal standpoint if they
23 don't get an opinion because of some types of
24 misrepresentation.

25 SENATOR KAMINSKY: Mr. President,

1 will the sponsor continue to yield?

2 SENATOR DeFRANCISCO: Yes.

3 ACTING PRESIDENT GRIFFO: The
4 sponsor yields.

5 SENATOR KAMINSKY: Thank you.

6 Can the sponsor please tell us
7 whether this resolution has any limits on any
8 prospective outside income to a certain pecuniary
9 amount?

10 SENATOR DeFRANCISCO: No.

11 SENATOR KAMINSKY: And can -- will
12 the sponsor continue to yield?

13 ACTING PRESIDENT GRIFFO: The
14 sponsor yields.

15 SENATOR DeFRANCISCO: Yes.

16 ACTING PRESIDENT GRIFFO: The
17 sponsor yields.

18 SENATOR KAMINSKY: Thank you.

19 And can the sponsor tell us whether
20 this advisory opinion will be deemed a
21 legislative record made available to the
22 Secretary of the Senate, the clerk of the
23 Assembly, along with any other opinion received
24 by the Legislative Ethics Commission?

25 SENATOR DeFRANCISCO: I didn't

1 quite get that entire question. Could you slow
2 down a bit and maybe --

3 SENATOR KAMINSKY: Is this going to
4 be a public document?

5 SENATOR DeFRANCISCO: The opinion?
6 No, it is not.

7 It could probably, and I'm just --
8 it could probably be subpoenaed if there's some
9 investigation where subpoenas are appropriate.
10 But it's not something like our financial
11 statements that our whole life, our income,
12 everything except the blood type of our
13 first-born child -- when that's disclosed to the
14 world because people have a right to know, we
15 have inquiring minds -- it's nothing like that.
16 It's a document that is not public.

17 SENATOR KAMINSKY: Mr. President,
18 will the sponsor continue to yield?

19 SENATOR DeFRANCISCO: Yes.

20 ACTING PRESIDENT GRIFFO: The
21 sponsor yields.

22 SENATOR KAMINSKY: My son is O.

23 (Laughter.)

24 SENATOR DeFRANCISCO: Well, you're
25 obviously a very transparent person.

1 SENATOR KAMINSKY: Well ...

2 Can the sponsor please tell us
3 whether there's any prohibition on one working at
4 a law firm that also has a lobbying arm or a part
5 of a firm that does, like, government contracts
6 at all?

7 SENATOR DeFRANCISCO: This doesn't
8 deal with that. This doesn't deal with that
9 issue. But it clearly -- it seems to me it would
10 be something that you'd want to disclose to see
11 if some of these conflicts of interest are
12 prohibited or not under other law.

13 SENATOR KAMINSKY: Mr. President,
14 will the sponsor continue to yield for an
15 additional question?

16 SENATOR DeFRANCISCO: Yes.

17 ACTING PRESIDENT GRIFFO: The
18 sponsor yields.

19 SENATOR KAMINSKY: Can the sponsor
20 tell us if there is any particular prohibition on
21 a legislator working at a particular law firm
22 that does particular business on a given issue
23 that comes before that legislator? So for
24 example, working at a law firm that does a lot of
25 the asbestos plaintiff litigation and then being

1 able to vote on, you know, whether there should
2 be a cap on how much somebody could receive in an
3 award in an asbestos case. Is there any
4 prohibition on connections like that?

5 SENATOR DeFRANCISCO: Well,
6 fortunately I'm not a member of the Legislative
7 Ethics Commission, and I don't know the answer to
8 that question, other than to say that this rule
9 would require if you're earning more than \$5,000
10 from that firm, require you to get an opinion and
11 then to review the entire procedure to see
12 whether or not it violates the law. Then they
13 would give an opinion. So the Legislative Ethics
14 Committee would have to make that determination.

15 But there are other rules out there
16 that we're all already bound by that the opinion
17 would be based on -- the type of practice and the
18 rules that prohibit certain conduct.

19 SENATOR KAMINSKY: Okay, thank you.

20 On the bill, Mr. President.

21 ACTING PRESIDENT GRIFFO: Senator
22 Kaminsky on the resolution.

23 SENATOR KAMINSKY: On the
24 resolution, thank you, Mr. President.

25 I just want to quickly start off by

1 reciting a sentence or two that was made by the
2 U.S. attorney from the Southern District of
3 New York, Preet Bharara, when he testified before
4 the Moreland Commission. This is what he said.

5 He said, "The commission was charged
6 with following the money. New Yorkers had reason
7 to cheer. But it's hard, of course, to do that.
8 When the money trails are purposely hidden, when
9 every state or local official is able to lawfully
10 moonlight as a lawyer or accountant and may
11 lawfully withhold deep details of that work,
12 prosecutors face substantial challenges."

13 I am glad that we are taking up this
14 important issue, and I do believe that this is a
15 positive step. But I do not want anyone to fall
16 under the misimpression that this is going to
17 solve the ills that come from us having outside
18 income as legislators. And those ills are real.
19 When about seven different people over the last
20 several years go to jail for something involving
21 their outside job, we have a real problem. And
22 that's people from both sides of the aisle, and
23 much of it focuses on legal work.

24 The public doesn't know what anybody
25 is doing for their law firms. Sometimes you go

1 to the website and it says so-and-so is a lawyer
2 here, and that is it -- you don't know what he or
3 she is doing. And the conflicts that could come
4 up there through this practice are troubling.
5 Right? We already know of people that worked at
6 law firms that had lobbying arms to them. And we
7 could be told as much as we want that there is a
8 wall that goes up, but it's very hard to believe.
9 And the public shouldn't have to guess.

10 So we don't know whether a
11 legislator is working at all or whether people
12 just want to use their names in order to attract
13 clients, especially clients interested in having
14 business with the state government. And there
15 are lots of fine conflicts that would happen all
16 of the time. Someone wants to hire you, and you
17 learn, for instance, that their husband or wife
18 is also the head of your local Boys and Girls
19 Club. They come to you wanting capital money.
20 Is it easy to turn them down knowing that that
21 person's spouse has business with you? Why do we
22 put our legislators in these positions?

23 Right now when you look at what's
24 going on nationally, I think people really want,
25 no matter what side of the aisle you're on, to

1 believe that their state government is going to
2 be reasonable and rational and listen and do the
3 people's work. But when you don't know who
4 they're working for, it's extremely difficult.

5 This resolution gives very little
6 comfort when it comes to that. You don't have to
7 go back in the middle of the year if you get a
8 client that has a tricky situation. It doesn't
9 even require you to tell the truth. All of these
10 things may behoove you to want to do that, but I
11 don't think we would be requiring people to do
12 this if we thought everybody knew the right thing
13 to do and when to do it. Right? If just getting
14 an opinion from the LEC was what you needed to
15 do, everyone would do it and we wouldn't have to
16 have this resolution. But we obviously have an
17 issue.

18 I would like us to go much farther
19 than what this has here, because we do have a
20 deep-seated problem in this state. And all you
21 need to look at is the seven people who have been
22 written up in complaints or indictments about
23 shadiness involving their outside job. We could
24 do a lot better than this. This resolution
25 doesn't require you to go back. It doesn't

1 require you to tell the truth. It doesn't
2 require you to list who your clients are, it
3 doesn't require you to do a lot of things. And
4 basically, you could still make a million dollars
5 doing some outside work and not really have to
6 tell anybody exactly what you're doing and what
7 other interests those clients have.

8 So I am glad we're focusing on this.
9 This is certainly not a step backwards. But
10 we've got to do a lot better than this. The
11 public expects us to do better. They don't
12 really know who we're working for. And we need
13 to let them know we're working for them.

14 Thank you, Mr. President.

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

17 Senator Hoylman.

18 SENATOR HOYLMAN: Thank you,
19 Mr. President. Would the sponsor yield for a
20 couple of questions?

21 SENATOR DeFRANCISCO: Yes.

22 SENATOR HOYLMAN: Through you,
23 Mr. President, is this -- could the sponsor
24 describe to me, to the extent he knows, the
25 specifics of the attorney-client privilege, since

1 the sponsor is an attorney?

2 SENATOR DeFRANCISCO: I'll answer
3 it. I'm not sure how it's germane. But the
4 purpose for an attorney-client privilege is that
5 if you're coming -- or you're an individual and
6 you have some legal matter that is of a
7 confidential nature wherein you may end up
8 subjecting yourself to jeopardy by speaking to
9 someone, if you're going to get someone to
10 represent you on that confidential issue, you've
11 got to be comfortable enough to understand that
12 that lawyer is not going to turn around and tell
13 someone else that will put you in greater
14 jeopardy. That's the purpose behind it.

15 SENATOR HOYLMAN: Through you,
16 Mr. President, would the sponsor continue to
17 yield?

18 SENATOR DeFRANCISCO: Yes.

19 ACTING PRESIDENT GRIFFO: The
20 sponsor yields.

21 SENATOR HOYLMAN: Would the sponsor
22 know or suggest a hypothetical where a practicing
23 attorney in this body would have to reveal
24 information about a client as part of these new
25 rules that are proposed?

1 SENATOR DeFRANCISCO: I certainly
2 hope not, because I would vote against it.

3 SENATOR HOYLMAN: On the bill,
4 Mr. President.

5 ACTING PRESIDENT GRIFFO: Senator
6 Hoylman on the resolution.

7 SENATOR HOYLMAN: I thank the
8 sponsor for his responses and those to my
9 colleague, Senator Kaminsky.

10 I think the fundamental problem with
11 this resolution is that it doesn't address the
12 deeper problem of practicing attorneys in this
13 chamber. Now, Congress over 40 years ago
14 established strict limits on outside income,
15 explaining that many citizens perceive outside
16 earned income as providing members with an
17 opportunity to cash in on their positions of
18 influence. Even if there is no actual
19 impropriety, such sources of income give the
20 appearance of impropriety and, in so doing,
21 further undermine public confidence and trust in
22 public officials.

23 That's one side of the equation.
24 The other side of the equation is frankly, we are
25 putting clients in jeopardy, because we are being

1 asked by -- according to this resolution, to
2 divulge certain information, information that
3 may -- we hope will be kept sealed as part of an
4 opinion, but may not be at the end of the day,
5 and may in fact be divulged by the member of the
6 Legislature when push comes to shove, putting the
7 interests, putting the interests of the
8 individual who is being served by the legislator
9 as an attorney at risk.

10 Now, the Rules of Professional
11 Conduct of the New York State Unified Court
12 System say we aren't supposed to do that at all.
13 We should never be putting our clients, as
14 attorneys, at risk.

15 So the solution is what the United
16 States Congress has done, which is let's not only
17 limit outside income, but let's not let our
18 members have attorney-client privilege. Let's
19 not let our members pretend that they are serving
20 the interests of clients outside of their
21 constituents. You can only serve one master,
22 Mr. President, in this job, and it should be our
23 constituents. It should not be private clients
24 on the side whose interests you're supposed to
25 keep secret if you're doing your job.

1 So I think while I agree with my
2 colleague that these rules are a baby step
3 forward, the bigger solution is limit outside
4 income, ban the practice of law by sitting
5 members of the Legislature. Let's send a real
6 message to the people of New York State that we
7 are serious about reforming our chamber.

8 Thank you. I'll be voting in the
9 negative.

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

12 Senator Krueger.

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

15 So I have listened to the debate,
16 and I am -- to quote Senator Hoylman, I'm very
17 tired of baby steps in this house. And I'm very
18 tired of announcing in press releases we fixed it
19 all, now we've got the right reforms, now we've
20 gotten our act cleaned up. This won't do it.
21 I'm not saying it isn't some steps in the right
22 direction; maybe the baby steps. I just don't
23 want to keep passing pretend revolutions here.

24 So I'll be voting no, Mr. President,
25 and I urge my colleagues to vote no. We already

1 know how to do it better and that we can do it
2 better. I'd really like to be here and just take
3 care of this once and for all.

4 Thank you, Mr. President. No.

5 ACTING PRESIDENT GRIFFO: Thank
6 you, Senator Krueger.

7 Is there any other Senator that
8 wishes to be heard?

9 I will recognize Senator DeFrancisco
10 to close.

11 SENATOR DeFRANCISCO: First of all,
12 everybody seems to think this is a step forward,
13 and I think it definitely is.

14 And secondly, no one ever said this
15 was a fix. I've been here 25 years, and there
16 hasn't been a year when more reform hasn't been
17 asked for. And no doubt next year there will be
18 another year where more reform will be asked for.

19 But what this does is provide a
20 procedure where an individual who is trying to do
21 what's right, trying to follow the rules, to be
22 able to get an opinion to make certain that what
23 that person wants to do is in compliance with the
24 rules.

25 As far as the attorney-client

1 privilege is concerned, if you're an attorney and
2 you believe that by asking for one of these
3 opinions you are going to have to disclose
4 confidences of a client, that answers your
5 question. You shouldn't be taking the case,
6 because you're bound by the rules of ethics that
7 attorneys have to abide by not to disclose those
8 things.

9 And lastly, I just -- you know, it's
10 almost as if there's a presumption that everybody
11 here is crooked. There have been some horrible
12 cases that we're all ashamed of. But I would
13 like to believe, and I think it's true, that the
14 people currently in this room act in an ethical
15 fashion and do everything they can to make sure
16 they act in an ethical fashion. And no rule is
17 ever going to stop the unscrupulous from doing
18 something wrong.

19 So I believe -- you know, I believe
20 very strongly this is a move in the right
21 direction, and everyone should support it.
22 Whether they think it's not the full thing that
23 has to be done, it's something that's good that
24 this body should abide by, and I would urge
25 everyone to support it. Thank you.

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

3 Debate is closed. The Secretary is
4 ringing the bell.

5 Okay, the question is on the
6 resolution. All in favor signify by saying aye.

7 (Response of "Aye.")

8 ACTING PRESIDENT GRIFFO: Opposed?

9 (Response of "Nay.")

10 ACTING PRESIDENT GRIFFO: The
11 resolution is adopted.

12 Senator DeFrancisco.

13 SENATOR DeFRANCISCO: There are
14 three hand-ups by Senator Flanagan and
15 Senator Klein concerning conference assignments,
16 and they're all dated today. Are those at the
17 desk?

18 ACTING PRESIDENT GRIFFO: The
19 assignments are at the desk. They are received
20 and will be made a part of the Journal.

21 SENATOR DeFRANCISCO: Thank you.

22 There's also a hand-up by Senator
23 Flanagan, in consultation with Senator
24 Stewart-Cousins, dealing with the assignments to
25 various committees for the Democrat Conference.

1 Is that at the desk?

2 ACTING PRESIDENT GRIFFO: Those
3 assignments are here at the desk. They are also
4 received and will be made part of the official
5 Journal.

6 SENATOR DeFRANCISCO: Thank you.

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

9 SENATOR DeFRANCISCO: So the record
10 is clear, there was a total of three assignments.

11 ACTING PRESIDENT GRIFFO: All three
12 assignments that were presented to the desk are
13 at the desk, and they will all be made part of
14 the official record.

15 Senator DeFrancisco.

16 SENATOR DeFRANCISCO: Could you now
17 take up the noncontroversial reading of the
18 calendar.

19 ACTING PRESIDENT GRIFFO: The
20 Secretary will read.

21 THE SECRETARY: Calendar Number 18,
22 by Senator LaValle, Senate Print 985, an act to
23 amend the Local Finance Law.

24 SENATOR GIANARIS: Lay it aside.

25 ACTING PRESIDENT GRIFFO: One

1 second. Can I have the home-rule message
2 accepted, please?

3 There is a home-rule message at the
4 desk, and the home-rule message is accepted.

5 Lay the bill aside.

6 The Secretary will continue.

7 THE SECRETARY: Calendar Number 24,
8 by Senator Flanagan, Senate Print 1207, an act to
9 amend Chapter 97 of the Laws of 2011.

10 ACTING PRESIDENT GRIFFO: Read the
11 last section.

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

14 ACTING PRESIDENT GRIFFO: Call the
15 roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Those recorded in
18 the negative are Senators Comrie, Dilan, Hoylman,
19 Krueger, Montgomery, Persaud, Rivera, Serrano and
20 Squadron.

21 Ayes, 52. Nays, 9.

22 ACTING PRESIDENT GRIFFO: The bill
23 is passed.

24 THE SECRETARY: Calendar Number 25,
25 by Senator Lanza, Senate Print 1214, an act to

1 amend the --

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

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

6 THE SECRETARY: Calendar Number 30,
7 by Senator Ortt, Senate Print 706, an act to
8 amend the Vehicle and Traffic Law.

9 ACTING PRESIDENT GRIFFO: Read the
10 last section.

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

13 ACTING PRESIDENT GRIFFO: Call the
14 roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes, 61.

17 ACTING PRESIDENT GRIFFO: The bill
18 is passed.

19 THE SECRETARY: Calendar Number 37,
20 by Senator Alcantara, Senate Print 804, an act to
21 amend the Mental Hygiene Law.

22 SENATOR GIANARIS: Lay it aside.

23 ACTING PRESIDENT GRIFFO: Lay it
24 aside.

25 THE SECRETARY: Calendar Number 41,

1 by Senator Tedisco, Senate Print 1680, an act to
2 amend the Agriculture and Markets 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 ACTING PRESIDENT GRIFFO: Senator
11 Tedisco to explain his vote.

12 SENATOR TEDISCO: Thank you,
13 Mr. President, to explain my vote.

14 Mr. President and my colleagues, I
15 want to first of all thank all of you for your
16 support and your wisdom over the last several
17 years in terms of passing this particular bill,
18 Kirby and Quigley's Law, just about unanimously.

19 I especially want to thank Senator
20 Flanagan and my sponsor -- I sponsored this in
21 the New York State Assembly; my main sponsor here
22 is Senator Boyle, Senator Amedore, and Senator
23 Serino -- and all those who sponsored this bill
24 over the last couple of years and were able to
25 get it to the floor and passed.

1 Most importantly, to our right is
2 the Krohn family. And I want to personally --
3 and they want to personally thank you also, but I
4 personally want to thank them, because I don't
5 think any of us could imagine the personal
6 tragedy that Denise and the family went through
7 when she walked into that home, found a burglary
8 took place, and that became the minor part of
9 what happened in their lives. Because as she
10 took a few steps further, she found two parts of
11 her family were murdered and assassinated in the
12 house, and those were her two Goldendoodles,
13 Kirby and Quigley. And that's why this bill is
14 called Kirby and Quigley's Law.

15 I want to thank Denise for leading
16 the way, coming out here last year, being over at
17 this house to help lobby and -- it didn't need
18 that much work, but got it done -- and helping to
19 get it through the main committee, the Ag
20 Committee, unanimously in the New York State
21 Assembly. And I'm proud to say now we have a
22 majority sponsor in the New York State Assembly,
23 and we're very hopeful, as we pass it here, we
24 can pass it there.

25 But I want to thank her also for

1 making the case, not only for this body and our
2 government, but for the people on the outside in
3 the media who have to understand something. This
4 is a bridge crime. Aggravated cruelty to animals
5 indicates that a person who hurts these animals
6 in that way is going to go on to hurt you and I
7 and parts of our family. It's a public safety
8 issue.

9 It couldn't have been made clearer
10 last year than by the FBI putting this up as an
11 A level, as an indicator that those who commit
12 crimes like this of aggravated animal cruelty,
13 which is part of the definition for Buster's Law,
14 which passed over 15 or 16 years ago -- the
15 sponsor of that, one the first states in the
16 nation to pass an animal cruelty felony law --
17 they go on to commit heinous crimes.

18 And maybe these are some of the
19 names you've heard before. The Son of Sam,
20 Bundy, Dahmer, the Columbine kids all have
21 something in common. It's not only that they
22 were serial murderers; they all had a history of
23 abusing animals, and critical in chronic ways.

24 The young man who was 11 or 12 years
25 old who doused Buster the cat in my district in

1 Schenectady with kerosene and lit it on fire --
2 as we watched it languish as a community in this
3 region for three or four weeks, and then it
4 passed away -- four years later, at the age of
5 16, went into a park in Schenectady and attempted
6 to rape a young girl.

7 This is a serious crime that not
8 only impacts animals, but it impacts all of us.
9 I can't imagine, or neither can you, what it was
10 like when Denise walked into that house, looked
11 around and saw it in disarray, but then saw those
12 animals in pools of blood. To them, the
13 computers, the televisions, the jewelry meant
14 nothing and still means nothing. What means
15 something is what's etched in her mind, the
16 vision of what she saw, the loss of those
17 companion pets who gave unconditional love.

18 So after she got done with that and
19 the dust was settled, they poured salt in the
20 wound. And that is the law enforcement
21 officials -- who were very compassionate out
22 there -- said these are parts of your family. We
23 understand how important they are. We understand
24 how important this crime is in our community.
25 But we have to tell you, Denise and Krohn family,

1 the only crime here that will get a penalty is
2 the burglary.

3 Ladies and gentlemen, there's got to
4 be a difference between somebody who walks into
5 your house and takes your jewelry and someone who
6 walks into your house and takes your jewelry and
7 kills two parts of your family, two loving parts
8 of your family.

9 And that's what this bill does, it
10 says when you commit a felony and you commit this
11 violence against companion pets and animals, that
12 there will be another felony. It's extremely
13 important.

14 I thank the Krohn family and Denise.
15 I thank all of you for your support over the
16 years. And I ask for your support today.

17 Thank you so much.

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

20 Senator Brooks to explain his vote.

21 SENATOR BROOKS: Mr. President, I
22 rise to thank the Senator for introducing this
23 very important legislation.

24 I agree with the points that he
25 made. Clearly, in one of these acts the

1 individual is taking a very violent action on
2 these animals.

3 One of the constituents in my
4 district had written a letter -- similar
5 situation, where there was a burglary at the home
6 and her dog JB was injured and passed away, and
7 there was no criminal action taken as far as the
8 death of the dog was concerned.

9 We all recognize -- every one of us
10 in this room has had a pet. When that pet
11 passes, that's part of the family. This law, as
12 the Senator said, addresses a very serious
13 problem in this state, the animal cruelty. And
14 there has to be a real and severe penalty for
15 those actions.

16 So I also vote aye and support the
17 measure. Thank you.

18 ACTING PRESIDENT GRIFFO: Senator
19 Brooks to be recorded in the affirmative.

20 Announce the results.

21 THE SECRETARY: In relation to
22 Calendar 41, those recorded in the negative are
23 Senators Montgomery and Parker.

24 Ayes, 59. Nays, 2.

25 ACTING PRESIDENT GRIFFO: The bill

1 is passed.

2 Senator DeFrancisco.

3 SENATOR DeFRANCISCO: Although
4 Senator Tedisco has been in this building serving
5 the public for many, many years, this very
6 important bill, I'm proud to announce, is
7 Senator Tedisco's first bill passed in this body.

8 (Applause.)

9 ACTING PRESIDENT GRIFFO:
10 Congratulations, Senator Tedisco.

11 The Secretary will continue.

12 THE SECRETARY: Calendar Number 54,
13 substituted earlier by Member of the Assembly
14 Buchwald, Assembly Print 1749, Concurrent
15 Resolution of the Senate and Assembly.

16 ACTING PRESIDENT GRIFFO: Senator
17 Kaminsky.

18 SENATOR KAMINSKY: Thank you. I'd
19 like to explain my vote, Mr. President.

20 ACTING PRESIDENT GRIFFO: You may,
21 Senator Kaminsky.

22 SENATOR KAMINSKY: Thank you.

23 In the very same speech, U.S.
24 Attorney Bharara said the following: "A galling
25 injustice that sticks in the craw of every

1 thinking New Yorker is the almost inviolable
2 right of even the most corrupt elected official,
3 even after being convicted by a jury and jailed
4 by a judge, to draw a publicly funded pension
5 until his dying day. That era of state law,
6 partially fixed a couple of years ago, must
7 succumb to common sense. The common-sense
8 principle is simple: Convicted politicians
9 should not grow old comfortably cushioned by a
10 pension paid for by the very people they betrayed
11 in office."

12 I really want to thank Senator Croci
13 for his important work on this issue. The
14 average Long Islander that I talk to is
15 absolutely astounded and appalled by the gross
16 injustice that is pensions being drawn by
17 convicted politicians.

18 It is a symbol of a corrupt system.
19 I'm glad we're taking steps to remedy it. Let's
20 get this done today.

21 Thank you very much, Mr. President.
22 I vote aye.

23 ACTING PRESIDENT GRIFFO: Senator
24 Savino on the legislation.

25 SENATOR SAVINO: Thank you,

1 Mr. President.

2 Unfortunately, I am going to have to
3 detract from my good colleague Senator Kaminsky,
4 and Senator Croci and others in this room, and it
5 will not be the first time on this issue. Not
6 that I am not as offended as anyone else in this
7 room or in the body politic by an elected
8 official who would abuse their authority.

9 But I will say this again for the
10 record. Pensions are not a reward for good or
11 bad service. They are not like a gold watch.
12 They are, in fact, the product of deferred
13 salary. They are in fact personal property. And
14 I think we go down a very bad road when we send
15 the message that pensions can be taken away for
16 behavior.

17 I think we can find another way to
18 punish elected officials who abuse the public
19 trust. This is not the way to do it. Because
20 once you crack this door open, we'll then begin
21 talking about taking away pensions from other
22 people.

23 Pensions are property and the
24 subject of deferred salary, compulsory deferred
25 salary invested. And finally, they are not

1 taxpayer-funded. They are taxpayer-guaranteed.

2 So I'm going to continue to vote
3 against this, while I will remain outraged by
4 elected officials who would violate the public
5 trust.

6 Thank you, Mr. President.

7 ACTING PRESIDENT GRIFFO: Senator
8 Hamilton.

9 SENATOR HAMILTON: Yes,
10 Mr. President, I rise also to speak on this bill.

11 As my fellow Senate colleague
12 stated, that your pension is a property right.
13 It's a property right for the husband, the wife,
14 and the children. And even though someone may do
15 something wrong, in today's environment -- I had
16 a friend who was convicted for \$5,000 and did two
17 years in jail and lost his pension. I believe
18 there should be a fine. No one should lose their
19 pension and their family be deprived of the
20 income of a breadwinner, which a wife who's been
21 diligent in supporting her husband has done so
22 for so many years.

23 So -- and I'd like also say, when I
24 look around this room, I see people who are
25 working not because of the salary -- that's

1 obvious -- but because they love their job. And
2 to keep insinuating that members of the Senate
3 are not honorable people I find upsetting. I
4 believe every Senator in this room is an
5 honorable person who comes up here, leaving their
6 family, and spends time to help constituents in
7 their district.

8 So I would like to see other
9 legislation for other people. We keep
10 legislating against ourselves. I don't know why.
11 Okay, we are a body of Senators who are elected
12 by the people, and if you do something wrong, you
13 should go to jail. And I agree with that. But
14 we shouldn't take away property rights.

15 But we do need to go in the right
16 direction into making sure that my colleagues, if
17 they do go the wrong way, something has to be
18 done.

19 So last year I did not vote for the
20 this bill. This year I'm going to vote for this
21 bill. I think it's a great bill that Senator
22 Croci has put forth. And so I just say when I
23 look upon this room, I see honorable people. I
24 see people who work hard. I see people who don't
25 get up in the morning saying, I'm going to commit

1 a crime.

2 Thank you very much. I'm voting in
3 favor of the bill.

4 (Laughter.)

5 ACTING PRESIDENT GRIFFO: I'm going
6 to call on Senator Croci to close, as sponsor of
7 the bill.

8 Senator Croci.

9 SENATOR CROCI: Thank you,
10 Mr. President --

11 ACTING PRESIDENT GRIFFO: Senator
12 Díaz, you'd like to speak? Senator Díaz.

13 Can I have some order, please.
14 Senator Díaz.

15 SENATOR DÍAZ: I'll just ask my
16 colleague a question, because I'm confused.

17 (Laughter.)

18 SENATOR DÍAZ: You just said that
19 we are honorable people, that our children, our
20 wives should not be punished, that last year you
21 voted against. So you stood up to give a speech
22 about how honest we are, and then you voted yes.

23 I am very confused, my friend. You
24 can't have your cake and eat it too. It's either
25 are we honest or are we crooked. If we are

1 honest, stand up and vote no. Support the honest
2 ones here. Support our children, support our
3 wives. They are not to blame. They have nothing
4 to do -- if I commit a mistake, why blame my
5 children, why blame my wife, taking away the
6 pension because of something wrong that I did.

7 This is wrong. And you just said
8 it, we keep voting against ourselves. So why are
9 you voting yes? This is wrong, this is wrong.
10 This is wrong. I mean, if I do something bad, I
11 should go to jail. But then my wife and my
12 children are left out in the street, in the
13 street? We're punishing them, our children, for
14 the crime of the fathers, just to please the
15 media? Just so the media could say that we are
16 doing good? It's a cowardly thing. This is a
17 cowardly thing. I'm voting no.

18 ACTING PRESIDENT GRIFFO: Senator
19 Croci, to close.

20 SENATOR CROCI: Mr. President,
21 thank you.

22 I respect my colleagues' integrity,
23 and I certainly respect their honest and
24 good-faith opposition to this bill. No one
25 should be judged how they feel about this.

1 There's passion on both sides.

2 But what I would say is going back
3 to our different districts, it's very frustrating
4 for a member of our community, a resident who's
5 working hard, who's playing by the rules, and
6 they see not only members of the Legislature --
7 but remember, this resolution and this item that
8 will go on the ballots this November, if this is
9 to pass, will be inclusive of the Governor, the
10 members of the Legislature, and all elected
11 officials in our towns, from town supervisors and
12 county executives and village trustees. It's
13 every elected official in this state.

14 It's very frustrating for the men
15 and women that we serve to understand why, why --
16 and whether it's funded directly or they're
17 paying into the pension system, why members who
18 they sent here and they elect violate the public
19 trust and somehow still get a benefit from what
20 they see as a taxpayer institution.

21 I share some of my colleagues'
22 sentiments about baby steps. I'm joined today,
23 we're joined by the resolution sponsor in the
24 Assembly, Assemblyman Buchwald, who's standing
25 here today to watch this happen. And what I

1 would tell you is for the two of us to sit down
2 in a room, members who haven't been here for a
3 while, and think that we can turn the ship on a
4 dime and make things like this happen is -- I
5 share my colleagues' frustration about baby
6 steps.

7 What I'd like to do is tell everyone
8 in this chamber and to all of our constituents
9 who are watching that it is possible to turn that
10 ship. We have been able to do it, in a
11 bipartisan way in both houses, and now we get to
12 let our boss decide. The men and women who put
13 us here, the men and women who vote for us, they
14 are going to get to decide on their ballot in
15 November whether or not public pensions should be
16 taken away from elected officials who have
17 violated that public trust.

18 So it's in the hands of the people.
19 And I think that that's what our founders had
20 contemplated when they created our Constitution
21 at the federal level and our state Constitution.
22 We should trust that document. The document
23 has given the Legislature the ability to put it
24 before the people, and the people will decide.

25 I want to compliment this body for

1 leading the way in this reform, and I urge all of
2 my colleagues to vote yes.

3 Thank you.

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

6 The Secretary will call the roll on
7 the resolution.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 57. Nays, 4.
10 Senators Díaz, Montgomery, Parker and Savino
11 recorded in the negative.

12 ACTING PRESIDENT GRIFFO: And the
13 resolution is adopted.

14 Calendar Number 56.

15 THE SECRETARY: Calendar Number 56,
16 by Senator Funke, Senate Print 1606, an act to
17 amend the Tax Law.

18 ACTING PRESIDENT GRIFFO: Read the
19 last section.

20 THE SECRETARY: Section 5. This
21 act shall take effect January 1, 2018.

22 ACTING PRESIDENT GRIFFO: Call the
23 roll.

24 (The Secretary called the roll.)

25 ACTING PRESIDENT GRIFFO: Senator

1 Funke to explain his vote.

2 SENATOR FUNKE: Thank you,
3 Mr. President, 90 seconds on this legislation.

4 I want to thank my colleagues for
5 their support of this bill. This is the third
6 time in three years that this bill has come
7 before this body, and it has passed unanimously
8 the previous two years, not only here but in the
9 Assembly as well. Clearly people like this bill,
10 and I'm grateful.

11 The Governor doesn't. The Governor
12 says three things: It's duplicative deductions,
13 that there is already a federal credit, and that
14 this should be done in the budget process. This
15 is why he has vetoed this two years in a row.

16 Well, we're here. By passing this
17 bill today, we are putting it in the budget
18 process.

19 As for the duplication part, it's
20 not true. Yes, you can deduct charitable
21 donations on your income tax, but this bill
22 allows for a tax credit of 25 percent of the
23 wholesale value of donated fresh food, up to
24 \$5,000. And we all know a credit is way more
25 valuable than a deduction, and this is a

1 mechanism that we use to encourage the process.

2 And finally, Point Number 3, the
3 federal credit. Yes, there is one. But because
4 of the way most farmers do accounting on a cash
5 basis, most don't qualify for it.

6 We've communicated all of this to
7 the Governor before, but the same discredited
8 veto message keeps coming back. As you know,
9 this bill provides a modest benefit to farmers
10 for the millions of pounds of food that they
11 donate to food pantries and food banks each and
12 every year to help those who need it most. And
13 it would bring even more fresh, healthy
14 vegetables to the table. And finally, it's
15 environmentally sound because it keeps food waste
16 out of our landfills.

17 It has widespread support from
18 farmers, from business, from the Natural
19 Resources Defense, and from the League of
20 Conservation Voters. The only person that
21 doesn't support it sits on the second floor. But
22 even he knows there's an issue here, because his
23 budget mandates that large food-waste producers
24 donate their excess food rather than put it into
25 the waste stream.

1 What we don't need is another
2 mandate from the State of New York. What we do
3 need is just a little bit of encouragement and
4 acknowledgment when farmers do the right thing.
5 That's what this is all about.

6 And I'm proud that we are passing
7 this again, our farm-to-food-bank bill, and I
8 invite the Governor to join us in making this
9 bill a reality in this year's budget process.

10 So I just wanted to take a moment to
11 thank my colleagues for approving this measure
12 again.

13 Thank you, Mr. President.

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

16 Announce the results.

17 THE SECRETARY: Ayes, 61.

18 ACTING PRESIDENT GRIFFO: The bill
19 is passed.

20 THE SECRETARY: Calendar Number 57,
21 by Senator Klein, Senate Print 2651, the act to
22 amend the General Business Law.

23 ACTING PRESIDENT GRIFFO: Read the
24 last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect on the 60th day.

2 ACTING PRESIDENT GRIFFO: Call the
3 roll.

4 (The Secretary called the roll.)

5 ACTING PRESIDENT GRIFFO: Senator
6 Klein to explain his vote.

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

9 This is the first of two pieces of
10 legislation that came in response to a report
11 that was released by the Independent Democratic
12 Conference back in July, where we found that the
13 newest augmented reality game, Pokémon Go, was
14 really subjecting young people to dangerous
15 sexual predators.

16 While I want to say the game has, I
17 think, caught the nation by storm -- over
18 30 million people downloaded the game, mostly
19 kids, in the first two weeks of its existence,
20 and I think it's a great game, it keeps people
21 out of the house, families have played the game
22 together -- unfortunately, we found, and we
23 actually did these reports all over the state,
24 that unbeknownst to the game maker, dangerous
25 sexual predators are usually living in front of a

1 lot of the Poké sites, as they're called, and has
2 allowed, I think, our young people to potentially
3 be in danger.

4 The legislation I think becomes even
5 more important. While I think we had widespread
6 support when our report was released, and the
7 legislation, there was a small few that said,
8 Well, nothing happened yet. Well, I didn't think
9 it was very smart to wait till, God forbid, a
10 young person was injured or sexually molested, so
11 we pushed the legislation nonetheless.

12 We found out just a few days ago, in
13 Albion, New York, FBI apprehended a 45-year-old
14 predator who used Pokémon Go to stare at young
15 boys. It's presently a serious investigation,
16 they're looking at it time and time again, and
17 it's something that is a real, serious problem.

18 So the legislation that I attempt to
19 pass is twofold. First, according to the law,
20 there's presently a loophole. In previous
21 legislation, which actually was pushed through by
22 then-Attorney General Andrew Cuomo, dangerous
23 sexual predators are not allowed to engage in
24 social media. That does not include these new
25 augmented reality games, which I think we're

1 going to see the proliferation of these grow and
2 grow over the next couple of years.

3 So I want to prevent someone who is
4 presently a registered dangerous sexual predator
5 from engaging in these games. And second, we
6 want to make sure that the industry actually
7 polices these games.

8 Unfortunately, I sent a letter, the
9 Governor sent a letter to the maker of this
10 specific game and said, Hey, we provide you, I
11 think in a very easy way, all of the dangerous
12 sexual predators that are on the Megan's Law
13 registry every year. You just make sure, when
14 you randomly pick these sites, that it's not in
15 front of a dangerous sexual predator's home.

16 They didn't answer, so I think the
17 time for legislation is now. And I think this
18 legislation won't ban the game, won't interfere
19 in the game in any way, but will require the game
20 makers to just consult the Megan's Law registry,
21 which we will send them when they're updated
22 every year, and they will make sure these sites
23 are not in front of dangerous sexual predators'
24 homes.

25 So I think these two pieces of the

1 legislation, Senate Bill 2651 as well as 2652A,
2 are extremely important. And of course,
3 Mr. President, I vote aye on both.

4 ACTING PRESIDENT GRIFFO: Senator
5 Klein to be recorded in the affirmative.

6 Announce the results.

7 THE SECRETARY: Ayes, 60. Nays, 1.
8 Senator Montgomery recorded in the negative.

9 ACTING PRESIDENT GRIFFO: The bill
10 is passed.

11 THE SECRETARY: Calendar Number 58,
12 by Senator Klein, Senate Print 2652A, an act to
13 amend the Executive Law.

14 ACTING PRESIDENT GRIFFO: Read the
15 last section.

16 THE SECRETARY: Section 3. This
17 act shall take effect on the 60th day.

18 ACTING PRESIDENT GRIFFO: Call the
19 roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 60. Nays, 1.
22 Senator Montgomery recorded in the negative.

23 ACTING PRESIDENT GRIFFO: The bill
24 is passed.

25 THE SECRETARY: Calendar Number 62,

1 by Senator DeFrancisco, Senate Print 3353, an act
2 to exclude.

3 ACTING PRESIDENT GRIFFO: Read the
4 last section.

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

7 ACTING PRESIDENT GRIFFO: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 60. Nays, 1.
11 Senator Kennedy recorded in the negative.

12 ACTING PRESIDENT GRIFFO: The bill
13 is passed.

14 Senator DeFrancisco, that concludes
15 the noncontroversial reading of today's
16 active-list calendar.

17 SENATOR DeFRANCISCO: In that case,
18 why don't we do the controversial reading.

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

21 The Secretary will read.

22 THE SECRETARY: Calendar Number 18,
23 by Senator LaValle, Senate Print 985, an act to
24 amend the Local Finance Law.

25 ACTING PRESIDENT GRIFFO: Senator

1 Gianaris, why do you rise?

2 SENATOR GIANARIS: Mr. President, I
3 believe there's an amendment at the desk. I ask
4 that the reading of the amendment be waived and
5 that I may be heard on the amendment.

6 ACTING PRESIDENT GRIFFO: Senator
7 Gianaris, there is an amendment at the desk. I
8 have reviewed the amendment and believe that it
9 is nongermane to the bill and therefore out of
10 order.

11 SENATOR GIANARIS: Thank you for
12 your ruling. I would like to appeal the decision
13 of the chair, and I ask that I be heard on the
14 appeal.

15 ACTING PRESIDENT GRIFFO: You're so
16 directed.

17 SENATOR GIANARIS: Thank you.

18 My colleagues, we come to this
19 chamber to have policy debates, and we've done
20 that with vigor several times over the years.
21 But there's a difference between mainstream
22 policy debates that we engage in as colleagues
23 across the aisle from one another and a
24 difference when we're dealing with an action that
25 is so beyond the pale, so historically

1 unprecedented, so un-American, that we are
2 compelled to action. And I believe we are now
3 facing one of those situations.

4 Anyone who has picked up a
5 newspaper, watched the TV, or gone on their iPad
6 in the last several days has noticed that the
7 results of an executive order issued by President
8 Trump have led to an incredible organic and
9 spontaneous opposition all across this land.
10 Tens of thousands of people have taken to the
11 streets, rallying to their local airports, to
12 make sure that people who are legally entitled to
13 enter this country, have been deemed legally
14 entitled to enter this country by our federal
15 government, overnight were told they couldn't be
16 let in, were detained -- in some cases without
17 access to attorneys, in some cases without access
18 to their families. Some are still being detained
19 as we sit here in the chamber today.

20 This amendment would prohibit
21 New York State entities, most notably the Port
22 Authority, from participating in enforcing this
23 unlawful executive order that has come from
24 Washington. As everyone knows, the Port
25 Authority has control over the New York City area

1 airports, including, most notably, Kennedy
2 Airport. There was a picture I was just looking
3 at on my Twitter feed moments ago that showed
4 Port Authority police prohibiting people from
5 approaching the areas where this executive order
6 is being enforced.

7 As New Yorkers, it's our obligation
8 to make sure that if something is going on that
9 is so outrageous, that we not contribute to it,
10 that we stand up and resist this effort, and we
11 say not one penny of New York tax money should go
12 towards enforcing this incredibly unlawful order
13 from Washington.

14 There should be no Port Authority
15 personnel involved in this effort, there should
16 be no Port Authority facilities allowed to be
17 involved in this effort. And if there's a
18 federal room or wherever they're detaining these
19 people and the Port Authority somehow controls
20 the climate or the electricity, that should be
21 cut off too. It's time to take a stand.

22 You know, the Majority Coalition is
23 fond of passing a bill that says that we should
24 deny NYPD protection for our courthouses because
25 we may not agree with what's going on inside that

1 courthouse, and my colleagues have no problem
2 voting to impose that kind of restriction. Well,
3 I will daresay this is a more serious issue,
4 where in some cases legal Americans, people with
5 green cards, are being held, who have done
6 nothing wrong other than leave for a few days and
7 try to come back, and overnight they're suddenly
8 prohibited from doing so.

9 This is an unprecedented time. And
10 as I mentioned at the outset, there are
11 mainstream debates we can have and will have
12 again when we disagree on issues. But I think
13 something this serious calls for us to unite as a
14 chamber, to unite as New Yorkers, as a state that
15 has always welcomed immigrants, as a state that
16 welcomed my parents, who came from another
17 country, that welcomed many of our colleagues who
18 themselves are immigrants, and say: Not on our
19 dime. Not this time.

20 I saw a great sign at one of these
21 protests. It says "First they came for the
22 Muslims, and I said 'Not this time.'" As opposed
23 to the saying which says "I did nothing." Until
24 they came for you.

25 So I ask my colleagues to join me in

1 voting for this amendment and say with everything
2 going on in this country, it's time we stand up
3 and say "Not this time."

4 Thank you, my colleagues.

5 ACTING PRESIDENT GRIFFO: Thank
6 you, Senator Gianaris.

7 The appeal has been heard, and we
8 will now take a procedural vote of the house on
9 the ruling of the chair. All those in favor of
10 overruling the ruling of the chair signify by
11 saying aye.

12 (Response of "Aye.")

13 ACTING PRESIDENT GRIFFO: Opposed?

14 (Response of "Nay.")

15 ACTING PRESIDENT GRIFFO: The
16 ruling of the chair is affirmed.

17 Now, the bill in chief, the
18 Secretary will read the last section.

19 THE SECRETARY: Section 2. This
20 act shall take effect on the same date and in the
21 same manner as a chapter of the Laws of 2016.

22 ACTING PRESIDENT GRIFFO: Call the
23 roll.

24 (The Secretary called the roll.)

25 ACTING PRESIDENT GRIFFO: Senator

1 Díaz to explain his vote.

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

4 I was listening to what was said
5 before, and I have to explain my vote. And I
6 have to say that I am not only a Senator, I am
7 the president of the New York Hispanic Clergy
8 Organization, an organization composed of
9 150 Hispanic clergy in the City of New York. I'm
10 also a pastor of the Christian Community
11 Neighborhood Church in the Bronx.

12 So when we talk about immigrants
13 being hurt, today my wife is buying a couch to
14 have one immigrant, undocumented, stay in the
15 church because he has no place to go.

16 I am the one, Mr. President and
17 ladies and gentlemen, I am the one who has
18 brought, for many years, to get up in this
19 chamber, the Bangladesh community. And I am the
20 one that brought the first imam to do the
21 invocation from that pulpit there. I am the one
22 that has brought the Taiwanese community here and
23 have a monk doing the invocation.

24 I am the one bringing every year
25 here the Garifuna community, the immigrants from

1 Honduras, from Costa Rica, from South America,
2 the black immigrants from those countries. I am
3 the one that brought the first Dominican
4 community to this chamber when there was no
5 Dominican Senators here.

6 So when we talk about protecting
7 immigrants and being fair to immigrants, talk to
8 me about it. I'm the leader on that. I've shown
9 it.

10 However, I heard our beloved great
11 Governor, great people, I see people crying about
12 what has been done to immigrants. And two years
13 ago -- to be exact, Mr. President, on Friday,
14 January 17, 2014, in the Capitol Pressroom show,
15 the Governor told Ms. Susan Arbetter the
16 following: "Who are they? Are they those
17 extreme conservatives, right to life, pro-assault
18 weapon, anti-gay? Is that who they are? Because
19 if that's who they are, and they are extreme
20 conservatives, they have no place in the State of
21 New York."

22 The Governor is in favor of
23 deportation. He wanted to deport me two years
24 ago from the State of New York. Now he's crying
25 because Trump is putting something -- because

1 he's the great protector of immigrants. So
2 people are crying.

3 So, Mr. President and ladies and
4 gentlemen, let's stop the hypocrisy. Because I
5 didn't see anybody stood up on the floor when the
6 Governor wanted to deport me two years ago from
7 the State of New York. I didn't see anybody
8 crying, I didn't see anybody standing up here
9 protecting me, an immigrant from Puerto Rico,
10 from being exported out of the state.

11 So again, ladies and gentlemen, we
12 cannot have our cake and eat it too. This is not
13 come here now because Trump did this, now
14 everybody is protecting the immigrants. I didn't
15 see any one of you when -- to cry or to stand up
16 when Obama was deporting all the Hispanics,
17 Dominicans and Mexicans --

18 ACTING PRESIDENT GRIFFO: Senator
19 Díaz --

20 SENATOR DÍAZ: -- when he was the
21 biggest deporter in the nation. I didn't see any
22 one of you fighting that.

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

25 SENATOR DÍAZ: How do I vote. How

1 do I vote. I'm voting -- I don't know.

2 (Laughter.)

3 ACTING PRESIDENT GRIFFO: Okay.

4 Senator Díaz to be recorded in the uncertain
5 column.

6 The Secretary will announce the
7 results.

8 THE SECRETARY: Ayes, 55. Absent
9 from voting: Senators Larkin, Latimer,
10 Marcellino and Perkins.

11 ACTING PRESIDENT GRIFFO: The bill
12 is passed.

13 The Secretary will continue.

14 THE SECRETARY: Calendar Number 37,
15 by Senator Alcantara, Senate Print 804, an act to
16 amend the Mental Hygiene Law.

17 ACTING PRESIDENT GRIFFO: Senator
18 Gianaris, why do you rise?

19 SENATOR GIANARIS: Mr. President, I
20 believe there's an amendment at the desk. I ask
21 that the reading be waived and that Senator
22 Persaud may be heard.

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

25 Upon reviewing the amendment, I rule

1 that it is not germane to the bill and is
2 therefore out of order.

3 SENATOR GIANARIS: Thank you,
4 Mr. President. I'd like to appeal your decision
5 and ask that Senator Persaud be heard on the
6 appeal.

7 ACTING PRESIDENT GRIFFO: The
8 appeal is so recognized. And Senator Persaud,
9 you may speak.

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

12 As my colleagues know, President
13 Trump signed an executive order suspending entry
14 into the United States for refugees and
15 immigrants from seven countries of particular
16 concern. I stand here as an immigrant from South
17 America. My country is not of particular
18 concern.

19 This ban has irreparable
20 consequences that reach beyond issues of national
21 security. It is both unethical and
22 discriminatory in its treatment of hardworking --

23 ACTING PRESIDENT GRIFFO: Excuse
24 me, Senator Persaud.

25 Can I have some order, please?

1 Thank you.

2 You may continue.

3 SENATOR PERSAUD: -- it's
4 discriminatory in its treatment of hardworking,
5 law-abiding immigrants and fundamentally
6 disregards the founding principles of the
7 United States.

8 My amendment would limit officials
9 of the State University of New York and the City
10 University of New York in determining a student's
11 specific immigration details, including their
12 status as a refugee and their country of origin.

13 The legislation in front of us by
14 Senator Alcantara would amend the Education Law
15 and require school-aged material on suicide
16 prevention be made available.

17 When passing today's laudable
18 legislation, we should also address the crisis
19 affecting New York's immigrant university
20 students. The State University of New York,
21 SUNY, enrolls approximately 22,140 international
22 students from 180 countries, including
23 320 students from the seven countries affected by
24 the current ban.

25 My district has many of the

1 180 countries represented. At the City
2 University of New York, approximately 120
3 students come from these seven countries. Both
4 SUNY and CUNY have already taken steps to shield
5 their immigrant populations from threats of
6 reprisal by the new administration. CUNY
7 announced in December 2016 that it will take any
8 steps available under the law to protect and
9 support its undocumented students by pursuing
10 policies and practices that help ensure campuses
11 welcome and value all of their students.

12 CUNY has the largest number of
13 undocumented students supported by private
14 scholarship in this country. Just remember,
15 their tuition is not paid for by any government
16 resource.

17 In December, CUNY announced it would
18 take no action to assist the enforcement of
19 immigration laws, except as required by law.
20 CUNY will not request or gather information about
21 a student's citizenship or immigration status in
22 the course of providing educational or other
23 services in connection with public safety
24 activities, except as required, again, in
25 connection with their tuition.

1 CUNY will also not allow immigration
2 enforcement officials to enter their campuses
3 except to the extent required by a warrant or a
4 court order.

5 SUNY also reaffirmed its strong
6 commitment to diversity, equity, and inclusion in
7 a resolution adopted by the Board of Trustees on
8 January 24, 2017. The resolution states that
9 SUNY will continue its long-standing practice of
10 supporting international and immigrant students
11 through the International Student and Scholar
12 Services Office. SUNY will do so by expanding
13 the resources available for immigrant and
14 international students and strive to make student
15 resources available.

16 SUNY also stated it will continue to
17 advocate for federal and state financial
18 assistance for undocumented students, and will
19 continue its long-standing practice of vigorously
20 defending the privacy rights of its students.
21 Student information will not be released to law
22 enforcement unless a subpoena, again, court
23 order, search warrant or other applicable
24 exception is granted. This includes information
25 about national origin, religion, immigration

1 status.

2 My amendment would provide that SUNY
3 and CUNY campuses would protect student
4 information in regards to immigration and refugee
5 status and would only share this information when
6 legally required to do so. As a former college
7 registrar, I understand the importance of
8 protecting students' information. I fought many
9 times talking about the rights of a student under
10 FERPA. For any of you who don't know, FERPA
11 protects the rights of students, and this is one
12 of those rights that we must protect.

13 This executive order has no relation
14 to the functioning of universities and may also
15 be unconstitutional. Our universities should
16 strive for diversity and inclusion and should do
17 everything in their power to resist this power.

18 Today in my home county, Brooklyn --
19 Kings County, Brooklyn, the City of Brooklyn,
20 Borough President Adams and others are organizing
21 a rally to fight for Saira Rafiee, a doctoral
22 student enrolled in CUNY, the Graduate Center.
23 She came here on a lawful visa, but she left this
24 country to visit her family in Iran. Now she is
25 being denied reentry. I ask all of you, is that

1 right, is that fair, is that just?

2 Before being elected to the
3 Legislature, as I said before, I worked as a
4 registrar. I was responsible for signing
5 documents for students to travel. It is always
6 important that students trust you on the
7 information you're giving. Now, undocumented
8 students trust you more than ever, because they
9 know that for most of them, their lives are in
10 your hands. So we should not divulge information
11 on those students. They are coming to us to
12 receive an education. We are not there to police
13 them.

14 Any order or policy that stalls
15 progress and prohibits students from pursuing
16 their education in New York State and throughout
17 the nation is unjust and unfair. We will
18 continue to fight for justice and equality for
19 those affected by this recent order. This bill
20 requires students from these seven countries --
21 that New York State will protect and support its
22 international students despite immigration and
23 refugee status. This is another example of us
24 banning the box. Just remember, we will ban the
25 box. We will not ask for immigration status.

1 Thank you, Mr. President.

2 ACTING PRESIDENT GRIFFO: Thank
3 you, Senator Persaud.

4 She has been heard on the appeal of
5 the ruling of the chair. The question is on the
6 procedures of the house. For the vote, all in
7 favor of overruling the ruling of the chair
8 signify by saying aye.

9 (Response of "Aye.")

10 ACTING PRESIDENT GRIFFO: Opposed?

11 (Response of "Nay.")

12 ACTING PRESIDENT GRIFFO: The
13 ruling of the chair is affirmed.

14 Read the last section.

15 THE SECRETARY: Section 3. This
16 act shall take effect on the first day of July.

17 ACTING PRESIDENT GRIFFO: Call the
18 roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT GRIFFO: Senator
21 Alcantara to explain her vote.

22 SENATOR ALCANTARA: Thank you,
23 Mr. President.

24 I rise today to introduce my first
25 bill, one that addresses the serious issue of

1 suicide prevention that hit Latinos the hardest.
2 We are here all talking about immigration and how
3 much we want to do for immigration. If you
4 really believe in immigration, this is a perfect
5 step for you to take and support my bill.

6 Latinos constitute 30.5 percent of
7 the population of the State of New York. And I
8 stand today in a body that talks about diversity
9 and defending the rights of immigrants. As the
10 only Latina Senator in the State of New York, I
11 urge my colleagues to please support this bill.
12 And instead of playing politics, let's walk the
13 walk and support immigration.

14 I come from a district where the
15 politics of Donald Trump are very damaging. I
16 represent Washington Heights, one of the largest
17 Latino groups in the City of New York. As I
18 recall, I was the only Senator that protested on
19 Fifth Avenue the day of his inauguration and got
20 arrested. I am the only Senator that marched on
21 Dr. Martin Luther King's birthday with the
22 Reverend Al Sharpton, sending the new
23 administration a message that we are not going
24 back, that we are going to protect the rights of
25 immigrants, our voting rights, and a woman's

1 right to choose.

2 I will continue to speak out, as the
3 rest of my colleagues in the Independent
4 Democratic Conference, in defense of immigrants.
5 Because, as you know, I am an immigrant. You can
6 tell by the way I speak.

7 I urge all of my colleagues to
8 please support this bill. I came to Albany with
9 a promise to fight on behalf of Latinos. 19.1
10 percent of Latinos, high school age, have
11 attempted suicide. And I want to go back to my
12 district and say that my colleagues not only talk
13 about immigration, in supporting, but that they
14 actually come out and support immigrants.

15 Our eight-member conference, the
16 Senate Independent Democratic Conference, we have
17 come together and we have decided that my
18 district will be a sanctuary district. Our
19 district, my office will be open to immigrants.
20 We will provide legal assistance, counseling,
21 referral and social work. So please, I urge my
22 colleagues and all of you guys to please support
23 my bill.

24 Thank you.

25 ACTING PRESIDENT GRIFFO: Senator

1 Alcantara to be recorded in the affirmative.

2 Announce the results.

3 THE SECRETARY: In relation to
4 Calendar 37: Ayes, 56. Nays, 1. Senator Lanza
5 recorded in the negative.

6 Absent from voting: Senators
7 Larkin, Latimer, Marcellino and Perkins.

8 ACTING PRESIDENT GRIFFO: The bill
9 is passed.

10 Senator Valesky.

11 SENATOR VALESKY: Mr. President, I
12 just want to point out to my colleagues that this
13 is Senator Alcantara's first piece of
14 legislation.

15 (Applause.)

16 ACTING PRESIDENT GRIFFO:
17 Congratulations, Senator Alcantara.

18 Senator DeFrancisco, that concludes
19 the controversial reading of today's active-list
20 calendar.

21 SENATOR DeFRANCISCO: Thank you.

22 Before I ask you to gavel out,
23 there's a Higher Education Committee meeting
24 immediately following session in Room 807 of the
25 LOB.

1 ACTING PRESIDENT GRIFFO: There is
2 an immediate meeting following session of the
3 Higher Education Committee in Room 807 of the
4 LOB.

5 Senator DeFrancisco.

6 SENATOR DeFRANCISCO: Secondly, we
7 want to wish happy birthday to Senator Funke.

8 (Applause.)

9 ACTING PRESIDENT GRIFFO: Happy
10 birthday, Senator Funke.

11 SENATOR DeFRANCISCO: He's 39
12 today.

13 (Laughter.)

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

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

18 SENATOR DeFRANCISCO: Then I move
19 to adjourn until Tuesday, July 31st {sic}, at
20 11:00 a.m.

21 ACTING PRESIDENT GRIFFO: On
22 motion, the Senate will stand adjourned until --

23 SENATOR DeFRANCISCO: January 31st.

24 ACTING PRESIDENT GRIFFO: --
25 Tuesday, January 31st, at 11:00 a.m. We'd love

1 to see some of that warm weather, though.

2 SENATOR DeFRANCISCO: I was trying
3 to move things along, Mr. President.

4 ACTING PRESIDENT GRIFFO: The
5 Senate stands adjourned until Tuesday,
6 January 31st, at 11:00 a.m.

7 Senate is adjourned.

8 (Whereupon, the Senate adjourned at
9 5:11 p.m.)

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