

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

January 30, 2017

3:53 p.m.

REGULAR SESSION

SENATOR JOSEPH GRIFFO, Acting President

FRANCIS W. PATIENCE, Secretary

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

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

4 I ask all present to please rise  
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.)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25